



International  
Labour  
Organization

# Combating Forced Labour

# 4

## A Checklist & Guidance for Assessing Compliance

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

**Combating Forced Labour  
A Handbook for Employers & Business**

**4**

**A Checklist & Guidance for Assessing  
Compliance**

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# Introduction

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This sample checklist is designed for compliance personnel operating in companies or third party organisations providing services to companies. It presents a series of questions and technical and policy guidance based on **Booklet 3: Guiding Principles to Combat Forced Labour**.

The aim of this checklist is to help compliance personnel perform better assessments. Such assessments are a key link in the implementation of corporate codes of conduct and enable auditors to identify forced labour at enterprise level and in global supply chains. Broadly speaking, an effective social audit can make an important contribution to the identification, prevention and eradication of forced labour.

The checklist is divided by topic into the following sections:

- Prison labour;
- Coercion; and
- Human trafficking and forced labour.

Each topic contains a principal question, which is followed by one or more sub-questions. This, in turn, is followed by policy guidance, which summarises the **Guiding Principles to Combat Forced Labour** and, wherever possible, includes illustrative examples. Suggestions are then provided on assessment methods, including:

- A review of relevant company and employee documentation;
- An inspection of the workplace and related facilities (e.g. dormitories);
- On and off-site interviews with workers and their representatives; and
- Interviews with different management representatives.

The questions in this checklist are not designed to be posed to managers or workers directly; instead, information should be gathered using all of the above-mentioned methods, and auditors are encouraged to cross-reference data to ensure its accuracy.

The checklist can also be used effectively by employers' organisations and their members as a first step in the assessment of business operations. For example, an employers' organisation – in seeking to meet the needs of its members – may wish to use the checklist to help them more effectively identify possible cases of forced labour. At the same time, a regular assessment using the questions and guidance provided here could be part of broader preventive

measures adopted by employers' organisations and offered as a service to their members.

This checklist can be used to greatest effect alongside Booklets 1, 2 and 3 of this handbook. In case you are unfamiliar with any of the terms used below, consult the accompanying [Introduction & Overview](#) and [Employers' Frequently Asked Questions](#) for clarification. Review the [Guiding Principles to Combat Forced Labour](#) and the relevant ILO standards for further guidance on policy.

# Checklist & Guidance for Assessing Compliance

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## Prison Labour

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### ? 1. Does the employer use any prison labour?

If prisoners are working under the supervision of a private employer, have the prison labourers freely consented to perform work without being threatened or subject to a penalty?

If prisoners are working under the supervision of a private employer, do the working conditions resemble those of a free labour arrangement?

**i** *Work or service performed by prisoners in a private undertaking must be voluntary, and prison workers must freely give their consent without being subject to a threat or penalty, including the loss of rights or privileges inside the prison. Conditions for prisoners working for private employers should be comparable to conditions enjoyed by free workers. For example, prison workers should have access to similar wage levels, social security benefits and the same occupational safety and health standards. Reasonable differences in wage levels are acceptable on the basis of deductions made for board and lodging.*



- If possible, speak with prison workers directly and examine written consent forms.
- Consider whether prison workers have given their consent freely and voluntarily.
- Review wage records of prison workers to verify that they are paid wages comparable to free workers, allowing for legal deductions.
- Assess occupational safety and health standards by inspecting the workplace either inside or outside the prison.
- Speak with the employer about employment policies and practices related to prison workers or contracting work or service to prisons.
- Ensure that no prisoner has suffered loss of rights or privileges of any kind as a result of declining to work for a private employer.
- Where relevant, review contracts concluded between the prison and

company using prison workers.

- To the extent possible, ensure that information gathered from interviews with prison workers remains anonymous and confidential.
- Take appropriate measures to determine whether prison workers have been coached prior to being interviewed.



## Freedom and Termination of Employment

### **? 2. Do all workers have the right to enter into employment voluntarily and freely, without the threat of a penalty?**

Is there evidence of coercion in recruitment or that workers' consent has been forced, for example under threat or pressure?

### **3. Do workers have the freedom to terminate employment (by means of notice of reasonable length) at any time without a penalty?**

Is there any evidence that the employer has obstructed the legal termination of an employment contract at any time?

**i** *All workers shall have the right to enter into and leave employment voluntarily and freely, without the threat of a penalty, and taking into account the legal rights and responsibilities of both parties in the employment relationship. Coercion should not be used under any circumstances to threaten workers or pressure them into accepting or staying in a job. A worker's vulnerability should not be used to offer employment conditions below the legal minimum, and employers should refrain from using any practices that restrict a worker's ability to terminate employment, for example:*

- *Withholding employee identity documents, including passports;*
- *Imposing financial penalties on workers;*
- *Delaying or halting wage payments; or*
- *Threatening workers with violence.*

- 🔧** • Speak with appropriate management personnel about employment policies and examine copies of these policies.
- Check national law and employment contracts, and consider provisions on notice periods for terminating both indefinite and fixed duration contracts.
- Speak with workers about their rights and responsibilities under the law to determine whether they have entered into and can leave employment freely, without suffering any threat or consequence. Make sure to interview

a representative selection of workers, including those on different types of contracts.

## Threat of Violence, Harassment and Intimidation

### 4. Is there any evidence of the use or threat of physical or sexual violence, harassment or intimidation against workers, their families or close associates?

 *Threats or use of violence, harassment or intimidation directed towards workers, their families or their close associates shall not be used as a means to intimidate individual employees or the workforce as a whole.*

-  • Speak with workers individually, and keep in mind the sensitive nature of this issue. Take particular care to ensure the confidentiality of these interviews to protect the worker from any possible reprisals. If possible, meet workers off-site.
- Discuss with employers the company policy on violence, harassment and intimidation in the workplace, and examine copies of such policy.
- Examine legal records for any evidence of outstanding complaints or actions taken against the company, for example in a labour tribunal, to determine whether there have been past allegations of the use or threat of physical or sexual violence, harassment or intimidation against workers and their families.

## Coercion in Wage Payment, including Debt Bondage and Bonded Labour

- ?** 5. Does the employer use irregular, delayed, deferred or non-payment of wages as a means to bind workers to employment?
6. Are non-cash or “in-kind” payments used as a means to create a state of dependency of the worker on the employer?
7. Is there any evidence that wages are paid in the form of vouchers, coupons or promissory notes?
8. Do workers earning wages on a piece-rate or performance-related basis earn the legally mandated minimum wage?
9. Is there any evidence that workers are required to lodge deposits or that unlawful or unauthorised deductions from wages are made with the aim of indebting workers?
10. Do wage advances or loans provided to workers comply with national law?
11. Are workers forced to work in order to repay an actually incurred or inherited debt?

**i** *Non-compliance in wage payment practices – for example, a delay or irregularity in payment – is not automatically considered forced labour. However, certain abuses, particularly when combined with other types of exploitation, can amount to situations of coercion and force in employment.*

*Wages should be paid regularly and directly to the worker; they should be paid in legal tender, and “in-kind” payments, where allowed by law, should only be partial. Non-cash payment should not be used as a means to indebted a worker, and payment in the form of vouchers and promissory notes is prohibited, as are methods of payment that have the effect (intended or not) of depriving the worker of the ability to terminate employment. Workers shall not be held in debt bondage or forced to work in order to pay off an actually incurred or inherited debt. Wage advances and loans (and related interest rates) should not exceed the limits prescribed by law. Abusive practices shall not be used to bind workers, including migrant workers and those belonging to indigenous and tribal peoples, to employment. Such abusive practices may include, but*

are not limited to:

- *Charging excessive recruitment fees;*
- *Delayed or non-payment of wages, and allowing wage arrears to accumulate;*
- *Deception in the calculation and payment of wages, including wage deductions;*
- *Requiring workers to lodge deposits; and the*
- *Offer of wage advances or loans with malicious intent, or charging excessively high interest rates.*



- Examine wage slips to determine whether coercion has been used at any time in the payment or non-payment of wages, or whether there is evidence of unlawful or unexplained deductions. In examining wage records, consider whether workers paid at piece-rate receive the legal minimum wage.
- Speak with workers about wage payment practices (i.e. whether wages are paid on time and calculated correctly, taking into consideration overtime and legal deductions); how they were recruited; and whether or not they were required to lodge a deposit or pay a recruitment fee, either to the employer or to a third party.
- Ensure that a representative cross-section of workers is interviewed, for example those on indefinite and fixed duration contracts as well as those paid hourly and piece-rate wages.
- Speak with managers and human resource personnel about recruitment and payment policies and practices.
- Determine whether the sale of company goods, tools or uniforms is used as a means to create a state of dependency of the worker on the employer.
- Examine financial records relating to wage advances and loans, if applicable.
- Review a random selection of payroll and other wage-related records to consider whether there is evidence of malpractice. Take appropriate measures to ensure that the company is not using a double set of “books” to mislead auditors.
- Consider whether special attention should be paid to the rights of indigenous and tribal peoples and/or migrant workers, and take appropriate measures to determine whether the company sub-contracts to informal workshops where the risk of bonded labour and debt bondage might be higher.

- If the employer uses a private employment agency to hire workers, speak with management about policies related to this. Where possible, meet with representatives of such employment agencies to discuss recruitment policies and procedures.
- Cross check information provided by management and workers to determine validity.

## Disciplinary Measures

### **? 12. Is there any evidence that disciplinary sanctions require or result in an obligation to work, for example through punishment for having participated in a strike?**

**i** *Broadly speaking, disciplinary measures in the workplace should not include sanctions that result in an obligation to work, and forced or compulsory labour should not be imposed as a means to discipline workers or to punish them for having participated in a strike. Disciplinary sanctions or sanctions of a monetary character that do not involve an obligation to work are not considered as contravening international standards concerning forced or compulsory labour.*

- 🔨** • Speak with a broad cross section of workers to determine whether disciplinary measures require or result in an obligation to work. Make a special effort to identify and interview workers who have been disciplined for different types of infractions.
- In cases where strike action has occurred recently, speak with workers who participated in or led the strike to determine whether they faced punishment for having done so and whether this punishment involved an obligation to work.
- Review company documentation regarding disciplinary measures and sanctions (e.g. company policies and procedures; and written warnings or reprimands given to workers) to determine whether the company imposes work as a means of disciplining workers.
- Speak with managers about policies concerning disciplinary measures and, in particular, about management responses to strike action. Also make an effort to speak with supervisory staff to determine whether the measures used to discipline workers result in an obligation to work.

## Compulsory Overtime

### ? 13. Are workers forced to work more overtime hours than allowed by national law or (where relevant) collective agreement, under the menace of a penalty?

Is there evidence that the employer exploits workers' vulnerability and uses threats to impose work or service beyond normal working hours, for example a threat of dismissal or an economic sanction?

Are workers forced to work more overtime hours than allowed by law or collective agreement in order to earn the legal minimum wage?

i *Abusive working conditions related to overtime are not automatically situations of forced labour. However, they can become situations of forced labour if employees are required – under the threat of penalty – to work more overtime hours than allowed by law or collective agreement, where the latter exists.*

*For example, in some cases, fear of dismissal drives workers to work overtime hours well beyond what is allowed under national legislation, while in others, where remuneration is based on productivity targets, workers may be obliged to work beyond normal working hours, as only in so doing can they earn the minimum wage. Workers in these situations may in theory be able to refuse work beyond normal working hours. However, if they are in a vulnerable situation, this may mean that in practice they have no choice and are obliged to work in order to keep their jobs or earn the minimum wage, or both. In this case, if work is imposed by exploiting the worker's vulnerability, under the menace of a penalty, dismissal or payment of wages below the minimum level, this is not only a matter of poor conditions of employment but of forced or compulsory labour.*

- 🔨 • Speak with workers about whether or not they are ever required to work more than the legally mandated amount of overtime per day, week or month. Where relevant, examine provisions in employment contracts concerning hours of work and overtime, and discuss these with workers.
- Consider whether threats have been used to force employees to work, for example the threat of dismissal.
- Consider whether any workers have suffered a penalty of any kind for refusing to work overtime beyond the legally mandated maximum.
- Examine a representative sample of daily time sheets, and cross-reference these with productivity logs to determine whether employees work overtime “off the clock”.

- Speak with managers about the use of overtime, particularly in reference to meeting production deadlines. Consider whether managers know what the law states concerning use of overtime.
- Examine company policies related to overtime.
- Examine workers' time sheets, ensuring a representative selection that includes different categories of workers as well as those on different types of contracts.
- Consider visiting the workplace during "off hours" to determine whether workers are working "off the clock."

## Freedom of Movement

### **? 14. Is there evidence that workers are physically confined to the workplace or to employer-operated residences (e.g. dormitories) outside working hours?**

Is there evidence of any other restrictions on workers' freedom of movement?

**i** *Workers should not be confined, imprisoned or in any way detained in the workplace or employer-operated residences, either during or outside working hours. Illegal restrictions on workers' freedom of movement are prohibited. However, reasonable limitations to movement within the workplace during work hours are permitted under conditions related to workplace discipline.*

- 🔧** • Speak with managers and human resource personnel about company policies concerning employer-operated residences. Examine these policies.
- Consider company security measures and, in particular, the role and responsibilities of security personnel. Consider whether guards are inappropriately used to restrict workers' movement inside or outside the workplace.
- Speak with workers about conditions related to freedom of movement in the workplace and in and around dormitories.
- Consider using a site inspection to examine both the workplace and employer-operated residences.

## Conditions relating to Skills Development and Vocational Training

### **? 15. If the employer provides training opportunities, are workers subsequently required to work for an established period of time to enable the employer to recoup costs?**

Do workers have the right to terminate employment before the end of this period, against the repayment (total or partial) of the training cost to the company?

**i** *Training opportunities provided to employees should be undertaken voluntarily, and employers providing such opportunities should not unreasonably impose work or service as a means of recovering the costs associated with them. The key principle here is the freedom of the worker to terminate employment. It is recommended that employers not stipulate that workers cannot terminate employment before the costs have been paid back.*

- 🔧** • Examine wage records for evidence of deductions related to training costs.
- Review employment contracts for provisions relating to training opportunities and related payment arrangements.
- Identify and speak with workers who have benefited from training opportunities. Determine the conditions under which they have been offered and participated in such training.
- Speak with management about training policies and matters related to freedom to terminate employment. Examine training and termination policies.

### Migration for Employment and Recruitment of Migrant Workers

**?** 16. Are migrant workers treated fairly and do they benefit from conditions of work that are no less favourable than those available to locally-recruited workers?

17. Is there any evidence that migrant workers or their family members have been threatened with denunciation to the authorities to coerce them into entering or maintaining employment?

18. Are workers required to pay a fee to the employer or an intermediary to get a job?

Is there evidence that workers have lodged a deposit upon commencing employment?

If national law allows recruitment fees to be charged to workers, are workers free to terminate employment at any time, without threat or penalty related to repayment?

19. Do workers retain control over their personal documents (e.g. birth certificates, passports, work permits, residence permit and/or identity cards)?

20. Is there any evidence that employers withhold or confiscate worker identity documents?

If the employer has been requested by workers to retain personal documents for security or other reasons, do workers have access to these at any time upon request?

21. Have measures been taken by the employer to prevent abusive conditions and fraudulent practices that may lead to coercion and trafficking for labour exploitation?

**i** *Migrant workers should be treated fairly, irrespective of their legal status, and benefit from conditions of work that are no less favourable than those available to domestic workers. They must have the right to voluntarily and freely enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement), without being subject to threats of any kind. Employers should take measures to prevent abusive conditions and fraudulent practices that may lead to coercion or trafficking for labour exploitation. Irregular migrant workers and their family members should never be threatened with denunciation to the authorities or otherwise coerced into employment.*

*Practices such as confiscating or withholding worker identity documents are prohibited. However, if requested by employees, employers may provide secure storage for such documents, provided that workers have free access to them at all times. Employers may also wish to provide workers with photocopies of the original documents, and “receipts” that indicate which documents have been lodged with the employer.*

-  • Consider whether migrant workers benefit from working conditions that are comparable to domestic workers.
- Review wage records to ensure that wage levels are the same for domestic and migrant workers.
- Examine company policies and migrant workers' contracts, and consider provisions concerning entering into and terminating employment.
- Speak with migrant workers about how they were recruited. Inquire about whether they had to pay a fee to the employer or an intermediary, or lodge a deposit. Consider whether workers feel free to terminate employment in cases where they have paid a recruitment fee.
- If management has been asked by workers to retain their identity documents, examine the location of these documents, speak with workers about whether they have free access to them at all times, and interview managers or human resource personnel about company policies and procedures. Inquire into the conditions under which workers access their personal documents.
- Speak with management about any measures undertaken to prevent abusive conditions and fraudulent practices related to migrant workers.
- Consider whether special attention should be paid to the rights of indigenous and tribal peoples and/or migrant workers. Cross check if the passports or any contract documents of migrant workers have been taken away by employers for “safe-keeping”.

## Private Employment Agencies and Contracts of Employment

### **? 22. Is there evidence that employers who engage private employment agencies have taken measures to monitor such agencies and prevent abuses related to forced labour and human trafficking?**

Are the agencies used only those that are licensed or certified by the competent national authority?

Does the employer ensure that workers contracted through employment agencies do not pay a recruitment fee to the agency?

### **23. Are written contracts of employment provided to all workers in a language they can easily understand?**

### **24. Do contracts of employment clearly indicate the rights and responsibilities of workers with regard to wages, working hours, valid grounds for termination, and other issues related to forced labour?**

**i** *Fees and costs related to recruitment should not be charged directly or indirectly, in whole or in part, to workers, but should rather be borne by the company or employer. Enterprises that have workers in the direct employ of private employment agencies should ensure that such workers receive adequate protection in relation to minimum wages, working hours, overtime and other conditions related to preventing forced labour.*

*Employers should provide written contracts of employment in language that all workers can easily understand and that clearly indicate their rights and responsibilities with regard to payment of wages, working hours, valid grounds for termination, and other issues related to preventing forced labour.*

- 🔧** • Speak with workers who have been recruited by private employment agencies or who are directly employed by them. Identify and speak with migrant workers, in particular, to discuss the terms under which they were recruited.
- Examine the contracts of employment of migrant workers and of other workers recruited or directly employed by private employment agencies.
- Consider the employment conditions of workers employed by these

agencies, in particular concerning wage payments, working hours, overtime, and other relevant issues.

- Examine wage slips for evidence of unexplained or illegal deductions.
- Speak with representatives of contracted employment agencies to discuss recruitment procedures. Examine related company policies.



## Worst Forms of Child Labour<sup>1</sup>

**?** 25. Is there any evidence that children have been engaged in the worst forms of child labour (for example, debt bondage, forced or compulsory labour, slavery or the sale and trafficking of children)?

**i** *The engagement of children in debt bondage, serfdom, forced or compulsory labour, all forms of slavery and practices similar to slavery, for example the sale and trafficking of children, is strictly prohibited. Employers shall take immediate and effective measures to prevent and eliminate these worst forms of child labour, and seek to ensure that any private employment agencies engaged on their behalf are not involved in such practices.*

- 🔨** • Develop measures to identify child labour in the workplace by using effective age estimation techniques and cross-referencing information gathered through site inspection, interviews with workers, a review of relevant company and worker documentation, and speaking with management.
- Speak with a representative cross-section of workers. Discuss conditions of work and, in particular, recruitment to determine whether safeguards exist to prevent and eliminate the engagement of children in the worst forms of child labour. Be mindful of the sensitive nature of this subject. Make sure to speak with workers that you suspect might be children.
- Speak with managers about policies concerning child labour and its worst forms. Examine these policies and inquire about specific measures used to prevent the recruitment or engagement of children in company operations and by private employment agencies. Also discuss measures to immediately remove and provide protection for children found working in the worst forms of child labour.

<sup>1</sup> For more information on the worst forms of child labour, see the 2007 ILO/IOE guides for employers on eliminating child labour.

- 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

