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Forced labour and human trafficking

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Introduction

1. Forced labour is the subject of widespread international attention and concern. In adopting its first forced labour instrument, the Forced Labour Convention (No. 29), in 1930, the International Labour Conference (ILC) called upon member States to suppress the use of forced labour within the shortest possible period, and to criminalize the offence. Yet, over 80 years later, and despite almost universal ratification of the Convention, the practice still exists, albeit in different forms to those that provoked such concern in the early 20th century.
2. At the time of Convention No. 29's adoption, the main issue of concern was the exaction of forced and compulsory labour from native populations by colonial administrations, which used various forms of coercion to obtain labour for the development of communications and the general economic infrastructure, and for the working of mines, plantations and other activities². By the 1950s, new concerns emerged about the use of forced labour for political and economic purposes and as punishment for the infringement of labour discipline. Forced labour was exacted from millions of people consigned to labour camps for political reasons. Moreover, as many countries in Asia and Latin America embarked on redistributive agrarian and land tenancy reforms, there was new momentum to wipe out servile labour systems — the vestiges of the “agrarian feudalism” that had been so widespread in the developing countries at that time. It was in this context that the ILO adopted the Abolition of Forced Labour Convention, 1957 (No. 105). It called for the suppression of forced labour as a means of political coercion, labour discipline, or racial, social, national or religious discrimination; as a method of mobilizing and using labour for purposes of economic development; and as punishment for having participated in strikes.
3. Since the adoption of the ILO's two forced labour Conventions, the context and forms of forced and compulsory labour have continued to evolve. While certain traditional practices of forced labour persist, new forms have also arisen, such as the subjection of migrant workers in supply chains or of migrant domestic workers to coercion. Direct and indirect coercion can be used by employers to force the worker to remain in the forced labour situation, including threats, the use of physical or sexual violence or the retention of identity documents. Forced labour is present in all economic sectors and affects workers in both formal and informal employment relationships. Forced labour cases have been documented in sectors such as agriculture, construction (including brick kilns), garments and textiles, restaurants and catering, sex and entertainment, transportation, food processing and packaging, mining and logging, domestic work and organised begging or hawking. Victims can be of all ages, such as children forced to work in exchange for a loan provided to their parents, young migrant adults or older men or women bound to a landowner. Employers can be individuals, small or large companies, or state-

² ILO: Forced labour, General conclusions on the reports relating to the international labour Conventions and Recommendations dealing with forced labour and compulsion to labour, International Labour Conference, 46th Session, Geneva, 1962.

associated institutions such as armies or prisons. According to the ILO 2012 estimate, there are 20,9 million victims of forced labour worldwide.

4. In spite of, or perhaps because of its diversity and large scale, the question of how to define and measure forced labour was not discussed by the ICLS until 2003, then again in 2008. In 2003, ICLS³ recalled the need to “define more easily observable criteria that might be used as direct or indirect indicators of the existence of a forced labour situation”. It recognized as a first requirement there had to be a global “estimate of the number of men and women working under conditions of forced labour, i.e. the global number of forced labourers, for a specified, recent year”. It also took note of the lack of existing methods and initiatives to estimate forced labour at the national level. These recommendations were taken up by the ILO Special Action Programme to Combat Forced Labour (SAP-FL). In 2005, SAP-FL published the first global estimate of forced labour, along with its research methodology. It estimated that 12,3 million were in forced labour worldwide, of which a majority were in the private economy (80%), while only 20% were in situations of forced labour imposed by the state. Following the publication of this estimate in the 2005 Director General’s Global Report⁴, some countries expressed their willingness to test new tools to estimate forced labour. As a first step in response to this request, the ILO worked with the European Commission on the design of lists of observable criteria of forced labour and trafficking in persons, leading to the publication of four lists of indicators of trafficking respectively for children and adults, in sexual and labour exploitation⁵. Subsequently, several countries requested the support of ILO/SAP-FL in order to design and implement national surveys on forced labour. Moldova was the first to pilot the tools, with a survey to estimate forced labour among returned migrants. Nine other countries followed, with surveys on various forms of forced labour. In 2008, the General Report of the 18th International Conference of Labour Statisticians took note of the work done by ILO/SAP-FL on the measurement of forced labour and called for the continued improvement of national statistics on forced labour and human trafficking through technical cooperation, training and advisory services. It also called for the publication of the pilot surveys and good practices. In 2012, the ILO published “Hard to see, harder to count”, which described the lessons learnt from the ten pilot surveys on forced labour. A revised global estimate of forced labour was also published in 2012⁶, which estimated the number of victims of forced labour at 20,9 million worldwide.

³ See ICLS General report, Seventeenth International Conference of Labour Statisticians, Geneva, 24 November-3 December 2003, http://www.ilo.org/public/libdoc/ilo/2003/103B09_622_engl.pdf, para. 2.4.

⁴ A Global Alliance against forced labour, ILO, Geneva, 2005, available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081882.pdf.

⁵ Operational indicators of trafficking in human beings, Results from a Delphi survey implemented by the ILO and the European Commission, ILO, Geneva, September 2009, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf.

⁶ ILO Global Estimate of Forced Labour 2012: Results and Methodology, Geneva, 2012, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_182004.pdf.

5. The following Chapters will report on the tools developed to pilot the use of indicators for national estimates of forced labour in order to suggest how international guidelines to harmonize concepts and definitions on forced labour could be developed.

1. The need for statistics on forced labour

6. In addition to ILO estimates and surveys, the most robust research of forced labour and trafficking is produced on the basis of analysis of data collected during the identification or assistance provided to victims. It is undeniable that this type of data can give precise information on the profiles, socio-economic background and work experiences of those persons. At the same time, this type of information reflects only the situation of identified victims and not the true extent of forced labour in a given country. It would therefore be problematic to base all prevention and rehabilitation policies on the basis of such studies. In fact, non-identified victims can differ considerably from those who are identified and assisted. One obvious reason is that as long as all shelters and protection programmes are designed specifically to protect women, male victims will remain silent and hidden, and they will not be reflected in the statistics gathered by such programmes. The same applies for victims of forced labour in sexual exploitation versus victims of labour exploitation. In addition, some research has shown that, even among victims of the same sex and/or of the same form of exploitation, those who decline assistance (and who therefore do not appear in the statistics of assisted victims) can have profiles that differ considerable from those who accept it. This demonstrates the need to produce other types of statistics.
7. In response to the 2003 ICLS requests, the ILO has used a combination of methods to enhance and build its knowledge on how to measure forced labour. In particular, qualitative research has been implemented in many countries, selected experimental surveys run in a limited number of pilot countries, expert meetings taken place to discuss methods and results and collaboration with ILO/SIMPOC has been key to survey forced labour of children. As a result, in all continents, many research reports on forced labour have been published. They presented the results with rigour but within the limitation of non-probabilistic surveys. In particular, no estimate could be drawn from these studies and no generalisation of the results obtained could be made. While the information was quite valuable for policy makers and practitioners, there is a real need to know more about many topics such as trends, underlying causes, people most at risk, the impact of forced labour on victims and the profile and motivation of exploiters. An economic analysis could give us more robust information on the profits made and on the losses incurred by individual workers, their communities and countries of origin. Donors and practitioners need to know what works and what does not in the fight against forced labour in its many forms. Rigorous impact evaluations, which require costly data collection before and after interventions, comparing the situation of target and control groups, are almost non-existent in this field.
8. What has been learnt from the pilot experiences from the previous years could now be used to prepare the ground for more robust national statistics on forced labour. This would require the

setting of standards for the collection, compilation and analysis of national statistics on forced labour, so that national estimates could be calculated. International comparability can also be achieved, if the methodological differences across countries are minimized.

2. Concepts, definitions and typology in the pilot surveys

9. The ILO Forced Labour Convention, 1930 (No. 29) defines forced or compulsory labour 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 voluntarily” (Art. 2.1). The Convention provides for certain exceptions, in particular with regard to military service for work of a purely military character, normal civic obligations, work as a consequence of a conviction in a court of law and carried out under the control of a public authority, work in emergency situations such as wars or other calamities, and minor communal services (Art. 2.2). Forced labour, as defined by the ILO, encompasses situations such as slavery, practices similar to slavery, debt bondage or serfdom – defined in other international instruments such as the League of Nations Slavery Convention (1926) and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). The ILO Forced Labour Convention is referred to in other ILO Conventions without modifying the above definition, namely, the Abolition of Forced Labour Convention, 1957 (No. 105), which specifies that forced labour shall never be used for the purpose of economic development or as a means of political education, discrimination, labour discipline or punishment for having participated in strikes; and the Worst Forms of Child Labour Convention, 1999 (No. 182), which states that “worst forms of child labour” shall include “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict”.
10. During the pilot phase and in order to keep consistency between the various studies, a statistical definition of forced labour has been structured around the two main elements present in the ILO Forced Labour Convention: Involuntariness and penalty (which encompasses the threat of a penalty). Moreover, the statistical definition used for pilot surveys takes into account the fact that both Involuntariness and Penalty can take place at any moment in time in the work experience of a worker: during the worker’s recruitment process, to force him/her to accept the job, or once the person is working, to force him/her to do tasks which were not part of what was agreed upon at the time of recruitment or to prevent him/her from leaving the job. In order to be consistent with the definition from the Forced Labour Convention, both Involuntariness and Penalty had to be present in order for a situation to be defined as forced labour.
11. In the framework of the pilot surveys, the concept of **Involuntariness** covers all situations where free and informed consent is not given. During recruitment, lack of consent could arise as a result of extreme forms of coercion, such as abduction, but also as a result of more subtle forms, such as deception. For example, deception about the nature of a job could vitiate consent if, the

worker would not have accepted the job had she/he known the true type of job he/she would have to perform.

12. The concept of **Penalty** covers both penalties and threats of penalties imposed on the worker or to members of his/her family. The “penalty” could take many different forms, encompassing threats and violence, restriction of workers’ freedom of movement, debt bondage, withholding of wages, retention of passport or other documents and abuse of vulnerability.
13. Observable criteria for both elements (Involuntariness and Penalty) for each of phase of the work cycle (recruitment, work, leaving the employer) have been listed in a general way, thus leaving space for adaptation to national contexts.
14. Criteria has been adapted to take into account the special case of children. In addition, situations in which child work was a direct consequence and linked to the situation of the parents being themselves in forced labour were accounted as forced labour.
15. Given the diversity of forced labour, it was necessary to test a typology to classify its various forms. The underlying assumption in classifying the various manifestations of forced labour was that types of forced labour which correspond to similar forms of exploitation, and can be surveyed with similar tools, could be grouped together. The broad types are those already used in the 2005 global estimate: forced labour imposed by the State, forced labour imposed by private agents for commercial sexual exploitation, and forced labour imposed by private agents for labour exploitation.
16. Forced labour imposed by the State includes three main categories described in the first Global Report on the subject in 2001, namely forced labour exacted by the military, compulsory participation in public works and forced prison labour. Participation in public works covers seasonal work (such as in agriculture) imposed on adults and children by state-related authorities (which can be local or regional). The last category includes not only forced labour camps but also work imposed in prison if is not performed under public supervision, without free and informed consent and where working conditions are not comparable to working conditions performed outside the prison. For practical purposes, forced labour imposed by rebel groups is also included in this category.
17. Forced labour imposed by private agents for commercial sexual exploitation includes women and men who have involuntarily entered prostitution or other forms of commercial sexual activities (including pornographic performances), or who have entered prostitution voluntarily but who cannot leave. It also includes all children who are forced into commercial sexual activities.
18. Forced labour imposed by private agents for labour exploitation comprises all forced labour imposed by private agents other than for commercial sexual exploitation. It includes: (i) forced labour taking place in households imposed by individual “employers”, such as in the case of domestic workers or traditional forms of forced labour and vestiges of slavery, (ii) forced labour

in establishments imposed by “companies” (like factories in Export Processing Zones, street retail, small business, farms, etc.) and (iii) other forms of labour exploitation like forced begging, petty crimes or forced labour in illicit activities (drug producing or drug trafficking, arm trafficking, etc.). The case of forced begging or exploitation of people for petty crimes was treated with caution. Begging or performing petty crimes is not an economic activity, but when people are “employed” by someone to perform such activities, and must give away whatever they obtained by doing so, it can be considered as a forced labour situation.

19. All forms of forced labour from the typology can happen without any migration, or as the result of seasonal or long-term migration. Migration can take place within a country or across borders.

3. Implementation of the pilot surveys

20. Annex 1 gives a summary of the characteristics of the ten pilot surveys. They are grouped in three tables: Surveys on Forced labour of adults linked to labour migration (Armenia, Georgia, Moldova), Traditional forms of forced labour of adults and children (Nepal and Niger) and Forced labour of children (Bangladesh, Bolivia, Côte d’Ivoire, Guatemala and Mali).
21. The preparatory steps were key for the success of the surveys. The first step was to review the national legislation on forced labour/trafficking/slavery so that the correct legal definitions could be used to build a national framework which sets out the operational definitions and the forced labour indicators applied to the survey. A national list of criteria (indicators) was developed through a participatory process, on the basis of the lists established for the international definition of forced labour. Criteria of Involuntariness and penalty which were irrelevant for the country were deleted, other criteria were rephrased and some new criteria were added. The next step was to decide on the scope of the survey: target group, industries and geographical areas. This was usually done during a workshop with the main national stakeholders, on the basis of a mapping of forced labour in the country (qualitative research was usually commissioned to realize such a mapping).
22. Two different approaches were tested to design the national list of indicators: bottom-up and top-down. In the bottom-up approach, the starting point is “reality” as described by knowledgeable stakeholders. In this approach, all known or possible forms of forced labour in the country were first identified by the stakeholders. They then examined and reported the different known elements of involuntariness and penalty. Each element was then matched with the relevant indicator taken from the standard list. These indicators then comprised the national list. In the top-down approach, the starting point is the standard list of indicators. These were reviewed one by one and their relevance to the national context assessed by knowledgeable stakeholders during the workshop. Only those recognized as relevant appeared in the national list and were reformulated using local terms.
23. The surveys were designed through close collaboration between the ILO and national statistical authorities or research centres selected for the implementation of the pilot surveys. The type of survey was chosen jointly in view of the problems to be surveyed: among the ten surveys, seven were household-based, two used establishment surveys coupled with interviews of workers in

their households (farms in Guatemala and dry-fish establishments in Bangladesh) and one was a street survey (capture-recapture of children begging in Mali). In all surveys, special attention and strong technical support were given for the sample design. As people in forced labour are a rare population in all countries, probabilistic sampling was designed specifically to capture a number of victims large enough to allow extrapolations.

24. The target group of each national survey was decided during the preparatory workshop, according to the form of forced labour to be surveyed. In Armenia, Georgia and Moldova, where the problem to be surveyed was the risk of forced labour among citizens from these countries who migrate to work abroad, the target group was the population of returned migrants. In Nepal and Niger where the surveyed targeted traditional forms of forced labour, the target group was families (parents and children). In the five surveys on forced labour of children, the target group was working children.
25. In each country, the questionnaires were designed by the national office in charge of the survey, in local languages. The ILO recommended separating the various questions on forced labour into different modules, in order not to make the respondent afraid of or insecure about responding to the questions. It was recommended to avoid the use of terms that were too explicit, such as “forced labour”, “trafficking” or their equivalent in local languages. In addition to the questions related to recruitment, work and life and possibility to leave the employer specifically designed to capture the forced labour indicators, the questionnaires had sections on household composition, socio-economic profile of household members, education and any other topic interesting for the analysis of the results. Pilot testing of the questionnaires was implemented before the full scale data collection, to ensure they could be applied successfully.
26. Given the sensitivity of the topic, special attention was given to the selection and training of enumerators. In addition to the usual agenda for training on data collection, ILO officials from the national offices provided extensive training on forced labour to the enumerators that included explanations on the situations respondents may have suffered while being in forced labour. Ethical considerations were also discussed in depth.
27. In order to prepare the estimate of forced labour, it was suggested to make a table with the list of national indicators (as agreed after the preparatory workshop) and for each of them, list questions (and relevant answers) which matched the indicator. This table was used before the finalization of the questionnaire to ensure that all indicators were captured, and for the data analysis to identify the respondents in forced labour.
28. Once the analysis of forced labour was made, the researchers were invited to make a descriptive analysis of the results, by addressing questions such as: Who is in forced labour in the country? In which industries? Working in which conditions? How were they recruited? By whom? What means did recruiters or/and employers use to coerce them? It was also suggested, whenever possible, to compare the profile and working and living conditions of workers in forced labour with those not in forced labour.

29. For a few pilot datasets, it was possible to run a multivariate analysis and to provide the policy makers with some information on the causal relationship. The ILO suggested using variables from socio-economic profiles, such as sex, area of origin (urban/rural), level of education, employment history and debt history, as independent variables to explain forced labour.
30. Unfortunately, in most countries, the data that was collected on the economic situation of workers was insufficient to provide the basis for a good analysis of the economics of forced labour. The only attempts to conduct such an analysis were made in source countries of labour migration, where the amount of money borrowed to organise migration and remittances sent by the workers were examined.
31. Results were presented to the national stakeholders during a validation workshop. In spite of the severity of the situation revealed by the surveys, in most countries the results were generally well accepted, given the involvement of the partners in all phases of the project and the technical rigour. In some countries, however, further discussion and validation was necessary to explain the often significant discrepancy between officially identified victims and the survey estimate. These discussions are, however, necessary and helpful for designing policies.

4. Further steps

32. More countries have expressed their willingness to estimate forced labour within their borders or among their migrant workers in order to adjust their policies to its extent and forms. Donors supporting the fight against forced labour are eager to get more precise data on the extent of the problem, and on trends. International organisations working in collaboration with the ILO in this field are supporting governments in their data collection efforts on victims of trafficking identified and assisted. Within the ILO, collaborative efforts have taken place to link the data collection on forced labour with the work done on related topics, such as the work on Decent Work Indicators, the surveys on child labour or the research projects on migrant workers.
33. The pilot phase has demonstrated the interest and feasibility of a statistical approach of data collection on forced labour, within the limitations of exploratory methods.
34. In order to go further and provide the international community with standardised guidelines, there is a need to harmonize concepts, to work on a statistical definition of forced labour and to develop both standard lists of criteria to identify forced labour and standard questionnaires. In parallel, and in collaboration with other departments working on elusive and hidden phenomena, guidelines on sampling procedures adapted to forced labour should be developed and made available.

Annex 1 PILOT SURVEYS

Forced labour of adults linked to labour migration¹⁸

	Armenia	Georgia	Moldova
Date of survey	November-December 2009	April-June 2008	April 2008
Type of survey	Ad-hoc household survey	Ad-hoc household survey	Continuous labour force survey (LFS) with special labour migration module
Coverage	National	National	National
Target group	Returned migrants	Returned migrants	Returned migrants
Type of sampling	Probability sampling plus snowball sampling (Lavallée ⁷ method)	Probability sampling	Stratified multi-stage probability sampling for LFS + cumulative sample of households from previous LFS rounds, who had at least one migrant member
Number of households	5,309	8,000	12,430
Total number of respondents	20,092	21,564	37,218
Respondents for assessing forced labour	Returned migrants (over 16 years old)	Returned migrants (over 16 years old)	Returned migrants (over 16 years old)
Number of returned migrants interviewed	1,106	262	2,084
Implementing agency	National Statistical Office and consultant	Consultant, in collaboration with National Statistical Office	National Statistical Office and consultant

⁷ Pierre Lavallée: *Sondage indirect: Méthode généralisée du partage des poids* (Paris, Ellipses, 2002) and in Pierre Lavallée and Jean-Claude Deville: "Indirect sampling: The foundations of the generalized weight share method", in *Survey Methodology* (Statistics Canada), December 2006.

Traditional forms of forced labour of adults and children

	Nepal	Niger
Date of survey	April-December 2009	September- October 2008
Type of survey	Ad-hoc household survey	Child labour survey (CLS), with questions relating to forced labour embedded in various sections of the questionnaire
Coverage	12 districts in far western hills and eastern Terai	National, with focus on regions believed to be vulnerable to forced labour practices
Target group	Families from groups most at risk of forced labour (Haliya and Haruwa/Charuwa)	Working children and their parents
Type of sampling	Three-stage stratified probability cluster design (2/3 households from control group, 1/3 from target group)	Stratified multi-stage probability sampling for CLS with over sampling of some areas
Number of households	6,295	4,800
Respondents	All family members (over 5 years old)	All family members (over 5 years old)
Number of adult and child workers interviewed	3,901	4,792
Implementing agency	Private research centre linked to University	National Statistical Office

Forced labour of children

	Bangladesh	Bolivia	Côte d'Ivoire	Guatemala	Mali
Date of survey	February - June 2010	April - June 2008	April 2008	October 2009 - May 2010	June 2009
Type of survey	Establishment and household survey	Child labour survey	Living Standards Measurement Study	Household survey	Street survey
Coverage	4 districts in the Bay of Bengal	National	National	4 provinces	3 cities (Bamako, Mokti, Segou)
Target group	Children in dried fish industry	All working children	All working children	Children working in farms, with or without parents	Child beggars
Age group	5-17 years	5-17 years	5-17 years	5-17 years	5-17 years
Type of sampling	Two-stage stratified probability sampling	Two-stage stratified probability sampling	Two-stage stratified probability sampling	Three-stage stratified probability sampling	Capture-recapture
Number of units	597 establishments	4,229 households	12,600 households	1,028 households	N/A
Respondents	Working children and employers	All family members (above 5 years old)	All family members (above 5 years old)	All family members (above 5 years old)	Children aged 5-17 years
Number of workers interviewed	1,738	9,297	17,152	5,671	2,290
Implementing agency	National Statistical Office and consultant	National Statistical Office and consultant	National Statistical Office and consultant	National Statistical Office and consultant	National Statistical Office and consultant