

MINI ACTION GUIDE

ITUC - International Trade Union Confederation
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Forced Labour

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Why is forced labour an important problem for trade unions?

Forced labour is often associated with slavery. That is correct. Forced labour is therefore often associated with the past. This is incorrect. Forced labour continues to manifest itself in new forms throughout the world, and certain contemporary forms are even increasing in numbers of victims in a context of globalisation and increased migration. The ILO made a very conservative minimum estimate in 2005 stating that at any given moment 12.3 million people are working in forced labour conditions. The way in which forced labour is used is constantly changing. The legislation abolishing slavery two centuries ago may have abolished formal slavery and legal ownership of certain people over others; however, in practice forced labour has never been eradicated. Workers in forced labour today lose their freedom of movement through more indirect and less obvious mechanisms such as debt bondage, serfdom, indentured labour, etc. At the same time there are still some persistent vestiges of traditional slavery in certain parts of Africa, and the difference between a modern-day domestic worker abused, exploited and locked up in a private home or bonded labourers on remote farms or working with brick kilns and traditional slaves may in practice be smaller than we like to think.

Forced labour is a truly global problem affecting every region and all countries in the world whether industrialised or developing, rich or poor. Labour intensive and unregulated industries are affected the most: agriculture, domestic work, construction, mining, quarrying and brick kilns, manufacturing processing and packaging, entertainment and prostitution.

Forced labour constitutes the antithesis to decent work and violates all core labour standards. Forced labourers are often victims of discrimination based on ethnicity or sex, and cultural preconceptions about inferiority of certain groups of people are therefore – together with

economic hardship – the main root causes of the entire phenomenon. Up to 50 percent of all forced labour victims are children in forced child labour, a “worst forms of child labour”. These workers are under extreme exploitation and often isolated from their peers. Freedom of association and the right to organise will seem a distant dream to them – let alone their right to collective bargaining.

Trade unions in most countries around the world are campaigning for decent work for all. We cannot be serious about this if we still allow forced labour and human trafficking to foster in every country around the world.

What is forced labour?

The ILO 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.”¹

The ILO definition contains two basic elements²:

¹ Art. 2, para.1 of the ILO Convention on Forced Labour n° 29, adopted in 1930.

² Source: 2005 ILO Report, *Global Alliance Against Forced Labour*.



Identifying forced labour in practice

<p>Lack of consent to work (involuntary nature of) (the “route into” forced labour)</p>		<p>Menace of a penalty (the means of keeping someone in forced labour)</p>
<ul style="list-style-type: none"> ● Birth/descent into “slave” or bonded status ● Physical abduction or kidnapping ● Sale of person into the ownership of another ● Physical confinement in the work location, in prison or in private detention ● Psychological compulsion, i.e., an order to work, backed up by a credible threat of a penalty for non-compliance ● Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.) ● Deception or false promises about types and terms of work ● Withholding and nonpayment of wages ● Retention of identity documents or other valuable personal possessions 	<p>A N D</p>	<p>Actual presence or credible threat of:</p> <ul style="list-style-type: none"> ● Physical violence against worker or family or close associates ● Sexual violence ● (Threat of) retaliation ● Imprisonment or other physical confinement ● Financial penalties ● Denunciation to authorities (police, immigration, etc.) and deportation ● Dismissal from current employment ● Exclusion from future employment ● Exclusion from community and social life ● Removal of rights or privileges ● Deprivation of food, shelter or other necessities ● Shift to even worse working conditions ● Loss of social status

“Each ILO Member which ratifies Convention 29 undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible time.”³

Convention 29 and 105 use the same definition for forced labour. The difference is that C. 29 bans all forms of forced or compulsory labour, except for military service or convict labour, or during emergencies such as war, fires and earthquakes, and C. 105 explicitly bans the use of compulsory labour as a means of political coercion or education, as a means to mobilise or discipline a workforce, as a punishment for taking part in a strike, or as a means of discrimination.

C. 29 is ratified by 173 ILO Member States and C. 105 by 169⁴. This high number of ratification is an important tool for trade unions in relation to the ILO supervisory mechanisms. (Please see further.) Moreover, Conventions 29 and 105 are two of the eight core labour standards, which means that the principle of the elimination of forced labour laid down in the Declaration on Fundamental Principles and Rights at Work should be respected by all ILO Member States because of the very fact of their membership in the Organisation. Adopted in 1998, the ILO Declaration commits Member States to respect and promote fundamental principles and rights at work, whether or not they have ratified the relevant ILO Conventions:

“All Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions.”⁵

These fundamental rights are the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all

³ Art. 1, para 1 of the ILO Convention on Forced Labour n° 29, adopted in 1930.

⁴ Number of ratifications on 11 July 2008 – Source ILOLEX

⁵ Art 2, ILO Declaration on Fundamental Principles and Rights at Work, 1998.



forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

All remaining ILO Member States that have not ratified C. 29 or 105 yet, apart from China, have ratified the International Covenant on Civil and Political Rights of 1966, which states that:

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
(c) For the purpose of this paragraph the term “forced or compulsory labour” shall not include:
 - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

This means that there is a global consensus that forced labour is not acceptable. In practice and in theory, however, identifying forced labour offers a number of challenges. The theoretical boundaries of forced labour

are thoroughly discussed in “Eradication of Forced Labour.”⁶ We will try to shed some light on the most important grey zones for trade unionists.

Forms of coercion

There are many forms of coercion, and some may be quite subtle. A categorisation and a few examples may offer better insight. Forced labour is usually obtained as a result of one of the following⁷:

Debt bondage:

Loans and debts are the most important means to tie workers to one employer. Workers do not always have a choice or aren't fully informed of the consequences when they accept a loan or an advance on salary from their employer. In many cases a loan is taken to be able to cover basic subsistence needs or unavoidable one-off payments. On that moment the worker loses all control over working conditions, and the debt is often artificially inflated by exorbitant charges for interest, food, and accommodation. The bonded labourers end up working for little or no pay, as their wages are used to service their debts, e.g., as is the case in India, Nepal, Pakistan and other countries. Subtle practices and manipulations can induce this phenomenon, such as paying wages in kind or below minimum wage; charging excessive fees for transport, tools, food etc.; withholding work for a period of time; contract substitution, non-, under- or deferred payment. The result is that when salaries are due, workers find themselves left with little or no money or even indebted to the employer, e.g., as is the case in Bolivia, Brazil, Peru and Paraguay.

Debt bondage is also often used as a coercive mechanism in the trafficking process. The debt may be directly to traffickers for ar-

6 General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), Report of the Committee of Experts on the Application of Conventions and Recommendations, International Labour Conference, 96th Session, 2007.

7 Based on a presentation by Mike Kaye, Anti-Slavery International

ranging transport, travel documents and a fee for securing the job. Migrants take loans from family members, legitimate third parties or the traffickers to pay this. The imperative to repay is extremely strong and is a key element in the trafficking process.

Absence of state protection:

Sometimes the state itself is responsible for forced labour. In some cases the state can be directly involved in and even structurally make use of forced labour. For example, this is the case in Burma, where people are systematically forced to labour for the military regime; in North Korea, where prisoners are forced to work often even without any formal or informal judicial decision or in Sudan, where government-supported militias have carried out abductions after which people were used as forced labourers. The state can also be indirectly responsible for forced labour when it is either unable to offer adequate protection due to limited institutional capacity, local presence or power or corruption or unwilling to offer protection due to informal or irregular status of workers.

Restrictions on freedom of movement

The most obvious form of coercion used is probably physically restricting the worker's movement. This is a harsh reality for domestic workers locked into houses; women trafficked into prostitution held in flats or brothels; bonded labourers locked up into isolated or remote estates; workers prevented from travelling to towns to buy essential goods because of insufficient time off, leaving them dependent on the estate store; and people trafficked to remote areas with no means of returning. Armed guards are used to prevent workers from escaping from camps, sites or sweatshops.

Sometimes restrictions are more formal, which has nevertheless a physical impact. For example, the irregular migration status of many trafficked people prevents them from denouncing their working conditions, and formal requirements may tie migrant



workers to one employer. In some places there are even local curfews and bans on assembly for migrant workers.

Violence, threats and intimidation

Besides these greater categories, a great variety of coercive means can apply to individual or collective cases. These can range from physical and psychological abuse and verbal physical coercion through threatening workers with charges for illegal entry in the country or the use of fraudulent documents, detention and deportation to different forms of intimidation, such as the withdrawal of housing, work, food or visas from bonded labourers, trafficked people, slaves by descent or social isolation or rejection. The latter can be very powerful, as in the case of children rejected by their families, including due to certain ritual beliefs like Devadasi and Trokosi.

Prison labour

It must be exacted as "a consequence of a conviction in a court of law"	A N D	It must be carried out under the supervision and control of a public authority	A N D	The person or persons involved must not be hired to or placed at the disposal of private individuals, companies or associations*
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Convention No. 29 exempts labour when exacted as a result of a conviction in a court of law but only as the work or service executed lives up to a number of very important and clear conditions.

*The Convention expressly prohibits prisoners being hired to or placed at the disposal of private entities. However, prisoners in publicly administered prisons are increasingly working for private enterprises (training schemes, producing goods or services destined for a private

entity or working outside the prison facilities as part of a pre-release scheme) and secondly, sometimes the prison administration itself has been contracted to private firms. These practices can only be exempted from the Convention's prohibition if the prisoners concerned offer themselves voluntarily, without being subjected to pressure or the menace of any penalty. However, taking into account the captive circumstances of prisoners, the necessary safeguards need to exist to ensure that the prisoners offer themselves voluntarily without the menace of a penalty. The most reliable indicator for the voluntariness of labour is that the work is performed under conditions which approximate a free labour relationship (wage levels, social security, occupational health and safety).⁸

Forced overtime

Not many workers are keen on working overtime. However, most workers also realise that it would be unreasonable to refuse overtime in certain exceptional and unpredictable circumstances that put their employer under acute pressure. When does overtime qualify as forced labour is probably one of the most prevalent questions in the discussions surrounding the legal limits of forced labour. Two preliminary remarks are important: first, the ILO Committee of Experts on the application of Conventions and Recommendations has specified that overtime can never be forced as long as it stays within limits permitted by national legislation and collective agreements. Beyond that the criterion of “vulnerability” of the worker is key. Overtime is forced where workers in practice have no choice to refuse overtime because of fear of dismissal or if working normal daily working hours would not give them the minimum wage (e.g., where remuneration is based on productivity targets).

Human trafficking

The United Nations define human trafficking as: “...recruitment, transportation, transfer, harbouring or receipt of persons, by means of

⁸ RCE, General Report, 2001, paras 128-143; RCE, 2002 general observation on Convention No. 29, para 10..

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.”⁹

Any form of human trafficking needs at least three elements¹⁰:

Process	+	Way/Means	+	Goal
Recruitment or Transportation or Transferring or Harbouring or Receiving	A N D	Threat or Coercion or Abduction or Fraud or Deceit or Deception or Abuse of Power	A N D	Prostitution or Pornography or Violence/Sexual Exploitation or Forced Labour or Involuntary Servitude or Debt Bondage (with unfair wages) or Slavery/Similar Practices

⁹ Art. 3, paragraph (a) of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children which supplements the United Nations Convention against Transnational Organised Crime, adopted in 2000.

¹⁰ Source: AFL-CIO Solidarity Center.



To define forced labour, the (economic) activity as such is not so much the predominant factor as the relationship between the employer and the workers. Some form of coercion will indicate forced labour. This form of coercion is mostly clearly present in the final stage of the human trafficking process. Forced labour is one of the outcomes of human trafficking, but forced labour also occurs without trafficking.

At the transport stage, governments are strengthening measures to police their borders. The effects may be limited, however, since many victims of trafficking enter the destination country voluntarily and legally. Where trafficking takes place within national borders, police have an even more challenging task, since they do not even have a border at which checks on immigrants might lead to the apprehending of traffickers.

At the forced labour stage, the state's policing efforts become most important. Consequently, domestic laws must criminalise the forced labour practices resulting from trafficking.

Trafficking or smuggling?

These two phenomena are closely related and often confused. There are clear differences between both. Smuggling is the facilitation of the illegal entry of a person into a state of which the person is not a national or permanent resident, in order to obtain, directly or indirectly, a financial or other material benefit.¹¹

There are three important differences:

1. Consent

The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either

¹¹ Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.

2. Exploitation

Smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim. Smuggled migrant workers are not necessarily severely exploited. When they are, they often become victims of forced labour, as their precarious immigration status will prevent them from denouncing their employment conditions.

3. Transnationality

Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another State or only moved from one place to another within the same State. Smuggling is based on transnational transportation, trafficking is based on exploitation.

Forced labour or slavery?

The League of Nations' Slavery Convention of 1926 defines slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised." However, when an individual is forced to work against his or her will, under the threat of violence or some other form of punishment, their freedom is restricted and a degree of ownership is exerted over them. This is why new forms of forced labour and human trafficking are often called contemporary slavery.

Forced labour or child labour?

Child labour refers to work for children under the age of 18 that is mentally, physically, socially and/or morally dangerous or harmful and that

interferes with their schooling. Under international standards, developing countries may allow children over 15 years of age to work under certain conditions. Forced labour and child labour are closely linked. Up to half of all people in forced labour are children. Child labour and forced labour occur in the same geographical areas, the same industries and are mainly caused by poverty. Both child labour Conventions are equally core labour standards. Forced child labour is one of the worst forms of child labour as stipulated in C.182.

A working child is not necessarily a forced labourer. As long as the child works voluntarily and free from threat of penalty or coercion, the harm done is in the nature only of child labour, not forced labour. Leaving aside some difficult practical questions concerning how a child can assent to voluntarily work giving certain types of labour (commercial sexual exploitation, for example), and focusing on those situations where children are clearly working as forced labourers, there can be little doubt that children are the most vulnerable of all workers when it comes to forced labour.

Forced labour or bonded labour?

A worker is in bonded labour when he or she is working in order to repay a loan or another form of debt – often from the employer or from a labour broker. The UN definition of bonded labour is: “the status or condition arising from a pledge by a debtor of his personal services or 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.”¹² It specifies that debt bondage is a practice similar to slavery and stipulates that governments should take measures to secure its complete abolition or abandonment as soon as possible. The Convention’s definition clearly distinguishes bonded labour

¹² UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) Article 1 (a)

from a normal situation in which a worker accepts credit for whatever reason and then repays the amount by working. In the latter situation the repayment terms are fixed and the capital sum borrowed is only subject to reasonable interest rates. In bonded labour cases these safeguards do not exist, as the terms and conditions are either unspecified or not followed, leaving the bonded labourer at the mercy of their employer or creditor. In these circumstances bonded labourers can be forced to work very long hours, seven days a week for little or no wages. The employer may also adjust interest rates or simply add interest; impose high charges for food, accommodation, transportation or tools; and charge workers for days lost through sickness. In such cases workers may not have been told in advance that they will have to repay these expenses. Bonded labourers may take additional loans to pay for medicines, food, funerals or weddings resulting in further debt.

Facts and figures¹³

The ILO has grouped forced labour situations into three main types:

Forced labour imposed by the State

Includes forced labour exacted by the military (outside of compulsory military service laws), compulsory participation in public works (outside emergency situations as defined in C. 29), and forced prison labour. For practical purposes, forced labour imposed by rebel groups is also included in this category.

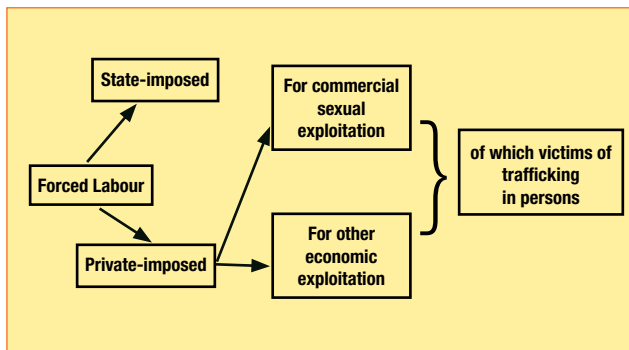
Forced labour imposed by private agents for commercial sexual exploitation

Includes women and men who have involuntarily entered prostitution or other forms of commercial sexual activities, or who have entered prostitution voluntarily but who cannot leave. It also includes all children who are forced into commercial sexual activities.

¹³ All taken from 2005 ILO Minimum Estimate of Forced Labour in the World.

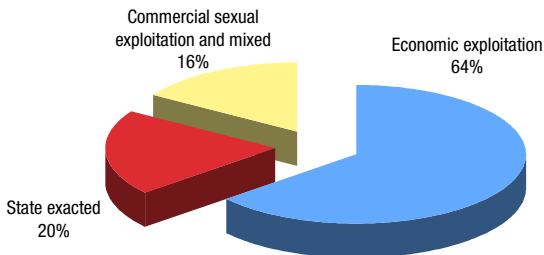
Forced labour imposed by private agents f or economic exploitation

Comprises all forced labour imposed by private agents other than for commercial sexual exploitation. It includes, among other things, bonded labour, forced domestic work, or forced labour in agriculture and remote rural areas. In addition to this broad typology, a distinction was drawn between forced labourers who were trafficked and those who were not trafficked.



The research showed that the majority of forced labour victims are working in economic exploitation rather than commercial sexual exploitation.

ILO Minimum Estimation of Forced Labour by Form



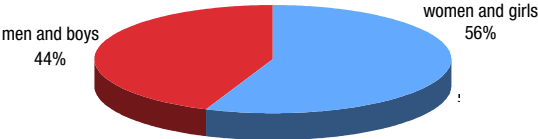
In 2005, the ILO estimated for the first time that 12.3 million people are in forced labour around the world. Counted in the region of destination, the minimum number of people in forced labour as a result of trafficking at any one given moment is 2.4 million. This means some 20 percent of all forced labourers are trafficked. There are, however, important regional variations to take into account. In the Middle East and North Africa, trafficking accounts for more than 75 percent of forced labour as compared to around 14 percent in Asia and the Pacific.

	Total Forced Labour	Total Trafficked
Industrialized Economies	360,000	270,000
Transition Economies	210,000	200,000
Asia and the Pacific	9,490,000	1,360,000
Latin America and the Caribbean	1,320,000	250,000
Sub-Saharan Africa	660,000	130,000
Middle East and North Africa	260,000	230,000
World	12,300,000	2,450,000

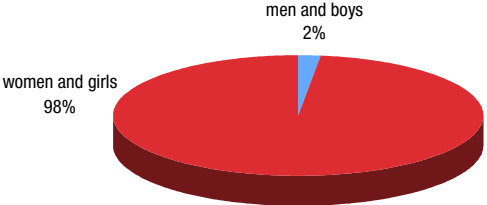
Forced labour generates an estimated 44 billion USD each year for unscrupulous employers and intermediaries, and trafficking generates up to an estimated 32 billion USD. Both are considered to be low risk crimes with high returns. Anti-trafficking legislation is being enacted in an increasing number of countries; nevertheless, even in countries with specific legislation in force, prosecutions stay low and mostly address trafficking for sexual exploitation.

A breakdown of numbers of victims by sex shows that the majority of victims are women. Victims of forced commercial sexual exploitation are almost exclusively girls and women.

Forced economic exploitation



Forced commercial sexual exploitation





How to identify victims of forced labour and trafficking

As the definitions above suggest, identifying victims of forced labour and/or trafficking is not always an easy task. Exploited workers themselves do often not realise that they are working in forced labour conditions and therefore trade unionists should take on a proactive attitude and reach out to vulnerable groups of workers.

Trafficking for labour exploitation cases have to be analysed on a case by case basis. Hereunder is a checklist list with relevant indicators.

Debt bondage:

The worker had to pay a high recruitment fee.

The worker has a deposit or a debt with or an advance from his employer or recruiter. There are no records of what has been paid or deducted or is still owed.

The worker is paid below the national minimum wage.

Wages are being withheld with promises of future payment.

The worker is working off a debt.

The worker does not answer consistently to wage-related questions.

Salary is (irregularly) deducted for transport, food, lodging (without prior notice).

Violence, threats and intimidation

The family has been threatened with harm if the worker attempts to leave the employer/workplace.

The employer demonstrates violent behaviour.

The worker shows signs of malnourishment.

The worker has been harmed or deprived of essential life necessities (food, water, sleep, medical care or other).

The worker has been threatened with deportation or law

enforcement action.

The worker shows anxious behaviour, expresses fear and intimidation through facial expressions and/or body language. The worker shows visible traces of physical violence (branding and/or scarring – indicating ownership, injuries/bruises from beating and/or weapons, signs of torture, e.g., cigarette burns, cuts, etc.).

Restrictions on freedom of movement

The worker is not in the possession of identification, work permit, and travel documents, or is in the possession of false documents.

The employer is in the possession of the worker's documents.

The worker is not allowed to leave the premises.

Excessive overtime is demanded (e.g., to achieve high production targets).

The worker has no access to media or telecommunication, e.g., television, radio, newspapers, magazines, telephone, Internet, etc.

The worker is not allowed to freely contact friends and relatives.

The worker was or is escorted or watched.

The worker is not allowed to speak for him/herself.

Deception

There has been deception in promised wages or working/living conditions.

The worker was recruited for one job and has been employed in another job.

The worker has no direct access to his or her earnings, e.g., private goods are bought through employer and earnings are held by employer.

Vulnerability

The worker is under 18/15 years old.

The worker is not familiar with the neighbourhood he or she is working in.

The worker does not speak the language of the country in which employed.

The worker is frequently transferred.

The worker does not have a regular employment contract.

The worker sleeps at the workplace and/or lives and works in the same place.

The employer/recruiter approached the worker to offer employment.

The recruitment agency is not publicly registered.

How to check national legislation

Three elements make legal frameworks responsive to forced labour practices.

1. There must be a **prohibition of the practice**.
2. There must be an **adequate penalty** for engaging in the practice. An adequate penalty is one that discourages the practice, or creates a disincentive to engage in the practice. According to ILO Convention No. 29, "The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced." Fines may also be imposed, and probably should be, if the penalty is to be adequate in its dissuasive effect.
3. There must be an **enforcement mechanism** for bringing allegations of the practice before the law for judgment. ILO Convention No. 29 requires strict enforcement of the law.

Relevant ILO Conventions and other international texts:

- Labour Inspection Convention No 81
- Labour Inspection (Agriculture) Convention No 129
- Forced Labour Conventions No 29 and No 105
- Worst Forms of Child Labour Convention No 182
- Private Employment Agency Convention No 181
- Migrant Workers Conventions No 97 and No 143
- 1998 Declaration on Fundamental Principles and Rights at Work
- 2000 Palermo Protocol supplementing the UN Convention against Transnational Organised Crime

Relevant questions to check whether national legislation offers an adequate frame

- Are there any specific anti-forced labour/trafficking strategies or action plans?
- Does existing anti-trafficking legislation also focus on labour exploitation outside commercial sexual exploitation?
- Is the issue of forced labour/trafficking integrated in other governmental policies such as employment, anti-discrimination and migration?
- Is all relevant international legislation ratified?
- Is there a clear definition of trafficking in persons, victims of forced labour?
- Are forced labour and human trafficking criminal offences under national legislation?
- Does legislation on human trafficking/forced labour differentiate between adults and children?
- Are there adequate penal sanctions foreseen for perpetrators



and have there been any convictions based on these provisions?

- Do victims receive adequate protection?
 - Are they primarily considered to be victims rather than “illegal immigrants”?
 - Does legislation show provisions to protect the privacy and identity of victims?
 - Have measures been developed to prevent forced labour and trafficking?
 - Are all workers covered by labour legislation, including informal, domestic and migrant workers?
 - Has there been trade union consultation for the development of the government recruitment/ labour migration policy?
 - Is there an appropriate, rights based labour migration policy in place?
 - Are there procedures to provide trafficking victims with information on relevant court and administrative proceedings?
 - Are measures being undertaken to provide for the physical, psychological and social recovery of trafficking victims?
 - Are measures being undertaken for the physical safety of trafficking victims while they are within the territory of your jurisdiction?
 - Are measures being undertaken that offer trafficking victims the possibility of obtaining compensation for damage suffered?
 - Are legislative and other measures permitting trafficking victims to remain temporarily or permanently in your country?
 - Are there measures in place discouraging the demand that fosters all forms of exploitation of persons that leads to trafficking?
 - Are mechanisms provided to keep and share information about the identification of possible victims and/or traffickers in transit?
- Is there any restriction on the right to organise for (un)documented migrants or informal workers?
- Is there a public authorisation register for employment agencies?

Ground Rules for Monitoring Private Employment Agencies

ILO Private Employment Agency Convention (No 181), 1997
“Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.”

ILO Recommendation 188 supplementary to Convention 181, 1997
“private employment agencies should inform migrant workers, as far as possible in their own language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment.”

Under certain conditions and after tripartite consultation, exceptions may be permitted to this rule “in the interest of the workers concerned.” In these cases a number of ground rules should be respected:

- The signing of a written contract of employment before departure;
- The promotion of equality of opportunity and treatment in access to foreign employment and to particular occupations (e.g., roughly equal numbers of job offers for men and women);
- The principle of never denying a migrant worker the right to freedom of association and the right to bargain collectively;
- A prohibition on supplying or using child labour;
- A prohibition on knowingly recruiting, placing or employing a migrant worker in a job involving unacceptable hazards or risks or where he/she may be subjected to abuse or discriminatory treatment of any kind;
- A prohibition on withholding or confiscating, even temporarily, a migrant worker's passport or travel documents;
- A ban on engaging in or tolerating contract substitution (leading, for instance, to women leaving their country of origin in the belief that they will work in the domestic sector but instead ending up in prostitution);

- The principle that agencies should not advertise or solicit applications for workplaces that, in reality, do not exist;
- No unfair advertising practices or providing misleading or false information to a migrant worker regarding the nature and terms of condition of employment, or to an employer on the qualifications of the job seeker;
- A prohibition on the use of forged travel documents or misrepresenting a migrant worker's personal details;
- A ban on charging fees or costs in excess of those determined by the government after a tripartite consultation.
- Potential migrant workers should be informed of all requirements for working in the country of destination: (documents, medical and language certificates, employment contract, including an estimate of time required to obtain necessary documents and clearances), permissible maximum fees that may be legitimately charged at various stages by intermediaries/recruiters or job placement organizers, government officials, doctors, training institutions and most importantly, transporters. The information must be clear and easily accessible.

What is the ITUC doing?

The ITUC is working closely with the ILO Special Action Programme to Combat Forced Labour and ILO ACTRAV to build a Global Trade Union Alliance to Combat Forced Labour and Trafficking as part of the wider Global Alliance to Combat Forced Labour. The Global Trade Union Alliance aims to build capacity among trade unionists to fight forced labour and human trafficking in a structural and coordinated way. The ITUC is training national focal points in all regions and promotes the importance of monitoring and reporting of forced labour and human trafficking and promotes networking as well as alliance building with NGOs on national, regional and international level. A number of friendly NGOs have invaluable experience and expertise in fighting human trafficking, mostly with a focus on trafficking for sexual exploitation. Trade unions

can benefit from this experience, and at the same time NGOs can benefit from the trade union insights and impact on labour market issues. On the international level the ITUC is, for example, working closely with Anti-Slavery International and the American Solidarity Center and is constantly working to broaden cooperation with other friendly and related organisations.

Through the international trade union protest and solidarity network, in close cooperation with the Global Union Federations, the Global Trade Union Alliance to Combat Forced Labour and Trafficking wants to detect forced labour practices and react to them by confronting governments and/or employers.

The newsletter of the alliance is addressed to all interested and wants to give information about trade union activities to fight forced labour and human trafficking around the world. The Alliance is led by the International Trade Union Confederation and financially supported by the Special Action Programme to Combat Forced Labour of the International Labour Organisation. It promotes decent work for all and, more specifically, geographical and institutional commitment and cooperation to eradicate forced labour and human trafficking as the antithesis of decent work. This newsletter is issued in English, French, Spanish and German.

In the fight against forced labour and human trafficking, one of the benefits from working with trade union organisations is the fact that they have a wide socio-economic agenda. Therefore, the issue can be addressed from several different angles. Forced labour and trafficking can never be eradicated if it is not integrated in all related areas of work. This goes for governments where ministries of labour, migration, equality, foreign affairs, justice and others have to work closely together, and it also goes for trade unions addressing related issues and regulation.



Migrants

Within the framework of the Special Action Programme on migrant workers, partnership agreements on the rights of migrant workers were signed by: CTRN, Costa Rica with the CST/CUS/CUSA, Nicaragua; CGTM, Mauritania with CNTS, Senegal; and the MTUC, Malaysia with the SPSI, Indonesia. Centres for migrant workers have been set up in Costa Rica, Mauritania and Malaysia by the CTRN, the CGTM and the MTUC respectively thanks to a pilot project financed by the LO/TCO Sweden. This project will be expanded to develop more bilateral cooperation agreements and will also develop a special angle on human trafficking.

Domestic workers

There is specific concern regarding domestic workers, who are mainly women and girls, a group that is extremely vulnerable to being taken into forced labour due to isolation in homes, irregular migration status and discriminatory prejudices of their masters. In many countries domestic work is not acknowledged as an economic sector of activity and therefore not covered by labour legislation, thus depriving domestic workers all over the world from their basic labour rights. The ITUC is pushing the ILO to develop and adopt a Convention that would require the inclusion of domestic workers under national labour legislation.

Informal economy

The ITUC has developed a Special Action Programme aimed at tackling issues of the Informal Economy. An international workshop on “Organising Workers in the Informal Economy: a Challenge for Unions” has come up with an action plan expressing, among other themes, the need for policy discussion involving union leadership and having the aimed of developing a trade union policy regarding issues of workers in the informal economy. In order to sensitise and stimulate union leaders to formulate trade union policies for the informal economy; to work out an action plan and a common

agenda for the implementation of the outcomes of the meetings, the project will be developed through a series of high level regional and/or sub-regional meetings involving members of the regional governing bodies, union leaders, Solidarity Support Organizations (SSOs) and Global Union Federations (GUFs). A guide to support implementation and monitoring of the results and decisions of the meetings will be produced.

Child labour

Children constitute between 40 to 50 percent of all victims of forced labour. Forced labour is one of the worst forms of child labour as specified by ILO Convention 182. The ITUC is committed to carrying forward the historic struggle of the international trade union movement to eliminate child labour and to ensure that every child can go to school and that every adult worker enjoys decent wages.

The ITUC is campaigning against child labour in all its manifestations and with proper regard to all its causes and ramifications: in the informal as well as the formal economy; through universal public provision of free, compulsory, quality education and family income support; by building public awareness and commitment; by campaigning for ratification of ILO Conventions 138 and 182 and their enforcement by employers including in their supply chains; by promoting close linkage between action against child labour and actions for respect for the other core labour standards; by cooperating with the ILO, IPEC, and, where appropriate, other UN agencies and institutions such as UNICEF; by promoting the implementation of trade union development cooperation activities that support the objective of eliminating child labour; by maintaining pressure on international organisations to ensure that trade, economic and financial policies support the elimination of child labour instead of pushing children out of school and into work; by participating in research activities on child labour and related

issues, with due attention to the gender dimension; and by linking trade union activities against child labour with those in favour of decent jobs for young people.

The ITUC is working with NGOs that share its objectives, analyses and approach to child labour, that prioritise elimination of the worst forms of child labour, and that target the specific forms of exploitation of girls and of boys.

Due to its large field of action, the ITUC is mainstreaming the child labour issue in most of its areas of work. To have an overview of the ITUC's current actions and activities related to child labour, please download the ITUC Mini Action Guide on Child Labour on the ITUC website: <http://www.ituc-csi.org> or send an email to childlabour@ituc-csi.org

Trade union rights

Independent, effective and democratic trade unions are the best guarantee to sustainably eradicate forced labour and human trafficking. In too many places workers do not fully enjoy their fundamental right to freedom of association and the right to organise. The situation is even more troublesome for the workers most vulnerable to ending up working in forced labour conditions – workers such as migrant, domestic and informal workers. All too often these people do not have the right to organise at all. The ITUC is constantly on the lookout for violations of trade union rights, publishes its yearly global report and is pushing governments through various supervisory mechanisms on the national, regional and international levels in close cooperation with the ILO.

Burma

Burma is a specific case. There is overwhelming evidence that forced labour continues to be imposed on civilians in various forms, in particular in remote areas. The military junta in Burma systematically and on a large scale uses forced labour for the



construction of public works. Refusal to work can lead to being detained, tortured, raped or killed. The ITUC works closely with and supports the FTUB (Federation of Trade Unions-Burma) to report on the situation on the ground in Burma in general and on cases of forced labour specifically. The ITUC also maintains and promotes a company list of enterprises with business links in Burma and takes all possible steps to persuade companies engaged in Burma to end all economic and trade relations and investments until democracy is established and forced labour is eradicated. The international trade union movement strongly believes that it is impossible to undertake any economic activity in the country without this providing direct support to the military regime. Any commercial or economic link with Burma therefore helps the junta to perpetuate or extend the system of forced or compulsory labour.

The ILO Special Action Programme to Combat Forced Labour

The Special Action Programme to combat Forced Labour (SAP-FL) has spearheaded the ILO's work in this field since early 2002.

In June 1998 the International Labour Conference adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up that obligates member States to respect, promote and realise freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation. The InFocus Programme on Promoting the Declaration is responsible for the reporting processes and technical cooperation activities associated with the Declaration, and it carries out awareness raising, advocacy and knowledge functions.

In November 2001, following the publication of the first Global Report on Forced Labour, the ILO Governing Body created a Special Action

Programme to combat Forced Labour (SAP-FL) as part of broader efforts to promote the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up.

Since its inception, SAP-FL has been concerned with raising global awareness of forced labour in its different forms, as a necessary prerequisite for effective action against it. Several thematic and country-specific studies and surveys have since been undertaken on such diverse aspects of forced labour as bonded labour, human trafficking, forced domestic work, rural servitude, and forced prison labour.

www.ilo.org/forcedlabour

ILO ACTRAV

The Mandate of the ILO Bureau for Workers' Activities is to strengthen representative, independent and democratic trade unions in all countries; to enable them to play their role effectively in protecting workers' rights and interests and in providing effective services to their members at national and international levels; and to promote the ratification and implementation of ILO Conventions.

<http://www.ilo.org/public/english/dialogue/actrav/>

Global Union Federations

Just as the role of the ITUC corresponds to the policy and representation responsibilities of their national affiliates, the GUFs are the extensions of their national respective affiliates. The GUFs that have a primarily private sector membership group unions in different sectors, but also, increasingly, inside common employers or supply/production/service chains. This role has assumed greater importance with the integration of the global economy and global production.



Global Union Federations have negotiated over sixty international framework agreements (IFAs) with major multinational enterprises. IFAs are a tool to lay down the rules of conduct for transnational companies. Since they are negotiated on a global level and require the participation of trade unions, International Framework agreements are an ideal instrument for dealing with the issues raised by globalisation. IFAs are a visible sign of growing contact and relations of GUFs with their corporate counterparts. Nearly all GUFs group several sectors and are structured in a way that accommodates sectoral differences.

<http://www.global-unions.org/>

What can you do?

Workers in forced labour need trade unions

Even if most victims of forced labour are not unionised yet, these workers definitely need to be represented and assisted by and integrated in the trade union movement. It is a challenge, as many of them are migrants workers, some of them in illegal situations (residence or employment), and some of them are performing temporary or seasonal work. As they suffer from coercion and violence from their employer, they may be afraid to complain, even to trade unions. These workers are the most vulnerable and out of reach, and therefore need protection and assistance from unions.

Trade unions stand up to defend the rights of exploited workers anywhere. Workers in such an extreme form of exploitation as forced labour deserve our special attention.

Be informed:

Read up on the website www.ituc-csi.org/forcedlabour .

Subscribe on the website to the ITUC mailing list to stay informed about trade union news and initiatives to combat forced labour and trafficking.

Inform all your secretariat staff, affiliates and members of this initiative and invite them to subscribe to the list on <http://www.ituc-csi.org/forcedlabour> .

Report back and let other people be informed about your activities. Communicate information to forcedlabour@ituc-csi.org .

Trade union policy:

Place forced labour on the agenda.

Develop a policy and endorse a strategy/action plan, target specific sectors and areas.

Appoint officials to deal with forced labour and trafficking or establish structures such as forced labour units, committees, study centres, interdepartmental committees or working groups

Allocate the necessary resources to those who are given the responsibility for all activities related to forced labour and put them in contact with the ITUC.

Use established tripartite bodies and procedures to place ratification and effective implementation of ILO Conventions 81, 129, 29, 105, 182, 181, 97 and 143 at the top of the legislative and political agenda.

Include special provisions on forced labour and trafficking in collective agreements and negotiations. For Framework agreements on sectoral basis; seek guidance from the Global Union Federations.

Pressure employers and employment agencies to respect fundamental labour standards.

Fight every form of inequality and discrimination!

Help design clear national legal definitions so that those responsible for exploitation and abuse can be brought to justice.

Capacity building:

Educate trade unionists to enable them to identify forced labour practices and victims in practice and to recognise and document forced labour in the workplace.

Conduct community education about the risks and dangers of trafficking. The issue could be incorporated in school curricula, and journalists could be sensitised to report on forced labour and trafficking in an ethical way without endangering victims.

Awareness raising:

Organise an activity on trafficking and forced labour, e.g., seminars and debates, sports and cultural events, demonstrations.

Start a campaign, raise awareness among staff and members through grassroots networks and ties to the workplace. Conduct nationwide sensitisation campaigns or targeted local campaigns: in schools, in communities vulnerable to traditional forms of forced labour arising in migration contexts, in geographical areas receiving forced labourers. Outreach to ethnic communities that are particularly vulnerable to traffickers.

Publish a report, a brochure or a leaflet. Use the trade union structure and existing infrastructure for the distribution of printed materials.

Networking:

Cooperate with authorities, existing networks, labour inspection services, law enforcement and other relevant national, regional or international authorities to answer all the challenges ranging from monitoring to policing and from organising to rehabilitation. There is a need for a denser web in which trade unions have to be key players. For example, transport, travel, communication and entertainment industries have the possibility to assist for a more efficient detection of trafficking. Build alliances or coalitions with civil society organisations having recognised experience and expertise in the areas of forced labour and human trafficking; networking with friendly NGOs especially in countries of destination or origin may complement trade union actions. Especially in rehabilitation, support counselling, social integration, education and income generation for trafficking victims, trade unions should

keep close contacts with and cooperate with other institutions and NGOs with the capacity and the possibility to do this.

Collaborate with others, coordinate inter-union contacts and meetings between unions in source and destination countries and develop cooperation agreements between unions in source and destination countries. Hire workers with easier access to other migrant workers; diversify to cover as many languages and cultures as possible; sign an MoU. Bilateral agreements between trade unions directly or through international networks are of crucial importance to promote legal migration and to fight abuse and trafficking. Workers need to be encouraged to join partner trade unions in the country of destination.

Encourage the exchange of staff members with partner trade union organisations from sending or receiving countries. Develop agreements to automatically transfer membership from migrant workers in countries of origin and destination.

Direct assistance:

Install a helpdesk, an action line for information and assistance in cooperation with friendly NGOs.

Increase access to information concerning working conditions and employment opportunities abroad through the mass media and electronic sources of information; transmit up-to-date information on the conditions of entry and residence; establish recruitment and training centres in the country of origin for skills needed and for cultural and language training.

Organise migrants and informal and unprotected workers (such as domestic workers) and target vulnerable sectors (such as construction, textile, agriculture, fisheries, etc.). Organising offers the most effective protection against exploitation. Address their specific situation and needs in their specific language and culture; integrate them within trade union ranks.

In developing countries trade unions can install, incorporate or associate with savings and insurance mechanisms or

cooperatives. This could prevent people from taking loans or advances from their employers and enable them to survive crop failure, illness or other financial setbacks in extreme cases and make them less dependent upon their employer in general. In industrialised countries this fits in with demanding better social security schemes and more social protection.

Create databases per skill/occupation/sector of potential migrants. The information on labour rights should be disseminated in the language of the migrant workers. Obtain and share information. Pursue civil and penal claims for migrant workers and help them to get back pay, avoid deportation and to access government and NGO services. Get the legal and other help available to documented workers made available to undocumented workers too.

Organise pre-departure training or information kits for migrant workers in cooperation with trade unions of destination/origin countries. Collect and exchange information on labour and social standards.

Address migrant workers in their own language; identify local trade union activists with similar ethnic background to migrant workers.

Publish guides and information for foreign workers.

Use protection offered by existing anti-trafficking legislation to protect the rights of exploited migrant workers.

Monitor:

Highlight cases of forced labour. Bring cases to light and report them to the authorities without endangering the victims. Document the incidence of forced labour to support pressure on governments to take action.

Collect stories, pictures and other evidence provided by victims of trafficking, working children and members of their families. Identify, without endangering the victims, employers and employment agencies that use forced labour. Job placement is

often organised through informal networks, which increases the risk on human trafficking and exploitation.

Monitor recruitment practices and employment conditions, also in subcontracting chains. Contact recruitment agencies and ensure that migrant workers receive relevant information

Trade unions have access to institutional channels to influence governmental policies. National trade unions should communicate information to relevant international trade union organisations and the ILO (submit evidence to the ILO supervisory mechanisms, such as the Committee of Experts on the Application of Conventions and Recommendations) and monitor the implementation of legislative provisions for which access to the workplace needs to be guaranteed to labour inspection units assisted by trade unionists. Do not hesitate to ask assistance from ITUC, ILO ACTRAV or any Global Union Federation.

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