



International
Labour
Organization

Combating Forced Labour

2

Employers' Frequently Asked Questions

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

2

Employers' Frequently Asked Questions

Copyright © International Labour Organization 2015
First published 2015

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Combating forced labour: a handbook for employers and business / International Labour Office.-- 2nd ed. - Geneva: ILO, 2015

ISBN: 9789221297994 (print); 9789221298007 (web pdf)

International Labour Office

forced labour / trafficking in persons / employers role

13.01.2

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Acknowledgements

Special thanks are due to Philip Hunter (Verité) and, for graphic design, Julie Sobkowicz Brown for developing the revised handbook in close consultation with Houtan Homayounpour (SAP-FL), who coordinated and oversaw the project.

Printed in Switzerland

Introduction

This booklet presents information on forced labour and human trafficking in the form of Frequently Asked Questions by employers and business. It covers a broad range of topics, including the forms of forced labour; the most recent global statistics on forced labour; the role of employers' organisations and business in addressing these issues; relevant international standards such as ILO Conventions, Protocols and Recommendations and the UN "Palermo Protocol" on trafficking in persons; prison labour; and debt bondage and other forms of coercion in employment. For more information, consult the list of resources and websites provided at the end of the booklet or review **Booklet 1: Introduction & Overview** for general information about forced labour, and **Booklet 5: A Guide for Taking Action** for details on the actions employers and business can take. Please note that some of the information presented in this booklet can also be found in other parts of the handbook.



Combating Forced Labour: The Role of Employers and Business¹

1 How can the problem of forced labour be solved?

Eliminating forced labour calls for action on many fronts. It requires gaining a clearer understanding of how forced labour operates in different contexts, of who is affected and how. It requires countries to adopt and implement strong laws and policies that outlaw the different forms of forced labour, protect the victims and allow appropriate punishment of the perpetrators. A range of practical actions is needed, adapted to the country context and types of forced labour problems, including raising public awareness of the risks of forced labour, providing alternative local income opportunities and skills to prospective irregular migrants, rigorous law enforcement, monitoring and regulating the activities of recruitment agencies, labour contractors and employers, and rehabilitating and reintegrating rescued forced labour victims. In the long term, forced labour prevention rests on targeted poverty-reduction initiatives such as creating income-earning activities and micro-insurance programmes.

2 What role can employers and business play in combating forced labour and trafficking?

Employers and business have a key role to play in the fight against forced labour and trafficking. And significant steps have in fact already been taken by business leaders to address the issue. However, the role of business cannot be seen in isolation from the role of other important actors, namely governments and the social partners. With this in mind and with the aim of helping to guide business action, ILO has developed *10 Principles for Business Leaders to Combat Forced Labour and Trafficking*. These principles outline some of the steps that companies and employers can take to engage on the issue:

- Have a clear and transparent company policy, setting out the measures taken to prevent forced labour and trafficking. Clarify that the policy applies to all enterprises involved in a company's product and supply chains;
- Train human resource, compliance officers, and auditors in means to identify forced labour in practice, and seek appropriate remedies;
- Provide regular information to shareholders and potential investors, attracting them to products and services where there is a clear and sustainable commitment to ethical business practice including prevention of forced labour;

¹ For further information about the many things employers and business can do to combat forced labour, please see **Booklet 5: A Guide for Taking Action** and **Booklet 6: Tips for Taking Action**.

- Promote agreements and codes of conduct by industrial sector (as in agriculture, construction and textiles), identifying the areas where there is risk of forced labour, and take appropriate remedial measures;
- Treat migrant workers fairly. Monitor carefully the agencies that provide contract labour, especially across borders, blacklisting those known to have used abusive practices and forced labour;
- Ensure that all workers have written contracts, in language that they can easily understand, specifying their rights with regard to payment of wages, overtime, retention of identity documents, and other issues related to preventing forced labour;
- Encourage national and international events among business actors, identifying potential problem areas and sharing good practice;
- Contribute to programmes and projects to assist, through vocational training and other appropriate measures, the victims of forced labour and trafficking;
- Build bridges between governments, workers, law enforcement agencies and labour inspectorates, promoting cooperation in action against forced labour and trafficking;
- Find innovative means to reward good practice, in conjunction with the media.

3 How can companies identify forced labour in their operations or supply chains?

Some signs to be aware of include:

- Indebted workers. Workers who are or may become indebted can become coerced into working for a particular employer to repay the debt;
- Prison labour. Use of prison labour is not forced labour, *per se*. However, prison workers should be hired to companies only on a voluntary basis, and conditions with regard to wages, benefits and occupational safety and health should be comparable to conditions for free workers;
- Operating in a country where the authorities force the population to work for development purposes, for instance to assist in construction, agriculture, and other public works;
- Exploitative practices such as forced overtime or the lodging of deposits (financial or personal documents) for employment;
- Migrant workers are particularly vulnerable to forced labour;
- Workers working without a contract, who are more likely to not know their

rights, including their right to leave their employment; and

- Practical checklists to identify potential situations of forced labour can be a useful tool for employers and businesses.

4 What can companies and employers do to avoid the risk of trafficking for forced labour?

The flexibility and speed with which today's labour market operates can put employers at risk if they rely on third parties to do recruiting. If companies have migrants in their workforce, and particularly if a third party is used to recruit them, they should know who these workers are and where they come from, and ensure that their recruitment into the workplace was completely above board and without deception or coercion. Developing a company policy to act as a guideline on recruiting migrant workers and engaging only reputable recruitment and employment agencies is also important.



Forms of Forced Labour

1 What is forced labour?

Forced or compulsory labour is all work or service which is exacted from any person under the menace of a penalty and which the person has not entered into of his or her own free will. It occurs where work is forced by the State or by private enterprises or individuals who have the will and power to impose on workers severe deprivations, such as physical violence or sexual abuse. Forced labour can include practices such as restricting people's movement or imprisoning them; withholding wages or identity documents to force them to stay on the job; or entangling them in fraudulent debt from which they cannot escape. Forced labour is a criminal offence and a violation of fundamental human rights.

The key elements of the definition of forced or compulsory labour found in ILO Convention 29 include:

- 1. Threat of penalty.** The penalty may consist in a penal sanction or in the suppression of rights or privileges. Threats of retaliation may be realised in different forms, from the most blatant, which include the use of violence, physical obligations or even death threats, to the more subtle, often psychological, such as the threat to denounce an irregular migrant worker to the authorities.
- 2. Work or service undertaken involuntarily.** The principle that all work relations should be founded on the mutual consent of the contracting parties implies that both may leave the work relation at any moment, giving reasonable notice in accordance with national law or collective agreement. If the worker cannot revoke his or her consent, without fear of suffering a penalty, such a situation may be considered forced labour. The absence of a voluntary offer can be linked to external and indirect pressures, for example the withholding of a part of a worker's salary or the seizure of a worker's identity documents.
- 3. All work or service.** This includes all types of work, service and employment, regardless of the industry, sector or occupation within which it is found, and encompasses legal and formal employment as well as illegal and informal employment.
- 4. Any person.** This refers to adults as well as children, regardless of their nationality, and it is considered irrelevant whether the person is a national of the country in which the forced labour case has been identified.

2 What constitutes the “menace of any penalty” referred to in Convention 29?

Convention No. 29 (1930) defines forced 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.” In this definition, the “menace of any penalty” refers not only to penal sanction but also to the loss of rights or privileges. In practical terms, this may take many physical and/or psychological forms, for example:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

3 How many people are trapped in forced labour?

The ILO estimates that 20.9 million people are victims of forced labour worldwide. Of these, 18.7 million (or 90%) are exploited in the private economy by individuals and enterprises. The remaining 2.2 million are in state-imposed forms of forced labour, for example in prison under conditions which contravene ILO standards on the subject, or in work imposed by the state military or by rebel armed forces. The estimates also indicate that 55% of all victims of forced labour are women and girls. Adults are more affected than children; 74% (or 15.4 million) of victims fall in the age group of 18 years and above, whereas children aged 17 years and below represent 26% (or 5.5 million) of all forced labour victims.

The highest absolute number of forced labourers is found in the Asia and Pacific region (56% of the total), followed by Africa (18%) and Latin America and the Caribbean (9%). The Developed Economies and European Union account for 7% of forced labourers, whilst the countries of Central, Southeast and Eastern Europe (non-EU) and the Commonwealth of Independent States also have 7%.



4 What are the different forms that forced labour takes?²

Forced labour can take many forms – some imposed by the State, but the majority in the private economy. Forced labour can be an outcome of trafficking in persons and irregular migration, a problem which seems to be on the increase and which affects all regions of the world. Mechanisms of force applied include debt bondage, slavery, misuse of customary practices and deceptive recruitment systems. Some of the most common forms of forced labour include:

Debt-induced forced labour: Commonly referred to as “bonded labour” in south Asia, where the practice is most common, but also widely known as “debt bondage”. It can be found in many economic sectors, including agriculture, brick making, mining and others, and is frequently linked to long-standing patterns of discrimination. Victims are often the poorest people in society and, in some parts of the world, it is indigenous and tribal peoples who are most affected. Debt bondage arises when a person mortgages his or her services or those of his family members to someone providing credit in order to repay the loan or advance.

Forced labour in prisons: Prison labour is not normally considered forced labour under international law. However, involuntary work performed by prisoners who have not been convicted in court and whose work is not

² For more on the different forms that forced labour can take, see [Booklet 1: Introduction and Overview](#).

supervised by a public authority is considered forced labour. Similarly, involuntary work performed by a prisoner for the benefit of a private undertaking is also considered forced labour.

Forced labour as an outcome of human trafficking: Trafficking in persons, or human trafficking, is often linked to forced labour. It is fuelled by organised criminal networks or individuals and can involve deceptive recruitment, racketeering and blackmailing for the purpose of labour exploitation.

Forced labour linked to exploitative labour contract systems: This can be found almost everywhere in the world today. For example, migrant workers can find themselves “bonded” to a labour contractor because excessive fees have been charged and with limited if any possibilities to change the employer once they arrive in the destination country.

5 Are there any workers who are considered most “at risk” of forced labour?

Forced labour is a global phenomenon that affects every region, country and economic sector, and workers in both formal and informal employment relationships. However, there are certain categories of workers that are more vulnerable to coercion than others. Some are particularly at risk because of their ethnic background, relative poverty or irregular migrant status:

- Workers who are part of a group that has suffered a long-standing pattern of discrimination, such as indigenous and tribal peoples in Latin America, low castes in south Asia and, in particular, women within these groups;
- Migrant workers, particularly those with an irregular status, whose vulnerability can be exploited through coercion;
- Workers employed in informal enterprises, including home-based workers and those in geographically remote rural regions, operating at the margins of the formal economy; and
- Young people and unskilled or illiterate workers who may be less aware of their legal rights than their older, more skilled and better educated counterparts.

Furthermore, workers of both sexes can be forced to work in a range of sectors, as well as in forced commercial sexual exploitation (affecting almost exclusively women and girls).

6 What are the causes of forced labour?

Forced labour is for the most part rooted in poverty, inequality and discrimination, and most often driven by the pursuit of financial profit at the expense of vulnerable and unprotected workers. Inadequate legislation and poor law enforcement mean that the perpetrators are rarely prosecuted and punished. In this situation, the potential gains for a minority of unscrupulous employers, agents and traffickers who resort to forced labour practices outweigh the perceived risks. ILO estimates that the annual profits generated from forced labourers amount to \$150 billion. A majority of these profits are generated in Asia, followed closely by the developed economies and the European Union. Forced labour has also been motivated by political factors.

7 Isn't forced labour something more commonly associated with repressive States rather than with the private sector?

Forced labour imposed directly by the State remains a cause for serious concern. However, according to ILO estimates, the majority of victims of forced labour are exploited by private agents. Forced or compulsory labour is a global phenomenon, present in all regions, in developing and developed economies alike, in the formal and informal economies, in the global supply chains of multinational enterprises, in small and medium sized enterprises, and in sectors as diverse as agriculture, manufacturing and services. While traditional slavery and state-sponsored forced labour are in decline globally, other forms of forced labour in the private sector are estimated to be on the increase.



International Standards to Combat Forced Labour³

1 What international instruments exist for the elimination of forced labour?

The ILO has adopted two Conventions and a Protocol (instruments that are legally binding on ILO member States that ratify them) as well as a Recommendation on forced labour. The Forced Labour Convention, 1930 (No. 29) calls for the elimination of all forms of forced or compulsory labour. This was supplemented in 1957 by the Abolition of Forced Labour Convention, (No. 105). Adopted at a time when there had been growing use of forced labour for political purposes, Convention 105 calls for the suppression of forced labour as a means of:

- Political coercion or education, or punishment for the expression of political views;
- Workforce mobilisation for purposes of economic development;
- Labour discipline;
- Punishment for participation in strikes, and;
- Racial, social, national or religious discrimination.

A Protocol to the Forced Labour Convention, 1930, was adopted in 2014. It requires States to take special measures of prevention, protection and remedy to suppress forced labour. The Protocol was also accompanied by the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), which provides non-binding guidance in the areas of prevention, victim protection, access to justice, enforcement and international cooperation.

The Forced Labour Conventions are among the most widely ratified of the ILO and they are considered “fundamental” ILO Conventions. This means that freedom from forced labour, along with freedom of association and the right to collective bargaining, and the elimination of child labour and of discrimination at work, is indispensable to the achievement of decent work. Furthermore, the ILO *Declaration on Fundamental Principles and Rights at Work*, adopted in 1998, commits all member States to respect and promote the abolition of forced labour, even if they have not yet ratified the forced labour Conventions.

³ For more information, see the Annex to [Booklet 1: Introduction & Overview](#) for excerpts of the relevant international standards concerning forced labour and trafficking in persons.

2 Are there any exceptions to the definition of forced labour found in ILO Conventions?

Convention No. 29 broadly defines forced labour as all work or service that is undertaken involuntarily and under the threat of a penalty. However, the Convention also identifies the following forms of compulsory labour that do not fall within the scope of this definition:

- Any work or service of a purely military character that is required by compulsory military service laws;
- Any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country, for example compulsory jury service or the duty to assist a person in danger;
- Any work or service exacted from a person as a consequence of a conviction in a court of law, provided that this work or service is carried out under the supervision and control of a public authority and that the person is not hired to or placed at the disposal of private individuals, companies or associations;
- Any work or service exacted in cases of emergency, for example in the event of war or a calamity such as a flood, earthquake, famine or any circumstance that would endanger the lives and well-being of the population, in whole or in part;
- Minor communal services performed by members of the community in the direct interest of that community, for example maintenance works, works connected with sanitation, or the maintenance of village paths, tracks or watering places.

3 How does international law address human trafficking?

Growing awareness of trafficking in persons has been reflected in the elaboration of new international and regional anti-trafficking instruments, for example the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons* (2000), or “the Palermo Protocol”, and the *Council of Europe Convention on Action against Trafficking in Human Beings* (2005). These new instruments convey a growing consensus that trafficking in persons can include, result in or be undertaken for the purpose of forced labour, slavery and servitude. The adoption and ratification of these instruments has contributed to rapid changes in legislation and practice in many countries, and led to the adoption of new policies in this field.

Prison Labour

1 Is prison labour prohibited as a form of forced labour?

ILO Forced Labour Conventions (C29 and C105) do not prohibit the use of prison labour, but they do place clear restrictions on its use. Prison labour can only be imposed on a criminal convicted in a court of law. Detainees awaiting trial cannot be forced to work, nor can people who have been imprisoned as a result of a non-judicial decision. The work performed by prisoners must be done under the supervision of a public authority, and prisoners cannot be forced to work for private enterprises inside or outside the prison.

2 Under what conditions is prison labour allowed?

According to ILO Conventions, work or service exacted from a person as a consequence of a conviction in court and carried out under supervision of a public authority is **not** considered forced labour. However, the following conditions must be met to ensure that such prison labour is not considered forced:

- The person has been found guilty of an offence, and the verdict has been pronounced by an independent court of law following due process. People who are in detention but have not been convicted, such as those awaiting trial or detained without trial, should not be obliged to perform labour; however, this does not prevent work from being made available to such persons at their own request, to be performed on a voluntary basis.
- The work is supervised and controlled by a public authority. In State prisons, this authority is represented by the prison administration.
- The prisoner shall not be hired to or placed at the disposal of private individuals, companies or associations.

As for the private sector, compulsory prison labour put at the disposal of private individuals or companies is against international standards. However, private companies or individuals can employ prisoners when safeguards exist to ensure the truly voluntary nature of such work, and the prisoner has given his or her formal consent.

Some examples of how prison labour may be associated with the private sector include:

- Prisoners may work with a private entity as part of an educational or training scheme;

- Prisoners may work in workshops within the prison to produce goods sold to private entities in the open market;
- Prisoners may work outside the prison for a private entity as part of a pre-release scheme;
- Prisoners may provide labour within prisons, contributing to the running of correctional facilities managed by private entities; and
- Prisoners may work with private firms outside the prison during the day, returning at night.

3 What does it mean to ensure that prison work is performed under conditions that approximate a “free labour relationship”?

If a business makes use of prison labour, it is recommended that it ensures the terms and conditions of work for prisoners are similar to those of workers engaged in free employment in the relevant economic sector. In particular, prisoners should enjoy the same occupational safety and health standards as free workers, while having access to comparable wage levels and social security benefits, allowing for differences that account for deductions for food and lodging. It is also recommended that employers make sure prisoners have offered themselves voluntarily for work, without being subject to pressure or the threat of a penalty, for example the loss of rights or privileges within the prison. One way to do this is to have prison workers provide written consent to work.



Coercion

1 If an employee has verbally or in writing provided his or her consent to work, how can there be a question of forced labour?

The formal consent of an employee does not always guarantee that the employee works out of free will. For example, where consent to work has been given under the threat of a penalty (for example, a threat of violence) there can be no “voluntary offer” by the employee. In this case, an external constraint or indirect coercion interferes with a worker’s freedom to offer him- or herself voluntarily. This constraint may result from an act of the authorities, such as a statutory instrument, or it may result from an employer’s practice, for example where migrant workers are induced by deceit, false promises and retention of identity documents or forced to remain at the disposal of an employer. Such practices are considered forced labour as defined by ILO Conventions.

2 Is the retention of personal documents during the term of employment considered forced labour?

Not necessarily. However, the key element in many situations of forced labour is coercion: forcing people to work when they do not freely consent. Migrant workers may be coerced through withholding their passports. The retention of these documents or other valuable personal possessions can be considered an indicator of forced labour if workers are unable to access them at their discretion and if they feel they cannot leave employment without risking the loss of the documents. In many cases, without such documentation, an employee may not be able to obtain another job or even access certain services as a citizen. In cases where the employer is holding onto workers’ documents for safekeeping, workers must have access to the documents at all times, and there should be no constraints on the ability of the worker to leave the enterprise.

3 Is compulsory overtime required to meet production deadlines considered forced labour?

The obligation to do overtime work is not considered forced labour if it stays within the limits permitted by national legislation or agreed to in collective agreements. This means that, according to international standards, forced labour only occurs if overtime beyond the weekly or monthly limits allowed by law is compulsory, irrespective of the reasons for such overtime. If an employer

requires employees to work under such conditions, in clear violation of the law and with the threat of a penalty, forced labour may occur.

However, in some cases, it has also been observed that the fear of dismissal drives some employees to work overtime beyond what is allowed under national law; in other cases, workers may feel obliged to work above the legal maximum because this is the only way they can earn the minimum wage (for example, where remuneration is based on productivity targets). In these cases, although workers may in theory be able to refuse to work, their vulnerability may mean that they have no choice and are therefore obliged to do so in order to earn the minimum wage or to keep their jobs, or both. This can lead to cases of forced labour and should therefore be treated carefully, in accordance with national law and collective agreements.

4 If a company provides full wages and benefits, can a forced labour problem ever arise?

If a person is not free to leave his or her employment under the threat of penalty this constitutes forced labour, regardless of whether you provide wages or other forms of compensation.

5 What are debt bondage and bonded labour?

Debt-induced forced labour is commonly referred to as bonded labour in south Asia, but is also widely known as debt bondage. According to ILO research, bonded labour can be found in agriculture, brick kilns, rice mills, and other economic activities in south Asia and Latin America. It can also be detected in leather, fish processing and carpet factories. Victims are typically the poorest people in society, often illiterate and relatively easy to deceive and be kept in ignorance of their rights; if they try to leave their employment, they are usually caught and returned by force. In some regions, members of indigenous and tribal peoples are the most affected.

Debt bondage is legally defined in the *UN Supplementary Convention on the Abolition of Slavery* (1956) as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”

Bonded labour can affect a whole family when a male head of the household pledges not only his labour but that of family members to receive an advance payment from his employer or credit in case of need. Debt bondage (and other forms of coercion) is often based on a complex system of contractors and sub-

contractors who all take their cut from indebted workers, some of whom work for years without generating any substantial income.

6 How do people get coerced into forced labour?

The key element to many situations of forced labour is coercion to induce people to work when they do not freely consent. There are many forms of coercion that you should be aware of:

- Birth/descent into “slave” or bonded status;
- Physical abduction or kidnapping;
- Sale of a person into the ownership of another;
- Physical confinement in the work location;
- Psychological compulsion, i.e. an order to work, backed up by a threat of penalty;
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods, etc.);
- Deception or false promises about types and terms of work;
- Withholding or non-payment of wages; and
- Retention of identity documents or other valuable personal possessions.

Sometimes people freely enter into work arrangements, but are prevented from leaving if they change their minds. This also constitutes coercion.

7 If a company requires an employee to work for a specified period of time to recoup the costs associated with training, is this considered forced labour?

Companies sometimes make significant investments to improve the skills or knowledge of their staff, particularly when the training is only available overseas. They may then conclude an agreement with the trainee to work for the company for a certain period of time, so as to recoup the cost of investment. Such agreement reduces the freedom of the worker-trainee to terminate the employment relationship, and could thus – in some cases – give rise to a forced labour situation. However, several factors should be taken into account to determine whether a situation amounts to forced labour, for example:

- The length of the period the worker-trainee has agreed to stay with the company following the training;
- The period needed to recoup the costs, and whether this is reasonable

considering the duration and cost of training; and

- Whether the worker-trainee may resign if he or she reimburses part of the costs of the training.

8 To prevent theft and protect the security of my employees and property, I hire security personnel and lock the doors of my workplace. Is this considered forced labour?

As with the retention of personal documents, locking doors can be considered an indication of forced or compulsory labour. It restricts workers' freedom of movement and raises questions about the voluntary nature of employment. However, the important point here is to remember that forced labour is characterised by the threat of a penalty and concerns work or service that is undertaken involuntarily. If there is no threat of a penalty and work is undertaken voluntarily, this is not considered forced.

Similarly, posting security guards at factory exits for security reasons is not to be considered forced labour. However, the inappropriate use of security personnel could be an indication of forced labour and should therefore be avoided and treated with caution.

9 Is a person who feels forced to work to escape poverty or starvation a victim of forced labour?

The fact that a person has to work to sustain him- or herself does not make the work or service forced labour, as long as the person has the ability to accept the work and leave it (providing appropriate notice to the employer) without a fear of sanction – in other words their position of vulnerability is not taken advantage of.

10 Can a minor be considered to have offered him- or herself voluntarily for work if the consent of the parents has been obtained by the employer?

Most countries have established a minimum age limit for concluding a labour contract, which may coincide with the age at which compulsory school attendance ends. However, employment that is likely to jeopardise health, safety or morals is generally prohibited for persons below 18 years of age, so that neither the children nor those with parental authority over them may give valid consent to their admission to employment.

Human Trafficking & Forced Labour

1 What is human trafficking?

Men, women and children can be trafficked for the purpose of forced labour. It involves the movement of a person, usually across international borders, for the purpose of exploitation. In recent years, human trafficking has taken on new forms and dimensions, often linked to developments in information technology, transportation and transnational organised crime. It affects developing countries, countries in transition and industrialised market economy countries as source, transit and destination countries. It is legally defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, or the “Palermo Protocol”, which supplements the United Nations Convention against Transnational Organised Crime (2000).⁴ The definition emphasises the following key points:

- The activities involved in human trafficking can include the recruitment, transportation, transfer, harbouring or receipt of a person;
- The means used can include force, deception, abduction, coercion, fraud, threats, abuse of power or a position of vulnerability; and
- The purpose is identified as exploitation, which includes forced labour or services, slavery or similar practices, and servitude.

In addition, the Palermo Protocol distinguishes between trafficking in children (under 18 years old) and adults. Any of the illicit means mentioned above are irrelevant in the case of child trafficking. Child trafficking is also defined as one of the worst forms of child labour in ILO Convention 182.

⁴ An excerpt of the “Palermo Protocol” can be found in Annex 1 of [Booklet 1: Introduction & Overview](#). According to the Protocol, trafficking in persons shall mean “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

2 What are the causes of trafficking in persons?

There are many factors that can be seen as a cause of human trafficking and play a role in fuelling its growth in recent years. These include:

- Growing inequality between and within States;
- Lack of information about the dangers of trafficking;
- Lack of information on safe migration opportunities;
- Lowering of barriers to the movement of persons and goods, as well as improved and cheaper means of transportation across borders;
- Raising of barriers to legal immigration to industrialised countries;
- Poor labour market governance, for example underdeveloped labour law and low levels of development of labour administration, including inspection services;
- Profitability of labour and sexual exploitation attracting the interest of organised crime; and
- Desire for a better life on the part of the migrant, and ignorance about the consequences of trafficking.



Further Information & Resources

1 Where can I get more information about forced labour and human trafficking?

Further information about forced labour, trafficking and ILO action can be obtained from the website www.ilo.org/forcedlabour or by contacting directly the ILO Special Action Programme to Combat Forced Labour:

Email: forcedlabour@ilo.org

Fax: +41 22 799 65 61

You can also consult the following key resources and websites:

- ILO: *Cost of coercion*, Geneva, 2009.
- ILO: *A global alliance against forced labour*, Geneva, 2005.
- ILO: *Eradication of forced labour*, Geneva, 2007
- ILO: *Forced labour and human trafficking: Handbook for labour inspectors*, Geneva, 2008.
- ILO: *Profits and poverty: The economics of forced labour*, Geneva, 2014.
- ILO: *Action against trafficking in human beings*, Geneva, 2008.
- ILO: *Trafficking for forced labour: How to monitor the recruitment of migrant workers*, Geneva, 2006.
- ILO: *An information guide: Preventing discrimination, exploitation and abuse of women migrant workers*, Geneva, 2003.

IOE policy statements

- IOE, *The informal economy: An employer's approach*, Geneva, 2006.
- IOE, *The role of business within society*, Geneva, 2005.
- IOE, *Corporate social responsibility: An IOE approach*, Geneva, 2003.
- IOE, *Fact sheet for business: Corporate Social Responsibility*, Geneva, 2013.
- IOE, *Codes of conduct: Position paper of the IOE*, Geneva, 1999.
- IOE, *UN Guiding Principles on Business and Human Rights: An employers' guide*, Geneva, 2012.
- IOE, *Fact Sheet for Business: Business and Human Rights*, Geneva, 2012.

- IOE, *Fact Sheet for Business: Human Trafficking*, Geneva, 2012.
- IOE, *Fact Sheet for Business: Forced labour in the fisheries sector*, Geneva, 2013.
- IOE-ILO, *Guidance note on the 2014 Protocol to the Forced Labour Convention, 1930*, Geneva, 2014.

Other relevant resources

- Anti-Slavery International, *Arrested Development: Discrimination and slavery in the 21st century*, London, 2008.
- Anti-Slavery International, *Debt Bondage*, London, 1998.
- Institute for Human Rights and Business, *Dhaka Principles for Migration with Dignity*
- US Department of Labour, *Reducing Child Labour and Forced Labour: A Toolkit for Business*. (<http://www.dol.gov/ilab/child-forced-labor/>)
- US State Department, *Trafficking in Persons Report 2014*.
- Verité, *Fair Hiring Toolkit*. (www.verite.org/helpwanted/toolkit)
- UN Guiding Principles on Business and Human Rights, 2011.

- 1 Introduction & Overview
- 2 **Employers' Frequently Asked Questions**
- 3 Guiding Principles to Combat Forced Labour
- 4 A Checklist & Guidance for Assessing Compliance
- 5 A Guide for Taking Action
- 6 Tips for Taking Action
- 7 Case Studies

Special Action Programme to Combat Forced Labour

Fundamental Principles and Rights at Work Branch

International Labour Office
Route des Morillons 4
CH-1211 Geneva 22
forcedlabour@ilo.org
www.ilo.org/forcedlabour

ISBN 9789221297994



9 789221 297994