

Working Paper No. 25

Forced Labor in Argentina: Advances and Challenges

Giuseppe M. Messina

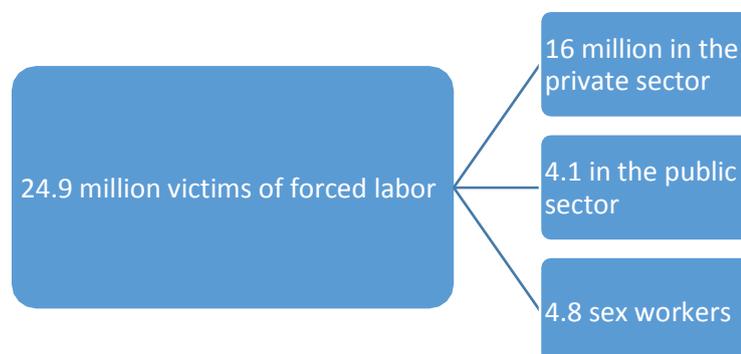
Eliminating all forms of forced and obligatory labor is one of the primary principles and rights in the world of work. In June 2014, representatives of the ILO member states adopted a protocol on forced labor that complements Convention 29 of 1930; that protocol constitutes a regulatory advance fundamental to meeting the global objective of effectively eliminating forced labor. The 2014 protocol was put into effect in Argentina on November 9, 2017.

This document attempts to provide an overall diagnosis of forced labor in Argentina and of the efforts to eradicate it. It points out progress made as well as ongoing challenges, and puts forth some proposals to reinforce the state's ability to confront the issue of forced labor.

Global Scale and National Phenomenon

According to ILO global estimates (2017), in 2016 approximately 24.9 million persons were subjected to forced labor, that is, they worked under menace or coercion in a range of activities: domestic work, construction, textile manufacturing in illegal sweatshops, and fishing; others were victims of forced labor in the sex industry. A minimum of 1.3 million persons are estimated to be subjected to forced labor in the Americas (ILO, 2017). Forced labor yields soaring profits. The ILO (2014) estimates that illegal profits from forced labor stand at 150 million dollars per year, of which some twelve million are generated in Latin America.

Graphic 1. World Victims of Forced Labor, 2016



Source: Own elaboration on the basis of ILO estimates (2017).

In Argentina, most information on forced labor is provided by entities active in the struggle against human trafficking. According to a report issued by the Procuraduría de Trata y Explotación de Personas del Ministerio Público Fiscal [Attorney General's Office on Human Trafficking and Exploitation,

PROTEX] for 2009-2017, there were some 613 indictments for human trafficking during that period, with 1407 suspects and 2998 victims. Of that total, some 58.5% were cases of trafficking for sexual exploitation, and the remaining 41.5% for labor exploitation.

The Programa Nacional de Rescate y Acompañamiento a las Personas Damnificadas por el Delito de Trata [National Program for the Rescue and Accompaniment of Victims of Human Trafficking], which operates under the auspices of the Ministerio de Justicia y Derechos Humanos [Ministry of Justice and Human Rights], reports that some 11,853 victims were rescued and aided from April 2008 to December 2017. Of them, 54% were victims of labor exploitation and 46% of sexual exploitation.

There is no data available on forced labor that is not a consequence of prior human trafficking. Workers in sectors with high rates of informality or in activities performed disproportionately by migrants, in small economic units, and/or in isolated locations where it is possible to hold people captive are more vulnerable than others and, hence, the rates of forced labor are higher in those activities.

While there is no exhaustive list, the sectors most affected by forced labor in Argentina are garment work in illegal sweatshops; agricultural labor, especially when seasonal; manufacturing work performed on the outskirts of cities or in rural areas, such as brick making; sex work; and domestic work performed at home. In the realm of the state, it is important to examine the working conditions in prisons to ensure that they meet the standards set by the ILO conventions that the country has ratified.

What is Forced labor?

This document's definition of forced labor is the one in ILO norms. That definition distinguishes it from other phenomena with like characteristics, such as human trafficking and child labor.

According to Convention No. 29 (1930), forced labor consists of "all work or service which is exacted from any person under the menace of any penalty for which the said person has not offered himself¹ voluntarily" (art. 2).

That conceptualization gives rise to three elements key to specifying the phenomenon and to differentiating it from other conditions affecting workers' rights.

The first refers to any task performed for the benefit of a third party. Regardless of its nature, its legality or illegality, its formality or informality, the length of service, or any other trait, any and all such work constitutes forced labor.

The second element is coercion, that is, the real or credible threat of a penalty of such magnitude that the victim's will to decide whether or not to work, and in what conditions, is undermined. In any case, the credibility of the menace of penalty must be analyzed and evaluated from the victim's perspective, taking into account educational, sociological, psychological, economic, and cultural factors.

A third and related criterion laid out by the ILO's definition is work that is not offered voluntarily. If consent to perform work is given "under the menace of any penalty," this third criterion overlaps with the second, since one cannot "offer himself voluntarily" if there is a menace. The worker's informed consent must be granted and sustained freely for the entire time the work or service is performed. The inalienable right to resign at any time must be protected.

¹The use of the masculine as generic reflects the wording of the original ILO convention.

There is an important distinction between forced labor and human trafficking for the sake of exploitation. While both are serious violations of workers' rights with a good deal in common, they must be clearly distinguished, first in order to detect the crime and to prosecute its perpetrators and the economic beneficiaries of it, and second to guarantee aid to victims and the restoration of their rights.

International and National Regulations on Forced Labor

This document describes the principal international norms on the issue of forced labor. All of them have been ratified by Argentina and have supra-legal status according to article 75, clause 22 of the Argentine Constitution.

The ILO's principal norms on forced labor include:

Year 1930	Convention No. 29 on forced labor
Year 1957	Convention No.105 on the abolition of forced labor
Year 2014	Protocol of 2014 to the Forced Labor Convention of 1930 (P029)
Year 2014	Recommendation No.203 on supplementary measures for the effective elimination of forced labor

Most of the relevant Argentine legislation addresses the crime of trafficking. The omission of forced labor per se can have concrete effects on the specific measures required to handle these different human rights violations and lead to failure to address the specific needs (resources, protection and reparation mechanisms) of victims of forced labor that have not been subjected to trafficking.

In 2008, Law Nº 26,364 for the Prevention and Punishment of Human Trafficking and Aid to its Victims was enacted. The law was amended in 2012 by Law Nº 26,842. That legislation created the primary entities aimed at the prevention and eradication of human trafficking:

- an executive committee for the struggle against human trafficking
- a federal council for the struggle against trafficking and the exploitation of persons and for protection of and aid to its victims
- a synchronized system of reports of human trafficking and the exploitation of persons

In terms of punishment, forced labor, like slavery, servitude, and other analogous practices, is outlawed in Argentina in article 140 of the nation's penal code. This regulation is congruent with ILO Convention No. 29 and the 2014 Protocol, both of which call for adequate and strictly applied legal penalties. Human trafficking for the sake of exploitation is penalized in articles 145 a and 145 b of the aforementioned code.

Principal Tools and Actors

This document describes the principal tools and institutions engaged in the prevention and eradication of forced labor. They are grouped according to stage of intervention. The first phase consists of the prevention, detection, inspection, and investigation of forced labor, as well prosecuting, trying, and punishing those guilty of it; the second consists of protecting and aiding victims, and the reparation

and restitution of their rights; the third involves the role of the relevant social actors. Finally, the document analyzes how this network of state and non-state institutions is articulated and coordinated to achieve the aim of eradicating forced labor. The most important institutions and tools include:

- Both the Consejo Federal para la Lucha contra la Trata y Explotación de Personas y para la Protección y Asistencia a las Víctimas [Federal Council on the Fight Against Human Trafficking and Exploitation and for the Protection and Assistance of Victims] and the Comité Ejecutivo para la Lucha contra la Trata y Explotación de Personas y para la Protección y Asistencia a las Víctimas [Executive Committee on the Fight Against Human Trafficking and Exploitation and for the Protection and Assistance of Victims] were created by Law Nº 26,842. They are responsible for coordinating the design and implementation of public policies on the struggle against human trafficking and exploitation
- The federal system of labor inspection and provincial inspectors
- The forces of the Ministerio de Seguridad [Ministry of Security]
- Judicial institutions, among them the Procuraduría de Trata y Explotación de Personas [Attorney General's Office on Human Trafficking and Exploitation, PROTEX], in charge of investigating and bringing charges in cases of forced labor
- The Programa Nacional de Rescate y Acompañamiento de Víctimas Damnificadas por el Delito de Trata de Personas [National Program for the Rescue and Accompaniment of Victims of Human Trafficking]
- The Secretaría Nacional de Niñez, Adolescencia y Familia [National Secretariat for Children, Youth, and Family, SENAF] and the focal points of aid in each province
- The hotline (number 145) that fields anonymous reports free of charge twenty-four hours a day 365 days a year in what is one of the most important means of detection throughout the country

Some proposals to reinforce the prevention and eradication of forced labor

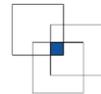
On the basis of its analysis, the document presents brief reflections and recommendations to reinforce the state's ability to prevent and eradicate any form of forced labor in the Argentine territory. These recommendations include:

- Design a nationwide tripartite action plan, that is, a plan in which government parties, workers, and employers take part; and assess the recently enacted Programa Nacional de Lucha contra la Trata y Explotación de Personas in order to determine whether it should be supplemented or strengthened to more effectively contribute to the eradication of forced labor
- Encourage social actors' participation in all institutions working for the prevention and eradication of human trafficking and exploitation and for protection of and aid to its victims.
- Bolster social dialogue and reinforce coordination with the business sector and workers' organizations to improve prevention and detection capacities, as well as to provide aid and to contribute to the social and employment reinsertion of victims
- Encourage the state to produce quantitative and qualitative information on human trafficking and forced labor
- Strengthen technical and professional teams working at local (provincial and municipal) organizations that aid victims to improve the accessibility of aid programs geared to, among other things, social and/or employment insertion

- Reinforce the human and material resources available to federal and provincial agencies working on forced labor (its prevention, detection, and prosecution) and on aiding victims and restoring their rights
- Reinforce awareness and outreach campaigns that help increase the visibility of forced labor in Argentina, especially in contexts not resulting from human trafficking

[Full document \(PDF\)](#)

© International Labour Organization 2018



This summary is not an official document of the International Labour Organization. The opinions expressed do not necessarily reflect the views of the ILO. The designations employed do not imply the expression of any opinion whatsoever on the part of the ILO concerning the legal status of any country, area or territory, or of its authorities, or concerning the delimitation of its frontiers. Reference to names of firms and commercial products and processes does not imply their endorsement by the ILO, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval. This text may be freely reproduced with mention of source.

ILO Country Office for Argentina

E-mail: buenosaires@ilo.org

Tel. +54 11 4393-7076

For additional information, visit our website: www.ilo.org/buenosaires