



Terms of References

Situation and Gap Analysis Report on Forced Labour Protocol – PAKISTAN

Duration: October 2020- December 2020

Background

ILO Conventions on forced labour, the Forced Labour Convention, 1930 (No.29), and the Abolition of Forced Labour Convention, 1957 (No. 105), have played a key role in establishing an overarching framework to combat the practice of forced and compulsory labour. These Conventions remain among the most widely ratified ILO instruments. Nonetheless, gaps in their implementation and challenges posed by modern and emerging forms of forced labour prompted the international community to come together to formulate additional measures to effectively suppress forced labour in all its contemporary manifestations. At the International Labour Conference in 2014, the ILO adopted the Protocol of 2014 to the Forced Labour Convention, 1930. Recommendation No. 203 on Forced Labour (Supplementary Measures) was also adopted at this time to provide additional guidance. These instruments, together, provide the overarching international framework to guide national effects to end forced labour.

Pakistan ratified Conventions Nos. 29 and 105 in 1957 and 1960. Over the past few decades, the Government of Pakistan has adopted a series of measures with a view to abolishing forced and bonded labour. Significant efforts have been made to abolish traditional forms of forced labour and to release and rehabilitate those workers. The Pakistani Government has also adopted national policies to tackle modern systems of forced labour and trafficking with a view to abolishing forced and compulsory labour in all its forms. This has involved a range of legal reforms, reviews of existing mechanisms and programmes, and the development of new legislation, agreements and sector-specific interventions. However, despite efforts, forced labour persists in Pakistan and among Pakistani migrant workers abroad. COVID-19 resulted in the return of many Pakistani migrant workers particularly from the Middle East. Many of them are assumed to have returned without any savings and if not properly reintegrated, they may be vulnerable to situations of forced labour particularly in the rural economy of Pakistan, from where most of migrant workers go abroad to work. They are also potentially more vulnerable to human trafficking as they seek to remigrate in one way or the other.

As a recipient of GSP Plus status, Pakistan is committed to strengthening application of the ratified core ILO Conventions on forced labour, freedom of association and collective bargaining, non-discrimination and equality in employment and child labour. The Protocol, as a supplement to the Forced Labour Convention of 1930, is considered one of the instruments composing the core conventions. As such, there is a unique opportunity to engage and involve the government and the other stakeholders in a comprehensive examination of existing legislation, measures and practices to strengthen mechanisms to suppress forced labour. As a contribution towards the overarching



objective of strengthening Pakistan's legal framework and mechanisms to combat forced labour, this research will seek to identify areas where regulatory and practical measures can be strengthened. It will also assess and assist in mapping a way forward towards ratification of the Protocol.

The key requirement of the Protocol is set out in its Article 1, which establishes that: in giving effect to their obligations under Convention No. 29 to suppress forced labour, member States shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced labour. The provisions in the Protocol and the guidance provided in the Recommendation elaborate further on more specific requirements regarding prevention, protection, access to remedies and enforcement, and provide clarification on what measures are considered effective. Therefore, although each Member State may implement this Article by taking into account its unique national circumstances, the measures adopted must be effective.¹

Bearing in mind these requirements, the research will involve a legal analysis, an analysis of economic, social, employment and migration policies, and their application and will review implementation of the law, including the roles and effectiveness of those involved in the enforcement of the law, including the labour inspection, the police, the judiciary and access to justice for victims. The researcher will identify mechanisms that would need to be adjusted or complemented in order to meet the requirements of the Protocol and assess the readiness of Pakistan to ratify the Protocol.

The research will take into consideration studies and analyses that have been conducted by ILO recently. A draft list of reference documents is attached with this ToR (annex-1). Moreover, ILO gathered the information in preparation for the study through semi-structured interviews in 2019. The information so gathered will be shared with the selected consultant.

A validation meeting with key stakeholders (tripartite plus) will be held to review and verify the results and recommendations presented in the gap analysis.

The recommendations will be formulated to suggest the ways in which the current legal framework and practice may need to be adjusted or complemented in order to meet the requirements of the Protocol. The suggestions may be communicated to the Ministry of Overseas Pakistanis and Human Resource Development (MoOP&HRD), Ministry of Interior, Ministry of Human Rights, Ministry of Law, Honourable Chief Justices in Pakistan, Law and Justice Commission, Provincial Labour Departments, Secretariats of the National and Provincial Assemblies and the Senate Secretariat etc.

Objectives

1. Identify extent to which Convention No. 29 and the Forced Labour Protocol have been incorporated into laws, regulations and policies in Pakistan;

¹ The Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), which supplements both the Protocol and Convention No. 29, provides non-binding practical guidance concerning measures to strengthen national law and policy on forced labour in the areas of prevention, protection of victims and ensuring their access to justice and remedies, enforcement and international cooperation. It builds on the provisions of the Protocol, should be read in conjunction with it, and provides useful tools in developing national capacity in preparation to ratify the Protocol.



2. Examine gaps in application of Convention No. 29 and areas where current mechanisms and actions to address forced labour in Pakistan would need to be strengthened to meet requirements of the Protocol; and
3. Formulate a set of recommendations to support greater compliance with Convention No. 29 and move towards ratification of the Protocol and suggest a roadmap.

Research Methodology

The study will comprise of the following: (1) A situation analysis; (2) comprehensive gap analysis of the Forced Labour Protocol and existing law and practice; (3) set of recommendations and roadmap towards ratification of P. 29.

The situation analysis will provide an overview of forced labour and trafficking in persons in Pakistan. It will highlight and examine sectors and groups of workers particularly vulnerable to forced labour and trafficking in persons. The situation analysis will draw largely from desk-based research, focusing on existing reports, studies, and comments from the ILO supervisory bodies as well as other international supervisory bodies, , as well as available statistical data. The researcher will be required to develop a questionnaire for collecting additional primary information. A national consultant will be separately hired for assisting with the collection of primary data.

The gap analysis will involve a review of legislation, policies and programmes vis a vis the provisions of Convention No. 29 and the Forced Labour Protocol. A template matrix is attached to these TORs (annex-2) for facilitating the gap analyses. The researcher will be required to have virtual interactions with the field in order to seek out and verify additional information if required on practices vis a vis application of national laws, policies and mechanisms and to identify challenges in the prevention and suppression of forced labour and in ensuring appropriate remediation and judicial action. Inputs and feedback provided during a national validation workshop shall also be taken into consideration. The gap analysis should be structured to examine existing law and practice vis a vis each of the requirements of the Protocol.

The recommendations and roadmap will be formulated based on the findings. They should include recommendations to respond to shortcomings in law or practice. For the road-map a set of short, medium and longer-term action points in proposed sequential order will be drafted to guide pathways toward ratification.

Structure of the Report

The proposed structure for the situation and gap analysis report is contained in annex-3 to this ToR.



Deliverables

1. Questionnaire for collecting the primary information in support of the situation analyses.
2. Draft report as indicated above, together with all annexes, submitted to ILO for feedback
3. Final report (Word format) that incorporates comments and suggestions given by ILO
4. Primary data collected in the course of the assignment

Process

It is suggested that an international consultant be hired to work with the Decent Work Technical Support Team for South Asia (DWT) to assist in sourcing information and data for this research and assist with the analysis and writing.

1. Identification and sharing of source materials and list of proposed sources to fill information gaps **27 October 2020**
2. Draft of situational analysis **06 November 2020**
3. Questionnaire and the mission plan (for the national consultant) for key informant interviews **13 November 2020.**
4. Key informant interviews (if required) **23 November- 27 November, 2020)**
5. Draft and final reports **21 December 2020**

Period of the Contract

The research work should be conducted over approximately **30 working days** within a period of 3 months.

Budget

Consultant is required to quote a lump sum daily rate, which shall be the sole remuneration and include provision for any incidental expenses such as stenographic expenses etc. The Consultant/ External Collaborator shall not, in any circumstances, be entitled to any payments other than those expressly provided for above. DSA for approved official travel (if any) will be paid at per ILO's rules/ policies, but at this stage, no travel is anticipated due to the pandemic.

Payment schedule

50% on the delivery of deliverable-1 and 2 and acceptance thereof by the ILO. Remaining 50% on the delivery of deliverables 3 and 4 and acceptance thereof by the ILO.

Qualification and Experience

- University degree in law, social/economic development or any other related discipline, with an experience of at least ten years-post qualification. Advanced degree preferred.
- Excellent knowledge of normative work from analytical perspective.



- Practical knowledge and familiarity with the justice and law enforcement processes in the country, preferably in areas related to the subject matter.
- Excellent knowledge of international legal framework pertaining to forced labour, ILO and UN conventions, ILO supervisory and oversight mechanisms
- Ability to communicate through electronic and remote communication means like skype, conference call, telephony etc.
- Good knowledge of the role and operations of UN system activities for development.
- Ability to communicate effectively both orally and in writing.
- Demonstrated experience of working with diverse stakeholders
- Excellent interpersonal communication, coordination, and persuasive skills
- Ability to work under pressure and manage timelines

Contract Supervision

The external collaborator will work in coordination with the National Project Coordinator of the Trade for Decent Work project and under the overall guidance of the Country Director, ILO Office for Pakistan. The Country Office will provide programmatic and administrative backstopping, while the DWT will provide the technical backstopping.

EXPRESSIONS OF INTEREST SHOULD BE SUBMITTED DETAILING A WILLINGNESS TO UNDERTAKE THE WORK OUTLINED, ATTACHING A CV AND STATING A PROPOSED DAILY RATE. EXPRESSIONS OF INTEREST SHOULD BE SUBMITTED BY EMAIL BY CLOSE OF BUSINESS ON 19 OCTOBER 2020 TO Islamabad@ilo.org