



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: UNITED STATES

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)

REPORTING	Fulfillment of Government's reporting obligations	YES, but no changes to reports for the 2001, 2002, 2004 and 2006 Annual Reviews (ARs).		
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the United States Council for International Business (USCIB), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and Change to Win Federation by means of communication of government's reports. In addition, the draft reports are reviewed by members of the Tripartite Advisory Panel on International Labor Standards, a subgroup of the President's Committee on the ILO.		
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL		
	Workers' organizations	2004 AR: Observations by the AFL-CIO. 2002 AR: Observations by the International Confederation of Free Trade Unions (ICFTU). 2001 AR: Observations by the ICFTU.		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	The United States ratified in 1991 the Abolition of Forced Labour Convention, 1957 (No.105) (C.105). However, it has not ratified the Forced Labour Convention, 1930 (No.29) (C.29).	
		Ratification intention	There are no ongoing efforts to ratify C. 29.	
	Recognition of the principle and right (prospect(s), means of action, basic provisions)	Constitution	YES, The Thirteenth Amendment to the U.S. Constitution specifically outlaws slavery and involuntary servitude, except as punishment for a person duly convicted of a crime. The Amendment states: Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction Section 2. Congress shall have power to enforce this article by appropriate legislation.	
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy 2003 AR: According to the Government: The United States adopted legislation showing the existence of a national policy for realizing the principle of the elimination of all forms of forced or compulsory labor. The most recent development with regard to the United States national policy was the passage of the Victims of Trafficking and Violence Protection Act of 2000 on 28 October 2000. This law is the culmination of the federal Government's efforts through the Trafficking in Persons and Worker Exploitation Task Force to	

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

			<p>address the domestic and global dimensions of human trafficking.</p> <ul style="list-style-type: none"> • Legislation <p>2007 AR: Legislation: The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA), PL 109-164, 119 Stat 3558, was enacted on January 10, 2006, amending the Trafficking Victims Protection Act of 2000 (TVPA), Division A of PL 106-386, 22 U.S.C. § 7101 <i>et seq.</i></p> <p>The Trafficking Victims Protection Reauthorization Act of 2003, (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875 (2003), was enacted on December 19, 2003.</p> <p>The United States has specific federal legislation, which requires every employer to pay each of his employees a minimum wage (29 U.S.C. § 206). The United States has specific federal legislation requiring overtime pay (29 U.S.C. § 207).</p>
		Definition of forced or compulsory labour	<p>2003 AR: According to the Government: The Victims of Trafficking and Violence Protection Act of 2000 enacted on 28 October 2000 expands the definition of forced labor to reach the more insidious forms of coercion occurring in contemporary times, thus enabling the government to come to the aid of more victims and to bring more cases than allowed under prior anti-slavery and anti-peonage laws.</p> <p>2000 AR: According to the Government: The Supreme Court defined involuntary servitude to mean the control of the labor and services of one man for the benefit of another and the absence of a legitimate right to dispose of one's own person, property, or services. Further, the Thirteenth Amendment's prohibition of «involuntary servitude» has been determined by the Supreme Court to ban the practice of peonage, which is broadly defined as «compulsory service in the payment of a debt». <i>Baily v. Alabama</i>, 219 U.S. 219, 242 (1911).</p>
		Judicial decisions	<p><i>Civil Rights Cases</i>, 109 U.S. 3, 20 (1883); <i>Clyatt v. United States</i>, 197 U.S. 207 (1905); <i>United States v. Gaskin</i>, 320 U.S. 527 (1944); <i>Yick Wo v. Hopkins</i>, 118 U.S. 356, 369 (1886); <i>Levy v. Louisiana</i>, 391 U.S. 68, 70 (1968); <i>Graham v. Richardson</i>, 403 U.S. 365, 371 (1971).</p>
	Exercise of the principle and right	Special attention to particular situations and human trafficking	<p>2003 AR: According to government: the laws are designed to protect all groups.</p>
		Information and data collection	<p>2008 AR: The U.S. Attorney General's May 2007 report to Congress under the Trafficking Victims Protection Reauthorization Acts of 2003 and 2005 can be found at www.usdoj.gov/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf.</p> <p>2003 AR: According to the Government: The principal storehouse of information concerning any labor statistics is the Bureau of Labor Statistics, Washington, D.C. 20212.</p> <p>Moreover, statistics regarding the number of investigations and prosecutions under the Victims of Trafficking and Violence Protection Act of 2000 and other cases involving involuntary servitude, are maintained at the US Department of Justice (Civil Rights Division, Criminal Section, Washington, D.C. 20530).</p>
	Monitoring, enforcement and sanctions mechanisms		<p>2008 AR: The U.S. Department of Justice established in March 2007 a Human Trafficking Prosecution Unit within the Civil Rights Division, which will enhance its ability to investigate and prosecute important trafficking and slavery cases. The unit will also serve as a resource for training, outreach, and policy development. Moreover, several states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victims' services.</p> <p>2007 AR: According to the Government: With respect to the Trafficking Victims Protection Act of 2000, as amended, information on</p>

		<p>monitoring and enforcement is contained in yearly assessments that may be found at the following URL address: http://www.usdoj.gov/whatwedo/whatwedo_ctip.html</p> <p>2004 AR: According to the Government: The Trafficking Victims Protection Reauthorization Act of 2003 allows a victim of trafficking to file a civil action in a district court against his/her trafficker and to recover damages and attorney's fees. The law also allows for the prosecution of sex traffickers whose actions affect commerce.</p> <p>2003 AR: According to the Government: In realizing the principle of the elimination of all forms of forced or compulsory labor, the following measures have been implemented: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) civil or administrative sanctions; (v) special institutional machinery; (vi) capacity building. The Victims of Trafficking and Violence Protection Act of 2000 increases prison terms for slavery violations from 10 years to 20 years and adds life imprisonment where the violation involves the death, kidnapping, or sexual abuse of the victim. This Act also gives prosecutors and agents new tools to get legal immigration status for victims of trafficking during investigations and prosecutions.</p> <p>2000 AR: According to the Government: The provisions of 18 U.S.C. §§ 241 and 242 provide criminal penalties for the exaction of forced labor in violation of the Thirteenth Amendment.</p>	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Involvement of the social partners	2003 AR: According to the Government: Tripartite examination of issues in realizing the principle and right (PR)	
	Promotional activities	<p>2008 AR: The Government indicated that the U.S. Department of Justice convened a National Conference on Human Trafficking in 2006, bringing together federal, state, and local law enforcement and prosecution officials, victims' advocates, academics, and non-governmental victim service providers to discuss human trafficking issues and develop strategies for combating slavery and human trafficking more effectively. Moreover, the Human Trafficking Prosecution Unit will also serve as a resource for training, outreach and policy development.</p> <p>2003 AR: According to the Government: In realizing the principle and right of the elimination of all forms of forced or compulsory labor, the following measures have been implemented: (i) awareness raising/advocacy; (ii) employment creation/income generation; (iii) educational programs; (iv) rehabilitation following removal from forced labor and (iv) international cooperation programs/projects</p>	
	Special initiatives/Progress	<p>2008 AR: According to the Government: The Office of Victims of Crime in the U.S. Department of Justice in 2006 awarded more than \$12 million to 30 organizations around the country to help them continue working collaboratively with law enforcement task forces to ensure that comprehensive services are provided to victims of human trafficking. Moreover, the U.S. Department of Justice continues to promote a Model State Anti-Trafficking Statute, which would expand anti-trafficking authority to the states. As of November 1, 2006, twenty seven (27) states had passed anti-trafficking legislation and 15 more had legislation pending. Several other states have passed laws to establish research commissions and task forces, and to mandate law enforcement training and the provision of victim's services.</p> <p>2003 AR: According to the Government: the cases brought under the Victim of Trafficking and Violence Protection Act of 2000 can be regarded as successful examples of the elimination of forced or compulsory labor in the United States.</p>	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL

		Workers' organizations	<p>2004 AR: The AFL-CIO expresses its strong disagreement with the updated report by the Government on this PR.</p> <p>2003 AR: Observations of the AFL-CIO: The labour performed by prisoners involving private sector violates the ILO Convention on forced labour</p> <p>2001-2002 ARs: Observations of the ICFTU: (i) the minimum wage does not apply to prisoners; (ii) prisoners who refuse to work lose their chance for early release, are deprived of privileges or sent to higher-security institutions and may be locked in their cells 23 hours a day; (iii) with regard to forced domestic labour, there are reported cases of migrant domestic workers facing working conditions that are close to slavery, (iv) forced labour occurs in the garment industry within the United States territories, such as the Northern Mariana Islands; (v) an estimated 18,000 to 20,000 people are trafficked to the US every year (most are employed in the sex sector); (vi) trafficking cases are difficult to discover due to their clandestine nature and to language and cultural barriers which isolate the victims; (vii) many foreign workers are paid less than the minimum wage and, under the terms of their visa, face deportation if they leave their employer to escape from these oppressive conditions.</p>
	According to the Government	NIL	
TECHNICAL COOPERATION	Request	2004 AR: According to the ICFTU: There is a need for the effective elimination of forced prostitution and trafficking of women and children. A stronger enforcement of the law is needed as well as effective cooperation with the countries these women come from.	
	Offer	NIL	
EXPERT-ADVISERS' RECOMMENDATIONS/ OBSERVATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers were concerned that the United States was not actively considering ratification of Convention No. 29, and urged it to take action in this regard. However, they noted that some reporting States had developed programmes and mechanisms to combat forced labour in their countries, whether it took the form of classic slavery or bonded labour, trafficking, forced child labour, serfdom, or others. In this respect, they considered, in particular, that the United States and another State had taken certain positive measures, and encouraged them to engage in the ratification process of C. 29 (Cf. Paragraphs 42 and 49 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2006 AR: The IDEAs hoped that the United States (and another State) would consider ratification of C.29 (Cf. Paragraph 44 of the 2006 AR Introduction – ILO: GB.295/5).</p> <p>2005 AR: The IDEAs listed United States among the countries where some efforts were being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also considered that the example of regular and constructive contributions by AFL-CIO and the JTUC-RENGO (Japan) should be expanded upon, in particular among other national workers' organizations, as well as employers' organizations (Cf. Paragraphs 13 and 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>		
GOVERNING BODY RECOMMENDATIONS	NIL		