



▶ 2

Woman threshing millet, Tahoua region, Niger, 2003 (© ILO/ M. Crozet)

The ILO's BRIDGE Project is supporting Niger's efforts to tackle the remnants of illegal traditional forms of slavery in the country.

▶ 2. Defining the scope of the NAP



Before drafting a NAP, it is important for all stakeholders involved to understand what constitutes **forced labour** and how it relates to other concepts, such as **human trafficking**, **slavery** or **child labour**. Their similarities and differences should be considered, as well as the way these human rights abuses affect people differently based on gender, age, ethnicity and other relevant factors. It is also important to consider the relevant international and national frameworks and to what extent these frameworks encompass all situations of forced labour in the country. **Tool No. 1** presents an overview of the main international labour standards on forced labour, as well as key international labour standards (ILS) on related topics. These elements will help define the scope of the NAP and guide the decision on whether to develop a stand-alone NAP on forced labour or a NAP that integrates forced labour with other related issues.

International legal framework

International labour standards (ILS) lay down the basic principles that countries must implement with the aim of promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and dignity. Once ratified, ILS become binding when they enter into force; in general one year after the ratification. Therefore it is important for the NAP to refer to the ILS that have been ratified by the country as it shall contribute to their enforcement.

The international legal definition of forced labour is provided by the ILO Forced Labour Convention, 1930 (No. 29) (hereafter “Convention No. 29”), one of the most ratified standards of the ILO.⁴

As per Article 2(1), forced labour is defined as:

“all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily”.

The adoption of the Forced Labour Protocol in 2014 did not modify the definition of forced labour:

Forced Labour Protocol

Article 1

3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

4- It has been ratified by 178 countries (as of 29 June 2020).

In addition to the definition of forced labour, it is also important to clarify the concepts that are related to forced labour, such as human trafficking, slavery, and **modern slavery**, but also to take into account the particular situation of children.

In order to fully understand these concepts, **Tool No. 2** provides a detailed explanation on their international legal definitions (from international standards) as well as the similarities, differences and overlap of certain concepts. This tool constitutes a useful reminder for partners and can be consulted at any stage of the development process.



National legal framework

Convention No. 29

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period. (...)

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Convention No. 29 also requires countries to punish forced labour as a penal offence. States must adopt measures, in both law and practice, to ensure that no form of forced labour is tolerated in their territory. Even countries who have not ratified Convention No. 29 should respect, promote and realize the prohibition of forced labour, as it is one of the **fundamental principles and rights at work**.⁵ Furthermore, they must ensure that the penalties stipulated in legislation for the penal offence of forced labour “are really adequate and are strictly enforced” (Convention No. 29, Articles 1(1) and 25). A general prohibition of forced labour may not be sufficient to allow successful prosecution and conviction of perpetrators. For it to be effectively enforced by courts, the legislation must define the punishable offence precisely, taking into account national circumstances.

Countries may choose to use other terms to capture situations of forced labour. For example, some countries have adopted legislation on “bonded labour”, “slave labour”, or “degrading working conditions”. What is important is that the government ensures that the definitions used encompass all forms of forced labour present in the country. This is necessary for the successful prosecution of perpetrators and access to justice and remedies for victims. It is not uncommon for national laws to have limited practical impact because they do not properly cover all forms of forced labour, or they make the gathering of evidence very difficult. For instance, some national laws on trafficking effectively protect women trafficked for sexual exploitation but do not allow legal prosecution in the case of men trafficked for labour exploitation. The NAP should include a thorough periodic review of national legislation in order to identify possible legal gaps and suggest amending existing legislation or adopting new legislation if necessary.



5- The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, was adopted by all ILO Member States in 1998. It defines the fundamental principles and rights at work that all Member States must respect, promote and realize, namely the prohibition of child labour, forced labour and discrimination in employment, as well as the freedom of association and collective bargaining, regardless of whether or not they have ratified the relevant Conventions.

Identifying gaps

In the early 2010s, **Australia** undertook public consultations and worked with stakeholders to review its legislation. It identified gaps, as its legislation was focused mainly on human trafficking and was not covering all situations of modern slavery.

As a result, the country amended its laws and adopted new ones that now cover a broader range of situations, and include human trafficking, slavery, forced labour and forced marriage (among others).

The current NAP, adopted in 2014, now focuses on “Human Trafficking and Slavery” while the previous one only addressed human trafficking.

To stand alone or to integrate with existing frameworks?



A country must consider whether the most appropriate strategy is to formulate a stand-alone NAP on forced labour or whether it would be more effective to embed the forced labour NAP into an existing NAP on human trafficking, **bonded labour** or child labour for instance. These issues share many social, economic and cultural root causes of forced labour, such as poverty, illiteracy or **discrimination** but the decision requires careful consideration.

Mainstreaming and integration tend to be more effective strategies in environments where forced labour is well-recognized and partners have a strong capacity to address it. However, if forced labour is still underestimated, and there is limited understanding of and commitment to tackle it, a stand-alone NAP may be a more effective tool to bring the issue onto the agenda, mobilize partners around it and build policy commitment.

If a country is already implementing a NAP (for example on human trafficking), where inclusion of activities to eradicate forced labour fit well, integration (mainstreaming) may be a more viable strategy. This may entail considering new specific interventions for forced labour that were inexistent so far (for example establishing a referral system for forced labour cases or creating coordination mechanisms between police and labour inspection). It is also important to include all relevant stakeholders who may not have been involved in the original NAP, such as labour inspectors or trade unions.

Adopting an integrated approach

Depending on what is already in place, the integration of an issue within an existing framework may be a more effective strategy than a stand-alone NAP. In **Azerbaijan**, the Government intended to formulate a NAP on child labour. The country already had several other plans and programmes in place, such as a NAP on combating human trafficking. After careful consideration, it was decided that it would be more effective to focus on implementation by tying child labour components in with other plans and programmes instead of spending resources on formulating another NAP.



In other countries, the need may be to adopt a stand-alone NAP on forced labour. This may be necessary to build political commitment or to engage national stakeholders.

Tool No. 3 provides more details on mainstreaming forced labour into other policy areas to help partners decide whether or not to adopt an integrated NAP. Shedding light on all of these issues will help partners reach a decision as to whether or not to develop a stand-alone NAP.



▶ Bibliography

Domestic worker, Costa Rica, 2010 (© ILO/G. Bolanos and F. Vindas).

With ILO support, Costa Rica adopted a Roadmap to free the country from child labour and its worst forms (including forced labour).

Bibliography

- Alliance 8.7. 2017. *Alliance 8.7 Strategic Vision* (Geneva). Available at: www.alliance87.org/wp-content/uploads/2019/03/Alliance87-strategic-vision_EN_Web-180710.pdf.
- Alliance 8.7. 2018. *Alliance 8.7: Joining forces globally to end forced labour, modern slavery, human trafficking and child labour*, brochure (Geneva). Available at: www.alliance87.org/wp-content/uploads/2019/04/Alliance87_Brochure_EN_Web_181012.pdf.
- George, R. 2016. "The marine, and human, costs of illegal fishing", in *New Statesman*, online, February 13th. Available at: www.newstatesman.com/culture/books/2016/02/marine-and-human-costs-illegal-fishing.
- Government of the United Kingdom. 2011. *Human Trafficking: The Government's Strategy*, Home Office (London). Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/97845/human-trafficking-strategy.pdf.
- Inclusive Security. 2017. *Creating National Action Plans: A Guide to Implementing Resolution 1325* (Washington, D.C.). Available at: www.inclusivesecurity.org/wp-content/uploads/2018/09/InclusiveSecurity_NAP-Guide_ME_2017.pdf.
- International Labour Organization (ILO). 2008. *Guide for the preparation of National Action Plans on Youth Employment* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/--ed_emp/documents/instructionalmaterial/wcms_116007.pdf.
- ILO. 2010. *Roadmap to make Central America, Panama and the Dominican Republic a Child Labour Free Zone. Programming, Implementation, Monitoring and Evaluation Guide*, International Programme for the Elimination of Child Labour (IPEC) (ILO, San Jose). Available at: www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_13376/lang--en/index.htm.
- ILO. 2012a. *Giving globalization a human face: General Survey on the fundamental Conventions concerning rights at work in light of the ILO Declaration on Social Justice for a Fair Globalization, 2008*, Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 101st Session, 2012 (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_174846.pdf.
- ILO. 2012b. *Hard to see, harder to count: Survey guidelines to estimate the forced labour of adults and children* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182096.pdf.
- ILO. 2012c. *ILO Global Estimate of Forced Labour: Results and Methodology* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf.
- ILO. 2012d. *ILO Indicators of Forced Labour* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf.
- ILO. 2012e. *Mainstreaming Child Labour Concerns Into Policy Frameworks: Issues and Guidelines*, International Programme on the Elimination of Child Labour (IPEC), unpublished (Geneva).
- ILO. 2013. *Implementing the Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016: Training guide for policy makers*, International Programme on the Elimination of Child Labour (IPEC) (Geneva). Available at: www.ilo.org/ipec/Informationresources/WCMS_202336/lang--en/index.htm.

- ILO. 2014. *Profits and Poverty: The Economics of Forced Labour* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf.
- ILO. 2016a. *ILO's 2016 General Principles and Operational Guidelines for Fair Recruitment* (Geneva). Available at: www.ilo.org/africa/areas-of-work/labour-migration/policy-frameworks/WCMS_671738/lang--en/index.htm.
- ILO. 2016b. *ILO Standards on Forced Labour: The Protocol and Recommendation at a Glance* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_508317.pdf.
- ILO. 2017a. *ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, 5th edition* (Geneva). Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.
- ILO. 2017b. *Tool kit for development and implementation of National Action Plans (NAPs) on Child Labour* (Geneva). Available at: www.ilo.org/ipecc/Informationresources/WCMS_568877/lang--en/index.htm.
- ILO. 2018a. *Ending Child Labour by 2025: A review of policies and programmes, Second edition* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_653987.pdf.
- ILO. 2018b. *Ending Forced Labour by 2030: A review of policies and programmes* (Geneva). Available at: www.ilo.org/global/topics/forced-labour/publications/WCMS_653986/lang--en/index.htm.
- ILO. 2018c. *Guidelines concerning the measurement of forced labour, 20th International Conference of Labour Statisticians, 10–19 October 2018* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648619.pdf.
- ILO. 2019a. *Integrated Strategy on Fundamental Principles and Rights at Work 2017-2023* (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_648801.pdf.
- ILO. 2019b. *Reporting on forced labour and fair recruitment: An ILO toolkit for journalists*, online resource (Geneva). Available at: <https://readymag.com/ITCILO/1292461/>.
- ILO. 2019c. *Rules of the Game: An introduction to the standards-related work of the International Labour Organization, Centenary edition* (Geneva). Available at: www.ilo.org/global/standards/information-resources-and-publications/publications/WCMS_672549/lang--en/index.htm.
- ILO; Inter-Parliamentary Union (IPU). 2019. *Eliminating Forced Labour, Handbook for Parliamentarians* N°30 (Geneva). Available at: www.ilo.org/global/topics/forced-labour/publications/WCMS_723507/lang--en/index.htm.
- ILO; International Organisation of Employers (IOE). 2014, *Strategic collective bargaining: An introduction for employers*, ACT/EMP (Geneva). Available at: www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/meetingdocument/wcms_304046.pdf.
- ILO; Organisation for Economic Co-operation and Development (OECD); International Migration Organization; UNICEF. 2019. *Ending child labour, forced labour and human trafficking in global supply chains, Alliance 8.7 report* (Geneva, ILO, 2019). Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_716930.pdf.

- ILO; United Nations Alliance of Civilizations (UNAOC). 2014. *Media-Friendly Glossary on Migration*, Panos Europe Institute. Available at: www.ilo.org/wcmsp5/groups/public/--ed_protect/--protrav/--migrant/documents/publication/wcms_310235.pdf.
- ILO; Walk Free Foundation. 2017. *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, in partnership with the International Organization for Migration (IOM) (ILO, Geneva). Available at: www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf.
- International Trade Union Confederation (ITUC). 2009. *How to Combat Forced Labour and Trafficking: Best practices manual for trade unions*, ITUC Guide (ITUC, Brussels). Available at: www.ilo.org/wcmsp5/groups/public/--ed_norm/--declaration/documents/publication/wcms_142664.pdf.
- Lawrence, L.; Booth, R. 2010. "Modern-day slavery: horrific conditions on board ships catching fish for Europe", in *The Guardian*, online, September 30th. Available at: www.theguardian.com/law/2010/sep/30/modern-day-slavery-fishing-europe.
- Organisation for Economic Co-operation and Development (OECD). 2002. *Glossary of Key Terms in Evaluation and Results Based Management* (Paris). Available at: www.oecd.org/dac/evaluation/2754804.pdf.
- OECD. 2018. *OECD Due Diligence Guidance for Responsible Business Conduct* (Paris). Available at: <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.
- United Nations (UN). (2007). *Special Rapporteur on contemporary forms of slavery*, Resolution 6/14, Human Rights Council, 21st meeting, September 28. Available at: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_14.pdf.
- UN. 2011. *UN Guiding Principles on Business and Human Rights* (New York and Geneva). Available at: www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.
- United Nations Office on Drugs and Crime (UNODC). (No date). *Online Toolkit to Combat Trafficking in Persons, Chapter 2: Problem Assessment and Strategy Development, Tool 2.7: National action plans and strategies against trafficking in persons* (Vienna). Available at: www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_2-7.pdf.
- UN Office of the High Commissioner for Human Rights (OHCHR). (No date(a)). *Mandate of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, leaflet (Geneva). Available at: www.ohchr.org/Documents/Issues/Slavery/SR/Leaflet_SR_Slavery_en.pdf.
- OHCHR. (No date(b)). *The human faces of modern slavery*, United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (Geneva). Available at: www.ohchr.org/Documents/Issues/Slavery/UNVTCFS/UNSlaveryFund.pdf.
- United States Department of State (USDOS). 2016. *Guide to Monitoring and Evaluation*, Bureau of Democracy, Human Rights and Labor, October (Washington D.C.). Available at: www.state.gov/wp-content/uploads/2019/01/DRL-Guide-to-Program-Monitoring-and-Evaluation.pdf.
- World Bank. 2012. *Designing a results framework for achieving results: a how-to guide*, Independent Evaluation Group (IEG, Washington). Available at: <http://documents1.worldbank.org/curated/en/331541563854787772/pdf/Designing-a-Results-Framework-for-Achieving-Results-A-How-to-Guide.pdf>.

International Instruments

- ILO. 1957. Abolition of Forced Labour Convention, 1957 (No. 105). Available at: www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105.
- ILO. 1998. ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 18 June 1998. Available at: www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf.
- ILO. 2014. P029 - Protocol of 2014 to the Forced Labour Convention, 1930. Available at: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029.
- ILO. 2014. R203 - Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). Available at: www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3174688.
- League of Nations. 1926. League of Nations Convention to Suppress the Slave Trade and Slavery (the Slavery Convention), 1926. Available at: www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx.
- United Nations. 1989. Convention on the Rights of the Child, 20 November 1989. Available at: www.ohchr.org/en/professionalinterest/pages/crc.aspx.
- United Nations. 2000. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 15 November 2000. Available at: www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx.
- United Nations Office on Drugs and Crime. 2000. United Nations Convention against Transnational Organized Crime. Available at: www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf.

Useful links

50forfreedom: <http://50forfreedom.org/>

The 50 for Freedom campaign is led by the International Labour Organization (ILO) and its partners, the International Trade Union Confederation (ITUC) and the International Organization of Employers (IOE), and is supported by more than 35 organizations, artists and human rights activists. Its aim is to reach 50 ratifications of the 2014 ILO Forced Labour Protocol and promote its implementation. It also aims to raise awareness, share innovative practices and enhance action to combat all forms of forced labour.

Alliance 8.7: www.alliance87.org/

Launched in 2016, the Alliance 8.7 is a global partnership that is bringing together all interested parties to join forces in achieving SDG Target 8.7 aiming at a world without forced labour, modern slavery, human trafficking and child labour. In 2020, the Alliance has so far gathered 17 pathfinder countries and 225 partner organizations.

Global Business Network on Forced Labour: <https://flbusiness.network/>

The ILO's Global Business Network on Forced Labour brings together businesses of all sizes and sectors, and their networks, from around the globe to eradicate forced labour. Its members and partners work to engage smaller enterprises, develop resources and tools, and devise local solutions that help shape national frameworks to create lasting change.