International Labour Office

Combating Forced Labour

1

Introduction & Overview

A Handbook for Employers & Business

Special Action Programme to Combat Forced Labour

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Foreword

Forced labour is universally condemned and banned. Many of us might think that the issue no longer exists and that it has been completely eliminated. Unfortunately, this is not absolutely true and there is evidence that situations of forced labour take different forms in some countries around the world.

The issue of forced labour is the subject of widely-ratified international instruments and, within the private sector, many codes, agreements and initiatives refer to the prohibition of forced labour. The elimination of all forms of forced or compulsory labour is notably one of the fundamental principles enshrined in the ILO 1998 Declaration on Fundamental Principles and Rights at Work.

Even though the issue of forced labour is addressed in many international instruments, there is little understanding of it; sometimes, it is even ignored. For the business community, forced labour might not have been a priority in the past, but today there is growing interest to avoid the risk of being linked to it, especially through supply chain activities. Nowadays, growing globalisation processes have opened up economies, with supply chains increasingly growing. On the one hand, business has strengthened and deepened its supply chain management. On the other hand, the general public is more aware of international developments and is becoming aware of forced labour situations through the activities of non-governmental organisations, lobby groups, the media and others, where forced labour situations have been brought into greater focus by some recent well-publicised examples.

This Handbook for Employers and Business provides excellent practical tools and guidance to enable business and its organisations to identify and prevent situations of forced labour. The International Organisation of Employers commends the efforts of the ILO Special Action Programme on Forced Labour on its first initiative to develop a set of practical tools specifically for the private sector. The IOE has been closely involved in this initiative and we are certain that this Handbook will be of great assistance in helping employer organisations and their members understand the issue of forced labour, in taking the necessary measures to avoid being involved in those situations and in contributing to the total elimination of forced and compulsory labour.

Antonio Peñalosa
Secretary-General
International Organisation of Employers

Preface

This handbook aims to meet the growing need of employers' organisations and individual companies worldwide for guidance as to what forced labour is, how it can affect business operations, and what business actors can do to tackle the problems.

Forced labour is becoming a significant risk for employers, not only for small enterprises on the margins of the formal economy in developing countries, but also for multinational enterprises with complex supply chains and outsourcing operations. The ILO estimates that 80 per cent of all forced labour abuse takes place in the private economy. Though much of this is in the informal economy, several major companies have recently had to deal with forced labour allegations.

While many individual companies now have provisions against forced labour in their codes of conduct, and auditing firms are increasingly offering their services on the subject, there can be difficult debates as to what forced labour actually is. It can take subtle forms, and can be difficult to understand and detect without clear guidance based on the contents of the ILO's Conventions on forced labour and the deliberations of its supervisory bodies.

This first version of a handbook aims to fill such a gap. It has been prepared in close cooperation with the International Organisation of Employers, and draws on consultations with employers and business actors in different regions. In all of these meetings the demand was clearly expressed for such guidance, together with examples of good business practice and advice on remediation. This first version contains only limited good practice examples, but readers are actively encouraged to share more so that future versions can be enriched.

The handbook was prepared by Philip Hunter of the SAP-FL programme, in the context of an Expert Group Initiative on supply chain management of the UN Global Initiative to Fight Human Tafficking (UN.GIFT). It has involved cooperation with several ILO departments, in particular those concerned with international labour standards, employers' activities, multinational enterprises, social dialogue and better work, and child labour. Our thanks are extended to the many external reviewers from employers' organisations, business and civil society who took the time to

review the initial draft, providing invaluable feedback and ensuring that these guidance tools are relevant to the business community. Special appreciation is extended to Mr. David Arkless, Senior Vice President for Global Affairs, and Ms. Branka Minic of Manpower Inc. for invaluable help in facilitating the external review. Particular thanks are also due to Mr. Brent Wilton and Ms. Barbara Leon of the IOE, who commented extensively on earlier drafts.

Roger Plant
Head, Special Action Programme to Combat Forced Labour

I Introduction

Forced labour and the forced labour outcomes of human trafficking are becoming increasingly important issues for employers' organisations and business. This handbook aims to help business actors at different levels address the issue, providing practical tools and guidance material to enable them to identify and prevent forced labour, and take remedial action where necessary, within their sphere of influence.

Employers' organisations and business have a central role to play in combating all forms of forced or compulsory labour. Employers' organisations, in particular, are strategically well-placed to provide institutional engagement and sustainability, and business involvement is key to the success of the ILO's campaign to rid the world of forced labour by 2015.

There are many reasons why business and employers' organisations should play a central role in the global fight to end forced labour and human trafficking:

- **Legal compliance:** Almost all ILO member States have ratified Conventions 29 and 105 on forced or compulsory labour and States that have ratified the "Palermo Protocol" against human trafficking are required to make this practice a crime. This means that forced labour and trafficking in persons are punishable as crimes in most countries around the world, and that companies found involved in such activities could face prosecution.
- **Managing risk and reputation:** To be successful, companies must manage risk in an environment where risk is not static and can emerge through the actions of the company itself, its suppliers and other actors. Allegations of forced labour and trafficking present legal risks as well as serious threats to brand and company reputation.
- **Forced labour in global supply chains:** Globalisation and the growing links across countries and firms have raised forced labour and trafficking in persons as significant issues within global supply chains.

- **Codes of conduct and corporate social responsibility (CSR):** The elimination of forced labour is a key element of codes of conduct and other CSR initiatives. Companies – particularly those that supply consumer markets and have significant brand value – face new and growing expectations that production will comply with social and human rights criteria.
- **Forced labour and human trafficking are morally unacceptable.**

Aims of the handbook

This handbook is addressed to employers' organisations and a broad spectrum of business actors that include small and medium sized enterprises, multinational enterprises, export-oriented companies and those operating within global supply chains. Senior managers, human resource personnel, sourcing and social compliance staff, and social auditors are among those who will find technical material and information here that will help them in their day-to-day work. Organisations within the broader community of CSR as well as companies providing management services – for example, consultants or quality control companies – will also find this handbook useful.

The handbook's main aim is to assist business and employers' organisations in understanding and tackling the various dimensions and issues related to forced labour and human trafficking, acknowledging that each company and organisation is unique and has different needs and priorities. These are truly global phenomena, affecting all countries in the world today. Forced labour thus presents a significant risk to global businesses as well as their national and international representatives. The handbook has the following specific aims:

- To raise awareness of forced labour and human trafficking, what they are, and where they can be found;
- To provide practical material and guidance to different business actors and employers' organisations to encourage efforts to combat forced labour and human trafficking;
- To support employers in their engagement on the issues and propose specific measures to help them take preventive action against the risk of forced labour;
- To facilitate a better understanding of international standards addressing these issues;

- To encourage a broad partnership approach to the fight against forced labour and trafficking through the active engagement of business actors in global action;
- To serve as a resource book and guide for further reading.

How to use the handbook

This handbook has been designed for practical use by the business community. It takes the form of stand-alone tools and booklets that provide practical guidance to help business address forced labour. The handbook presents background information, the latest statistics on forced labour and human trafficking, an overview of key issues, and resources for further reading. It adopts a cross-sectoral approach and presents information drawn from different regions, countries, employers' organisations and companies of different sizes. Throughout the handbook, concrete examples of action illustrate measures that are already being taken. The following specific resources make up the handbook:

- **Employers' Frequently Asked Questions:** A quick reference guide for managers, human resource personnel and others that answers FAQs from employers. The guide addresses complex topics such as prison labour, forced overtime and debt bondage in an easy-to-use format.
- **Guiding Principles to Combat Forced Labour:** A set of principles based on ILO standards and jurisprudence to guide business action against forced labour and trafficking.
- **Checklist and Guidance for Assessing Compliance:** A checklist designed for social auditors and other practitioners for use in enterprise-level assessments. The tool includes a set of questions as well as policy guidance and technical advice on how to conduct the assessment.
- **A Guide for Taking Action:** Presents the key measures that companies and employers' organisations can take to address forced labour at enterprise, national and industry levels, and in global supply chains.
- **Tips for Taking Action:** A set of practical reference guides that identify some of the concrete measures and benefits that companies can take to address forced labour and trafficking.
- **Case Studies:** Selected examples of company and industry action that indicate the variety of approaches such actors can take in addressing forced labour at the workplace and in supply chains. These case studies have been prepared using publicly available resources.

Definitions and concepts

Forced Labour

The internationally recognised definition of forced labour is found in ILO Convention No. 29 (1930). According to this Convention, forced labour is "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."

The key elements of this definition are:

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.

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

Menace of any penalty: This can refer to criminal sanctions as well as various forms of coercion such as threats, violence, the retention of identity documents, confinement, or non-payment of wages. The penalty may also take the form of a loss of rights or privileges.

Voluntary: This refers to workers' consent to enter into employment and to their freedom to leave the employment at any time, with reasonable notice in accordance with national law or collective agreements.

In essence, persons are in a forced labour situation if they enter work or service against their freedom of choice, and cannot leave it without penalty or the threat of penalty. This does not have to be physical punishment or constraint; it can also take other forms, such as the loss of rights or privileges.

Box 1 provides a list of examples to illustrate different aspects of this definition.

Box 1: Identifying forced labour in practice

Lack of consent to work (the "route into" forced labour)	Menace of a penalty (the means of keeping someone in forced labour)
• 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 non-payment of wages • Retention of identity documents or other valuable personal possessions	• Physical violence against worker or family or close associates • Sexual violence • (Threat of) supernatural retaliation • Imprisonment or other physical confinement • Financial penalties • Denunciation to authorities (police, immigration, etc.) and deportation • 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

Trafficking in Persons

Trafficking in persons, or human trafficking, can lead to 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 alike.

A basic definition of human trafficking is found in the "Palermo Protocol" of 2000 (see Annex 1). This definition distinguishes trafficking from smuggling by focusing on the elements of exploitation, deception and coercion.[1] According to the Protocol:

[1] The definition of smuggling is provided in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organised Crime. It states: "'Smuggling of migrants' shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident."

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.

This definition is quite complex, but it emphasises the following key points:

Activities: These include each phase of the trafficking cycle, namely recruitment, transportation, transfer, harbouring or receipt of a person;

Means: This can include the threat or use of force, deception, abduction, coercion, fraud, threats, and abuse of power or of a position of vulnerability; and

Purpose: This is exploitation, including forced labour, slavery and servitude.

The Palermo Protocol distinguishes between trafficking in children (under 18 years of age) and adults. The recruitment and movement of a child for exploitation by a third party is considered "trafficking in persons" even if it does not involve the illicit means identified in the definition.

For ILO, it is important to clarify that not all forced labour is the result of human trafficking and that not all trafficking-related activities necessarily result in forced labour.

Corporate Social Responsibility

ILO defines CSR as "a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values both in their own internal methods and processes and in their interaction with other actors. CSR is a voluntary, enterprise-driven initiative and refers to activities that are considered to exceed compliance with the law."

The key elements of the ILO definition are:

Voluntary: Enterprises voluntarily adopt socially responsible conduct by going beyond their legal obligations;

Integrated: CSR is an integral part of company management; it is thus distinguished from philanthropy; and

Systematic: Socially responsible action is systematic, not occasional.

The point of reference for the ILO on CSR is the *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*.[2] The MNE Declaration is the only international instrument addressed to enterprises which has been agreed to by governments and employers' and workers' organisations. The ILO *Declaration on Fundamental Principles and Rights at Work* is also a key promotional instrument. It commits Member States of the ILO to respect and promote four core labour principles, including the elimination of forced labour, whether or not they have ratified the relevant Conventions.[3] The principles and rights identified in this Declaration also comprise the labour principles of the **UN Global Compact**. Since the Compact's launch in 1999, ILO has actively collaborated with the Global Compact Office and its UN member agencies.

Further information about the definitions of forced labour and trafficking in persons can be found in Booklet 2 of this handbook, the Employers' Frequently Asked Questions. See also the Annex provided below, which includes excerpts from the relevant international instruments.

[2] See: www.ilo.org/multi.

[3] See: www.ilo.org/declaration. In addition to the elimination of all forms of forced or compulsory labour, the Declaration also addresses freedom of association and the effective recognition of the right to collective bargaining; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

II Forced labour and the global economy

Facts and figures

According to ILO data, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. Women and children are particularly vulnerable to abuse, but men are likewise affected, particularly in sectors such as construction and mining.

Forced labour exists in industrialised as well as in developing countries. It is a global problem that affects all countries to a greater or lesser extent. Table 1 below shows the regional distribution of forced labour and reveals that it is a truly global phenomenon.

Table 1:

Regional distribution of forced labour and trafficked forced labourers

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

* Note: Figures do not add up to total shown because of rounding.

Of the over 2.4 million men, women and children that are victims of trafficking at any point in time, at least one third of these are trafficked for economic purposes other than sexual exploitation. Estimates of the total illicit profits generated by trafficked forced labour are about US$32 billion. Half of this profit is made in industrialised countries and close to one-third in Asia. Globally, this represents an average profit of approximately US$13,000 per year for each forced labourer, or US$1,100 per month.[4]

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". This involves the taking of a loan or wage advance by a worker from an employer or labour recruiter, in return for which the worker pledges his or her labour and sometimes that of family members in order to repay the loan. The terms of the loan or work, however, may be such that the worker is trapped for years without being able to pay back the loan.[5]

Forced labour in prisons: Labour exacted from prison workers is not generally considered forced labour under international law. However, involuntary work performed by prisoners who have not been convicted in a court of law and whose work is not 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 outcomes of human trafficking: Trafficking in persons has become a truly global enterprise. It is often linked to organised crime and involves deceptive recruitment, racketeering and blackmailing to obtain a cut of migrant workers' earnings.

[4] These figures are taken from: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work,* Geneva, 2005. For a discussion of the methodology used to generate the figures, see: Patrick Belser et.al, *ILO Minimum Estimate of Forced Labour in the World,* Geneva, 2005.

[5] Debt bondage is defined in the UN's *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* 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".

Coercion in employment: This refers to the many forms of deception and coercion in employment that can amount to forced labour under specific circumstances. Withholding or non-payment of wages, the retention of identity documents, and induced indebtedness are some examples of such coercion.

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.

Economic sectors at risk

Reliable statistical information about the economic sectors where forced labour is found remains difficult to establish. However, ILO estimates that, globally, only 20% of all forced labour is exacted by the State or armed forces. This means that the majority of forced labour is exacted by private agents. Of this majority, 11% is exacted for forced commercial sexual exploitation, while 64% is exacted for the purpose of economic exploitation. The form of forced labour in the remaining 5% of cases cannot be clearly identified.[6]

The following presents a non-exhaustive list of economic sectors in which cases of forced labour and human trafficking have been identified as a significant problem in many countries:

- Agriculture and horticulture;
- Construction;
- Garments and textiles under sweatshop conditions;
- Hospitality and catering;
- Mining and logging;
- Food processing and packaging;
- Transportation;
- Domestic service and other care and cleaning work; and
- Sex industry and prostitution.

[6] See: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work,* Geneva, 2005.

Forced labour that results from human trafficking largely affects persons working at the margins of the formal economy, with irregular employment or migration status. However, it is increasingly evident that coercive recruitment and employment practices can affect migrant workers in other mainstream economic sectors as well, for example in health care, food processing, information technology and contract cleaning, both in private and public sector employment.

Vulnerable workers

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 at risk because of their ethnic background, relative poverty or irregular migrant status. Employers should give special attention when employing them directly or when they are working in subcontracted firms within the supply chain:

- 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.

III Further resources

International Conventions, Recommendations and Declarations

General

- ILO Declaration on Fundamental Principles and Rights at Work, 1998
- ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 2006
- ILO Declaration on Social Justice for a Fair Globalisation, 2008

Forced Labour

- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)

Forced Labour and trafficking of children

- Worst Forms of Child Labour Convention, 1999 (No. 182)

Migrant Workers

- Migration for Employment Convention (revised), 1949 (No. 97)
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

Recruitment and Employment Relationship

- Private Employment Agencies Convention, 1997 (No. 181)
- Private Employment Agencies Recommendation, 1997 (No. 188)
- Employment Relationship Recommendation, 2006 (No. 198)

Human Rights

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990

Abolition of Slavery

- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1957

Crime

- Convention against Transnational Organised Crime, 2000

Trafficking

- Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000

ILO reports and surveys

- ILO: *A global alliance against forced labour,* Geneva, 2005.
- ILO: *Eradication of forced labour: General survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105),* Geneva, 2007.
- 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.
- ILO: *Forced labour and human trafficking: Handbook for labour inspectors,* Geneva, 2008.

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, *Codes of conduct: Position paper of the IOE,* Geneva, 1999.

Other relevant resources

- Anti-Slavery International, *Arrested Development: Discrimination and slavery in the 21st century,* London, 2008.
- Anti-Slavery International, *Debt Bondage,* London, 1998.
- US State Department, *Trafficking in Persons Report 2008.* http://www.state.gov/g/tip/rls/tiprpt/2008/

Websites

- www.ilo.org/forcedlabour
- www.ioe-emp.org
- www.unglobalcompact.org
- www.ungift.org
- www.antislavery.org
- www.ciett.org

IV Annex 1: International Legal Instruments

A – ILO Forced Labour Convention No. 29 (1930) - excerpts

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

Article 2

1. For the purposes of this Convention the term **forced or compulsory labour** shall mean 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.

2. Nevertheless, for the purposes of this Convention, the term **forced or compulsory labour** shall not include:

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 25

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.

B – ILO Abolition of Forced Labour Convention No. 105 (1957) – excerpts

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour:

(a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;

(b) as a method of mobilising and using labour for purposes of economic development;

(c) as a means of labour discipline;

(d) as a punishment for having participated in strikes;

(e) as a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

C – ILO Private Employment Agencies Convention No. 181 (1997) – excerpts

Article 1

1. For the purpose of this Convention the term **private employment agency** means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

(a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;

(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a "user enterprise") which assigns their tasks and supervises the execution of these tasks;

(c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

2. For the purpose of this Convention, the term **workers** includes jobseekers.

Article 2

1. This Convention applies to all private employment agencies.

2. This Convention applies to all categories of workers and all branches of economic activity. It does not apply to the recruitment and placement of seafarers.

Article 3

1. The legal status of private employment agencies shall be determined in accordance with national law and practice, and after consulting the most representative organizations of employers and workers.

2. A Member shall determine the conditions governing the operation of private employment agencies in accordance with a system of licensing or certification, except where they are otherwise regulated or determined by appropriate national law and practice.

Article 4

Measures shall be taken to ensure that the workers recruited by private employment agencies providing the services referred to in Article 1 are not denied the right to freedom of association and the right to bargain collectively.

Article 5

1. In order to promote equality of opportunity and treatment in access to employment and to particular occupations, a Member shall ensure that private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability.

Article 7

1. Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers.

2. In the interest of the workers concerned, and after consulting the most representative organizations of employers and workers, the competent authority may authorize exceptions to the provisions of paragraph 1 above in respect of certain categories of workers, as well as specified types of services provided by private employment agencies.

Article 8

1. A Member shall, after consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.

2. Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment.

Article 9

A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies.

Article 10

The competent authority shall ensure that adequate machinery and procedures, involving as appropriate the most representative employers and workers organizations, exist for the investigation of complaints, alleged

abuses and fraudulent practices concerning the activities of private employment agencies.

Article 11

A Member shall, in accordance with national law and practice, take the necessary measures to ensure adequate protection for the workers employed by private employment agencies as described in Article 1, paragraph 1(b) above, in relation to:

(a) freedom of association;

(b) collective bargaining;

(c) minimum wages;

(d) working time and other working conditions;

(e) statutory social security benefits;

(f) access to training;

(g) occupational safety and health;

(h) compensation in case of occupational accidents or diseases;

(i) compensation in case of insolvency and protection of workers claims;

(j) maternity protection and benefits, and parental protection and benefits.

D – Protocol to Prevent, Suppress and Punish the Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime - excerpts

Article 2: Statement of purpose

The purposes of this Protocol are:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3: Use of terms

For the purposes of this Protocol:

(a) "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;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Article 6: Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 9: Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

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 Good Practice Case Studies

Special Action Programme to Combat Forced Labour

Programme on the Promotion of the Declaration on Fundamental Principles and Rights at Work

WORK IN FREEDOM

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International Labour Office

Combating Forced Labour

2

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A Handbook for Employers & Business

Special Action Programme to Combat Forced Labour

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2

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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 and human trafficking; the role of employers' organisations and business in addressing these issues; relevant international standards such as ILO Conventions and the UN "Palermo Protocol" on trafficking in persons; prison labour; and debt bondage and other forms of coercion in employment. For more information, please consult the list of resources and websites provided at the end of the booklet or review **Booklet 1: Introduction & Overview** for general information concerning forced labour and human trafficking, and **Booklet 5: A Guide for Taking Action** for detailed information 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.

I Combating Forced Labour: The Role of Employers and Business[1]

1 How can the problem of forced labour be solved?

Getting rid of 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, educating workers about their rights, rigorous law enforcement, monitoring and regulating the activities of recruitment agencies, labour contractors and employers, and rehabilitating and re-integrating of rescued forced labour victims. In the long term, forced labour prevention rests on targeted poverty-reduction initiatives such as creating income-earning activities, micro-insurance programmes and guaranteeing the right of all workers to organise and bargain collectively.

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 address the issue:

[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.**

- 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 auditors, human resource and compliance officers 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;
- 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 do I identify forced labour in my company operations?

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, prisoner 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 workers;
- 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 a disadvantage 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.

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II 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; 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:

- Physical violence against the worker, his or her family or close associates;
- Sexual violence;
- Imprisonment or other physical confinement;
- Financial penalties;
- Denunciation to the authorities (police, immigration, etc.) and deportation, for example in the case of migrant workers with illegal employment status;
- Exclusion from future employment;
- Exclusion from community and social life;
- Removal of rights or privileges;
- Deprivation of food, shelter or other necessities;
- Shift to worse working conditions; and
- Loss of social status.

3 How many people are trapped in forced labour?

The ILO estimates that at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private individuals and enterprises, including more than 2.4 million in forced labour as a result of human trafficking. The remaining 2.5 million are forced to work by the State or by rebel military groups. Children aged less than 18 years are believed to represent 40-50% of all forced labourers. Women and girls account for almost all forced commercial sexual exploitation and 56% of forced economic exploitation.

The highest number of forced labourers is found in the Asia and Pacific region (77% of the total), followed by Latin America and the Caribbean (11%). Industrialised countries harbour an estimated 3% of all forced labour victims, three-quarters of whom have been trafficked.[2]

Regional distribution of forced labour and trafficked forced labourers

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

* Note: Figures do not add up to total shown because of rounding.

4 What are the different forms that forced labour takes?[3]

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 in most common, but also 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

[2] These figures are taken from: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work,* Geneva, 2005. For a discussion of the methodology used to generate the figures, see: Patrick Belser et.al, *ILO Minimum Estimate of Forced Labour in the World,* Geneva, 2005.

[3] For more on the different forms that forced labour can take, see **Booklet 1: Introduction and Overview**.

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 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 exploitation in 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 possibility 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 trafficked forced labourers amount to $31.6 billion. Half of these profits are made in industrialised countries. 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.

III International Standards to Combat Forced Labour[4]

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

The ILO has adopted two Conventions (instruments that are legally binding on ILO member States that ratify them) on forced labour. The first, 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.

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 indispensible 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.

[2] For more information, see the Annex to Booklet 1 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 a 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.

IV 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 an administrative decision. The work performed by prisoners must be done under the supervision of the public prison authorities, and prisoners cannot be forced to work for private enterprises inside or outside the prison.

However, even under the above-mentioned circumstances, Convention No. 105 prohibits the use of forced prison labour if it is imposed for the following purposes:

- Political coercion or education, or as a punishment for holding or expressing political views;
- Workforce mobilisation for purposes of economic development;
- Labour discipline;
- Punishment for having participated in strikes; or
- Racial, social, national or religious discrimination.

In circumstances where prison labour is linked to private commercial activities inside or outside the prison, work must not be compulsory. Prisoners must offer themselves voluntarily for such employment, and companies – if making use of prison labour – should ensure that the terms and conditions of work for prisoners are comparable to those for free workers in the relevant industry.

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 government supervision and control 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 who work of their own free will. Companies that hire prisoners for work inside or outside prisons should ensure that the terms and conditions for prison workers are similar to those that exist in a free employment relationship in the relevant sector. They should also make sure that these workers have given their consent to working for a private employer.

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 often provide labour within prisons, contributing to the running of correctional facilities managed by private entities; and
- Some prisoners 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 you 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.

"НИВА":
ЗЕЛЕНЫЕ ВОЛОСЫ

V 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 retention of identity documents or other valuable personal possessions can be considered an indication of forced labour if workers are unable to access these documents at their discretion and if they feel they cannot leave employment without risking the loss of the documents. In many cases, without such documentation, the employee may not be able to obtain another job or even access certain services as a citizen.

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 employees to work overtime beyond what is allowed by national law; while, 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 keep their jobs, or both. According to the ILO Committee of Experts on the Application of Conventions and Recommendations, this then becomes a situation of imposing work under the menace of a penalty and can, thus, be considered forced labour.

4 If I am providing 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 reason able 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?

No. 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. However, if these economic circumstances are used by an employer to offer excessively low wages, a forced labour situation could arise.

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 this type of employment.

VI Human Trafficking & Forced Labour

1 What is human trafficking?

Trafficking in persons, or human trafficking, can lead to 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).[5] 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.

[5] An excerpt of the "Palermo Protocol" can be found in Annex 1 of **Booklet 1: Introduction and 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 How is human trafficking related to forced labour?

Forced labour can also occur when people are tricked into migrating, with a view to commercial or sexual exploitation. Trafficking in human beings can begin with the contacting of an employment agency offering work abroad. Once transported to the destination country, employment conditions are changed, documents withheld, and coercion is applied. The result is forced labour.

Forced labour of this kind also arises when individuals, sometimes children, are kidnapped, abducted or "sold". These forced labourers are often engaged in domestic labour, agriculture, street vending, in the sex industry, and in manufacturing sweatshops.

3 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 trafficking and its consequences.

ILO estimates put the number of victims of forced labour resulting from trafficking at 2.4 million globally. The following table presents a regional breakdown of the data:[6]

[6] See: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work,* Geneva, 2005.

Number of people in forced labour as a result of trafficking

Asia and Pacific	1 360 000
Industrialised countries	270 000
Latin America and Caribbean	250 000
Middle East and North Africa	230 000
Transition countries	200 000
Sub-Saharan Africa	130 0000
World	**2 450 000** *

* Note: Figures do not add up to total shown because of rounding.

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VII 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 reports and surveys

- ILO: *A global alliance against forced labour,* Geneva, 2005.
- ILO: *Eradication of forced labour,* Geneva, 2007.
- 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: *Forced labour and human trafficking: Handbook for labour inspectors,* Geneva, 2008.
- 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, *Codes of conduct: Position paper of the IOE,* Geneva, 1999.

Other relevant resources

- Anti-Slavery International, *Arrested Development: Discrimination and slavery in the 21st century,* London, 2008.
- Anti-Slavery International, *Debt Bondage,* London, 1998.
- US State Department, *Trafficking in Persons Report 2008*. http://www.state.gov/g/tip/rls/tiprpt/2008/

Websites

- www.ioe-emp.org
- www.unglobalcompact.org
- www.ungift.org
- www.antislavery.org
- www.ciett.org

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International Labour Office

Combating Forced Labour

3

Guiding Principles to Combat Forced Labour

A Handbook for Employers & Business

Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

3

Guiding Principles to Combat Forced Labour

Special Action Programme to Combat Forced Labour

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Guiding Principles to Combat Forced Labour

These guiding principles to combat forced labour are drawn from ILO Conventions and Recommendations, the comments of the ILO's Committee of Experts[1], ILO instruments such as the *Declaration on Fundamental Principles and Rights at Work* and the *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy,* and the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.*[2] The principles address business actors, and aim to provide clear and practical interpretation of international labour standards.

[1] The ILO Committee of Experts on the Application of Conventions and Recommendations was set up in 1926 and provides an impartial and technical evaluation of the state of application of international labour standards. For more information on the Committee's comments on forced labour, see: *Eradication of Forced Labour: General Survey concerning the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)* which was published in 2007 for the 96th Session of the International Labour Conference (ILC). The guiding principles also draw on the comments and insight of the employers' group of the ILO prepared for this session of the ILC.

[2] See the Annex to **Booklet One: Introduction & Overview** for excerpts of selected international instruments.

Prison Labour

i) Work or service can only be required from prisoners who have been convicted in a court of law. Such work or service must be carried out under the supervision and control of a public authority, for example the prison administration of a State-run facility. Prison workers must not be hired to or placed at the disposal of private individuals, companies or associations. Compulsory work or service by prisoners is not allowed for private undertakings either inside or outside the prison, or within privately administered prisons.

ii) Work or service performed by prisoners in a private undertaking must be voluntary. Prison workers must give their consent to working for a private employer without being subject to a threat or penalty, including the loss of rights or privileges within the prison.

iii) Conditions for prisoners who have consented to work within private undertakings should approximate the conditions enjoyed by free workers. Prison workers should have access to wage levels, social security benefits and occupational safety and health standards that approximate a free labour relationship. Reasonable differences in wage levels are acceptable on the basis of deductions made for board and lodging.

Coercion

i) **Freedom of Employment:** All workers shall have the right to enter into employment voluntarily and freely, without the threat of a penalty.

ii) **Termination of Employment:** Workers shall have the freedom to terminate employment of indefinite or long duration by means of notice of reasonable length (in accordance with national law or collective agreement) at any time without penalty. Workers on contracts of fixed duration shall not be required to serve beyond the expiry of their contract. Employers shall not use means to restrict a worker's ability to terminate employment, for example by requiring deposits, withholding employee documentation, threats or use of violence, imposing financial penalties or requiring payment of recruitment fees.

iii) **Threat of Violence, Harassment & Intimidation:** Employers shall not exact work or service from any person under the menace of any penalty. This includes the use or threat of physical or sexual violence, harassment and intimidation against the worker, his/her family or close associates with the aim of coercion.

iv) **Coercion in Wage Payment, including Debt Bondage and Bonded Labour:**

a) Wages shall be paid regularly and methods of payment are prohibited that deprive workers of the genuine possibility of terminating employment. Wage payments shall not be delayed or deferred such that wage arrears accumulate.

b) Wages shall be paid directly to the worker and should be paid in legal tender, or by cheque or money order where permitted by law, collective agreement or with the consent of the worker. Payment in the form of vouchers, coupons or promissory notes is prohibited.

c) Payments "in-kind" in the form of goods or services shall not be used to create a state of dependency of the worker on the employer. "In-kind" payments should only be partial to ensure that the worker is not totally deprived of cash remuneration and are permitted only if authorised by national law, regulation or collective agreement.

d) Workers that earn wages calculated on a performance-related or piece-rate basis shall not earn less than the legally mandated minimum wage.

e) Workers shall not be held in debt bondage or forced to work for an employer in order to pay off an actually incurred or inherited debt.

f) Deception in wage payment, wage advances, and loans to employees shall not be used as a means to bind workers to employment. Advances and loans, and deductions from wages made for their repayment, shall not exceed the limits prescribed by national law. Workers shall be duly informed of the terms and conditions surrounding the granting and repayment of advances and loans.

g) No deductions from wages shall be made with the aim of indebting a worker and binding him or her to employment, and measures should be taken to limit wage deductions to prevent such conditions. Workers shall be informed of the conditions and extent of wage deductions, and only deductions authorised by national law, collective agreement or arbitration award shall be made.

h) Workers shall not be compelled to make use of stores or services operated in connection with an undertaking. Where access to other stores or services is not possible, employers shall ensure that goods or services are sold or provided at fair and reasonable prices, without the aim of indebting or otherwise coercing the workers concerned.

v) **Disciplinary Measures:**

a) Disciplinary measures should not include sanctions that result in an obligation to work.

b) Compulsory labour shall not be used to discipline workers or as punishment for participation in a strike.

vi) **Compulsory Overtime:**

a) Workers shall not be forced to work overtime above the limits permitted in national law and collective agreements under the menace of a penalty, for example the threat of dismissal.

b) Work or service outside normal daily working hours shall not be imposed by exploiting a worker's vulnerability under the menace of a penalty. For example, employers shall not set performance targets that result in an obligation to work beyond normal working hours because of the worker's need to be able to earn the minimum wage.

vii) **Freedom of Movement:** Coercion shall not be used to physically confine or imprison workers to the workplace or related premises, for example employer-operated residences. Mandatory residence in employer-operated residences shall not be made a condition of employment.

viii) **Conditions relating to Skills Development & Vocational Training:** Training opportunities provided to employees shall be undertaken voluntarily. Employers that provide such opportunities shall not unreasonably impose work or service as a means of recovering the costs associated with them.

Human Trafficking & Forced Labour

i) **Migration for Employment:**

a) Migrant workers, irrespective of their legal status, shall be treated fairly, and measures shall be taken to prevent abusive conditions and fraudulent practices that may lead to coercion and trafficking for labour exploitation.

b) Migrant workers shall benefit from conditions of work no less favourable than those available to local workers, and shall have the right to enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement) voluntarily and freely, without the threat of a penalty.

c) Employers shall not threaten irregular migrant workers or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.

ii) **Recruitment of Migrant Workers:** No fee or cost for recruitment shall be charged directly or indirectly, in whole or in part, to the worker, including costs associated with the processing of official documents and work visas, unless authorised by national law. If fees are collected from workers in compliance with national law, the amount of such fees should be regulated and disclosed, and safeguards should be in place to protect workers from exploitation.

iii) **Document Retention:**

a) Practices such as confiscating or withholding worker identity documents or other valuable items (e.g. work permits and travel documentation) are prohibited.

b) However, if requested by workers, employers may provide secure storage for such documents. Workers must then be free to access them at any time upon request.

c) Employers shall not retain personal documents for the purpose of binding workers to employment.

iv) **Private Employment Agencies:** Within their sphere of influence and to the best of their ability, employers that engage private employment agencies to recruit members of their workforce shall take measures to:

- Ensure that such agencies do not engage in fraudulent practices that place workers at risk of forced labour and trafficking for labour exploitation;
- Prevent the abuse of workers contracted by such agencies, for example by ensuring that such workers receive adequate protection in relation to wage-related matters, working hours, overtime and other working conditions;
- To the greatest extent possible, ensure that fees or costs related to recruitment are not borne by workers but by the contracting company;
- Use only those recruitment agencies that are licensed or certified by the competent authority.

v) **Contracts of Employment:** Employers shall provide written contracts of employment in language that migrant 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.

Worst Forms of Child Labour

i) Employers shall take immediate and effective measures to prevent and eliminate the engagement of children in the worst forms of child labour, including debt bondage, serfdom, forced or compulsory labour, and all forms of slavery and practices similar to slavery, such as the sale and trafficking of children.

ii) Employers that engage private employment agencies shall ensure that such agencies do not engage children in the worst forms of child labour as indicated above.

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I Introduction

This sample checklist is designed for social auditors and CSR 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 social auditors 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.

* Readers may also find the following publication valuable as they review this booklet. ILO: *Forced labour and human trafficking: A handbook for labour inspectors,* Geneva, 2008.

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.

Although the checklist is addressed primarily to social auditors, it 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.

II Checklist & Guidance for Assessing Compliance

Prison Labour

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?

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.

- Consider whether prison workers have given their consent freely and voluntarily.
- If possible, speak with prison workers directly and examine written consent forms.
- 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.

Coercion

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 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?

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 forced labour.

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?**

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 indebt 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?

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?

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?

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?

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?

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 agree-

ment), 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 language that 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?

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

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)?

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.

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 Good Practice Case Studies

Special Action Programme to Combat Forced Labour

Programme on the Promotion of the Declaration on Fundamental Principles and Rights at Work

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Combating Forced Labour

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I Introduction

Forced labour and employers

This booklet complements the other material provided in this handbook by outlining some of the many things that employers can do at enterprise, industry and national levels to combat forced labour and human trafficking. It builds on the statements made in **Booklet 1** outlining the reasons why business and employers' organisations should take action to address these issues.

Until recently, forced labour has not been seen as a problem associated with business and employers' organisations. Rather, it has been associated with the human rights abuses of repressive States and armed forces, with little impact on the role and activities of the private sector. In recent years, however, this perception has begun to change. ILO research has shown that four out of every five cases of forced labour around the world involves private actors, while the forced labour outcomes of human trafficking are a truly global phenomenon that can affect any country, region and economic sector.[1]

Forced labour is a criminal practice prohibited in both international law and most national legislation. Any business facing sound allegations that it is profiting from such exploitation will not only face severe reputational damage: it may also face expensive lawsuits and criminal prosecution. Certainly, no business today can afford the negative implication of this association, whether it is in its own operations or in those of its supply chain.

[1] See: ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work,* Geneva, 2005.

The role of employers and business

Some key steps have already been taken by employers and business actors of all kinds. Companies are adopting policy measures – for example, codes of conduct – that explicitly prohibit forced labour, while others have joined multi-stakeholder initiatives such as the **UN Global Compact**. Still others have signed on to the **Athens Ethical Principles** of 2006, which provide guidance to business leaders on how to prevent and eradicate human trafficking. These are important initiatives. However, there is growing international consensus that much more still needs to be done.

How to use this booklet

This booklet shows that action can be taken on many fronts. It presents broad guidance for enterprises and employers' organisations, and wherever possible indicates links to the tools provided in other parts of this handbook. See **Booklet 6: Tips for Taking Action**, in particular, for a complementary discussion of the practical steps employers can take, and **Booklet 1: Introduction and Overview** for a list of resources and suggestions for further reading. It is not expected that companies and employers' organisations will undertake all of the activities indicated here. Each company is different and every organisation will develop its own approach to addressing these issues.

II Enterprise action and initiatives

Understanding the problem

In order for a company to deal effectively with forced labour, it is important for its management to first understand how forced labour is defined and how it manifests itself at enterprise level or within the supply chain. A manager or owner of a company may know that forced labour is against the law, but he or she may not know what forced labour is or the difference between it and exploitation or poor working conditions. As such, it is important to start with an understanding of the situation in order to raise awareness. An analysis of this kind can be undertaken internally or with the help of a consultant or another expert.

What is Forced Labour?

All relevant personnel within the company should have a clear understanding of forced labour and how it is defined in national legislation. Knowing this and related provisions of the labour and criminal codes will help the company comply with the law. It is also useful to examine the international definition provided in ILO Convention No. 29 (see **Booklet 1** for an excerpt of this Convention). This definition is accepted by the international community and states that forced labour is **all work or service** exacted from **any person** under the **menace of a penalty** and undertaken **involuntarily**.

It is also possible that your company supplies goods or services to other companies that define forced labour differently or that audit forced labour based on different criteria and indicators. This can be confusing, and definitions developed by CSR organisations may add to this confusion. To ensure smooth and continued access to international markets, it is best not only to adhere to the law, but to adopt policies and practices that reflect the highest requirements of your buyers.

i *Definitions and explanations of forced labour can be found in **Booklet 1: Introduction and Overview** and **Booklet 2: Employers' Frequently Asked Questions.** Distribute these booklets amongst your staff to encourage a broad understanding of the subject.*

Situation in the company

After developing an understanding of forced labour and considering how it might represent a risk to your company, the next step is to examine the current situation in your own operations and across your supply chain. This can be done through an internal assessment or "social audit". This assessment will determine whether forced labour exists in your enterprise and can take into consideration the aspects of your business that may be most at risk.

i *An assessment of this kind will generally examine more than one labour rights issue at a time. As such, it is important to ensure that the aspect which focuses on forced labour is effective and comprehensive. Review* ***Booklet 4: A Checklist and Guidance for Assessing Compliance.*** *It provides specific recommendations on how to conduct such assessments.*

Adopting effective policies and strategies

Strictly prohibiting forced labour and human trafficking in all company operations can play a central role in addressing these issues. An effective labour rights policy that includes such provisions is one of the most important first steps towards tackling forced labour at enterprise level.

Developing a company policy

In recent years, one form of labour rights policy has been the corporate code of conduct. These codes are formal statements of principle that govern the conduct of an enterprise and typically apply to suppliers and sub-contractors.

Codes of conduct almost always concern themselves with a number of issues, not just forced labour. They are particularly common in export industries such as garments and textiles and agriculture, but they are also found in construction companies, in hospitality and tourism, mining and other industries. Codes of conduct are one way that companies can formally (though voluntarily) commit themselves to addressing forced labour.

Developing a code does not have to be difficult. A number of initiatives provide free advice on the steps to take if a company decides to do so.

Some of these steps include:

- Conducting an assessment of the company and business partners to determine the degree to which both adhere to national laws and are consistent with industry good practice;
- Establishing a company-wide working group to develop a draft code that expresses the company's commitment to prohibit forced labour and human trafficking;
- Organising internal consultations on the draft and subsequently consulting with appropriate external partners or stakeholders; and
- Redrafting and finalising the code, and communicating it to all relevant business partners, business associations, employers' organisations, the media, and other stakeholders, including workers and their representatives.

i *Booklet 3: Guiding Principles to Combat Forced Labour can be used to frame a discussion on drafting the forced labour provisions of the code. You may also wish to contact your local employers' organisation or the International Organisation of Employers for advice. Other initiatives like the UN Global Compact and the US-based Business for Social Responsibility can also provide useful information about codes of conduct and CSR.*

Implementing enterprise policies

The development of a code of conduct or another form of labour rights policy is just the first step. Now comes the hard part: implementing this policy and ensuring that the company and its suppliers operate to the newly established standard.

Social auditing

One way that companies can implement their social policies is through enterprise-level assessments or social auditing. An audit can help the company identify its level of compliance with the new code, or put plainly: an audit can help the company determine whether there is forced labour in its own operations or in its supply chain. The more thorough an audit is, the better it will be in identifying situations of forced labour and trafficking.

A tool to help companies in implementing a forced labour audit is provided in **Booklet 4: A Checklist & Guidance for Assessing Compliance.** This tool identifies common practices in social auditing and recommends a balanced use of four key methods of assessment:

- On and off-site interviews with workers;
- A review of company documentation;
- Interviews with management personnel; and an
- Inspection of the workplace.

These methods can be used to greatest effect together. However, it is up to the company to decide how it wants to conduct the assessment. The company may decide to use other methods or to hire a consultant (for example, a third party social auditor). Either way, it is important that the audit is both effective and credible.

Enterprise-level training

A company may also wish to provide training to managers, supervisors and workers on addressing forced labour. This would have the broad aim of ensuring more effective implementation of the code and more consistent levels of compliance across the company and its suppliers. In particular, the training would build the capacity of key personnel to identify and prevent forced labour, and take corrective action, where necessary.

Training at enterprise level starts from the principle that managers and owners cannot do it alone; if forced labour and human trafficking are to be effectively addressed, other members of the company, including workers at all levels, will need to be involved. A company may already be experienced in providing training to management, supervisory personnel and workers. Draw lessons from that experience, and keep in mind the following:

- **Audience:** Make sure the training is informative, practical and relevant to the needs and knowledge levels of your participants.
- **Trainer:** Conduct the training yourself or contract a local expert. Talk to your employers' organisation to draw from its expertise.
- **Location:** Consider the pros and cons of where the training is held, for example at the workplace or "off-site".

- **Timing:** Employees are busy. Schedule training at a time when they are best able to attend.
- **Methods:** Consider the use of training methods that ensure the active involvement of all participants.

*Training on forced labour and human trafficking can be conducted alone or it can be integrated into other programmes. A modular training programme that includes forced labour and can be adapted to meet different business needs has been developed by **Better Work**, a joint project of the ILO and International Finance Corporation.*
*See: **www.betterwork.org**.*

Social reporting

Many companies will also want to communicate their activities to stakeholders and the wider public. One way for them to do so is through the Internet and on the company's website. Another way is to publish an annual social or sustainability report, which allows the company to "speak" directly to investors, buyers, consumers and broader civil society.

The **Global Reporting Initiative** is a multi-stakeholder initiative that helps companies with social reporting. It develops global and sector-specific guidelines on how to communicate on social, human rights and environmental performance, and involves companies, workers' organisations and other groups in the process. On forced labour, the GRI advises companies to provide "concise disclosure," suggesting that they:

- Indicate which operations are identified as having significant risk for incidents of forced labour; and
- Comment on the measures they have taken to eliminate such abuses.

The **UN Global Compact** is another initiative to mention here. It requires participating companies to prepare an annual "Communication on Progress" that indicates the measures taken to implement the Compact's ten principles, including the elimination of forced and compulsory labour. This communication should include a description of practical activities and a measurement of the outcomes or expected outcomes of such activities. The Global Compact also advises companies on steps to take to combat forced labour. The box below identifies key recommendations for workplace and community-level action, developed in consultation with ILO and its constituents.

UN Global Compact: Strategies for Business to Combat Forced Labour

In the workplace

- make available to all employees, employment contracts stating the terms and conditions of service, the voluntary nature of employment, the freedom to leave (including the appropriate procedures) and any penalties that may be associated with a departure or cessation of work
- in planning and conducting business operations, ensure that workers in debt bondage or in other forms of forced labour are not engaged and, where found, provide for the removal of such workers from the work place with adequate services and provision of viable alternatives in the community of operation
- institute policies and procedures to prohibit the requirement that workers lodge financial deposits with the company
- if hiring prisoners for work in or outside prisons, ensure that their terms and conditions of work are similar to those of a free employment relationship in the sector involved, and that they have given their consent to working for a private employer
- ensure that large scale development operations in which an employer participates do not rely on forced labour in any phase

In the community of operation

- assist in the development of guidelines by sectoral industrial associations and small or medium enterprises where debt bondage or such practices are known to be commonplace
- support and help design education, vocational training, and counselling programmes for children removed from situations of forced labour
- help develop skills training and income-generating alternatives, including micro-credit financing programmes, for adults removed from situations of forced labour
- encourage supplementary health and nutrition programmes for workers removed from dangerous forced labour, and provide medical care to assist those affected by occupational diseases and malnutrition as a result of their involuntary work.

Working with others

The **GRI** and **UN Global Compact** are initiatives that bring together companies with other business and civil society organisations. Many companies seek to engage stakeholders in addressing forced labour and trafficking.

For example, a company may choose to participate in a collective policy statement by an employers' organisation or group of companies. In many cases, this is a group operating in the same sector or industry that jointly develops a code of conduct and related social auditing programme. This gives companies the opportunity to exchange information and develop good practice together. (See Section III below for more on the role of employers' organisations).

A company may also wish to work directly with workers' organisations or other civil society groups. This can take the form of negotiating an agreement or statement of principle, or involve joint engagement in the implementation of a company code of conduct. In recent years, a number of multinational companies have signed **International Framework Agreements** with global union federations. These agreements – which cover company operations and often apply to suppliers – deal with a variety of issues, including forced labour.

Companies are also involved in a growing number of multi-stakeholder initiatives. These organisations provide important forums for companies to engage civil society on policy development, social auditing and transparency measures. Multi-stakeholder initiatives are typically global in nature and operate pilot projects, training programmes and other activities around the world. Examples of such initiatives include the UK-based **Ethical Trading Initiative** and the **International Cocoa Initiative**.

Engagement with workers' organisations and multi-stakeholder initiatives can have a number of benefits. It can provide:

- A venue for sharing information and good practice between companies and stakeholders;
- An opportunity to learn from others about what works and what doesn't;
- A forum for collective training and capacity building; and
- A place to find solutions to some of the key technical challenges of tackling the complex issue of forced labour.

Working with unions and NGOs can also lead to good practice in remediation. Working with stakeholders can strengthen this engagement and provide companies with a network – alongside that offered by employers' organisation – to appeal to when looking for further guidance or assistance.

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III The role of employers' organisations

Developing a strategy or action plan

A key first step for employers' organisations to engage on forced labour is to develop a strategy or plan of action. This will help the organisation address forced labour in a systematic and sustainable way, and encourage strategic thinking on tackling its worst abuses. Starting with a strategy will also help the organisation have the greatest impact in action.

A strategy does not have to be a comprehensive or detailed plan. It should enable employers to identify an objective and a series of steps to achieve it. Developing a strategy will clarify some of the problems employers may face and provide an opportunity to think about the ways to resolve them. It will also establish a foundation for employers to influence public policy and can lead to the development of tools and resources for members. A strategy can also identify potential partnerships for employers to rely on. An important part of developing a strategy is realising that forced labour can best be addressed in partnership and not alone.

Identifying objectives

Most employers' organisations are already well-versed in developing strategic objectives on social issues. The process used is similar to any that involves addressing a key policy matter. A group can be convened to identify key objectives. A draft strategy will result from this consultation and be shared with other representatives of the organisation and perhaps also members. Technical and operational matters will be addressed, including the cost implications. The strategy will be finalised through further internal review and, possibly, through consultation with external partners. For example, assistance may be requested from the IOE or ILO.

Getting buy-in

After setting the objective, it is important to consider getting "buy-in". A strategy to address forced labour will require political support from the Executive Board in order to move forward. This may involve presenting the strategy to the Board and making revisions based on their comments; or it can actively involve them in the development of the strategy in the first place. This stage of the process may take a significant period of time, but it is an essential step whose importance should not be underestimated for the long term success of the strategy.

i *You may wish to contact the IOE or ILO's Bureau for Employers' Activities. Both can provide information about developing a strategy or action plan, and facilitate contact with other employers' organisations.*
*See: **www.ioe-emp.org** and **www.ilo.org/employers**.*

Process versus content

The above-mentioned steps represent the process of developing a strategy rather than its content. In general, a strategy's content will have to be determined by the organisation itself. However, suggestions for action can revolve around three things: the expertise employers' organisations have on social issues; the nature of the services they already provide; and the unique position employers have as key labour market actors. The two key areas of action are:

- Providing advice to members and raising awareness; and
- Engaging with others in taking action.

Providing advice & raising awareness

Providing advice and raising awareness is one of the key functions of employers' organisations. On forced labour and human trafficking, this is no exception. These issues can be complex and confusing topics for employers, and they may be misunderstood or confused with other concepts. For example, a manager may simply not know what debt bondage or coercion refer to. For this reason, a key starting point for any employers' organisation is to provide information and advice to its members.

Establishing a Focal Point

As part of the overall strategy, an employers' organisation might choose to designate a member of its staff as a Focal Point on forced labour. If possible, this person should have knowledge of the issue. However, this is not essential; designating a person as a Focal Point will allow them to develop their expertise over time. A Focal Point may dedicate his or her time solely to forced labour, or the topic may be part of a "portfolio" of other responsibilities. The key here is that your members have a single person within the organisation to whom they can go should they have inquiries or require assistance.

Providing information…

One of the duties of a Focal Point is to disseminate information to your members. At a basic level, enterprises will want to know about the law and relevant provisions in the labour and criminal codes. Providing copies of these or preparing a brief summary of legislation could be a useful starting point. More broadly, information can also be found in this handbook. Having photocopies available of **Booklet 2: Employers' Frequently Asked Questions** may also be helpful. The benefit of this material is that it provides concise information in an "easy-to-read" format.

You may also want to consider providing information about international buyers and CSR. Forced labour – along with the other core labour standards of the ILO – is a central part of CSR programmes and the expectations of buyers are rapidly growing. Suppliers increasingly must be able to show that there is no evidence of forced labour within their own operations or in those of their sub-contractors. Thus, an employers' organisation can play an important role in informing members about the changing attitudes and expectations of international buyers and consumer markets.

… and advice

Beyond providing information, you may also wish to offer your members advice on combating forced labour. This can be done person-to-person through your Focal Point; or your organisation can facilitate the exchange of ideas between members. The advice you provide may follow the suggestions outlined in the previous chapter. You may also want to review **Booklet 6: Tips for Taking Action**. Guidance on enterprise-level

engagement, remediation and adopting a partnership approach may be particularly useful to your members.

Another way to share advice is to facilitate exchange between your members. Companies can learn a great deal from each other and your organisation may want to play a role in documenting and disseminating examples of good practice. This can be done on a website or in printed form; or to reach a wider audience, "good practice" companies could also be asked to present their strategies and programmes at seminars or other events led by employers.

For examples of practical measures companies have taken to address forced labour, see ***Booklet 7: Good Practice Case Studies****. Keep in mind that the levels of awareness of your members may be quite diverse; in providing them with information and advice, be sure to have a clear understanding of their needs and levels of knowledge.*

Raising awareness

The level of awareness of your members and their capacity to address forced labour and trafficking is a significant factor in designing a strategy. If the issues are relatively new to them or little work has previously been done on the topics, you may need to start more-or-less "from scratch". On the other hand, if forced labour and trafficking are frequently discussed in the media and your members already have a good level of understanding, it may be possible for a Focal Point to begin at a higher level of engagement.

In both cases, a structured way of sharing information and raising awareness is to arrange a national workshop or seminar on forced labour. This will encourage dialogue between your organisation and its members, and between the members themselves. An event of this kind can be organised with the support of other stakeholders and does not have to have high cost implications. However, it is important to have a clear set of objectives and priorities. The intended outcomes of the meeting should be considered beforehand to ensure a meaningful and successful event. An example of this kind of conference is presented in the box below.

Engaging Business: Addressing Forced Labour
A Conference Sponsored by the US Council of International Business, the US Chamber of Commerce and the IOE

In February 2008, the Coca Cola Company hosted a conference on "Engaging Business: Addressing Forced Labour" at its US headquarters in Atlanta. This meeting brought together 80 representatives from employers' organisations and individual companies, officials from the US Departments of Labour and State, civil society organisations and the ILO to share experiences and knowledge on combating forced labour.

With growing investment in and sourcing from developing country markets, the business risk of forced labour is increasing. Civil society and human rights groups are now paying closer attention to these concerns, often within wider debates on human trafficking and child labour. Forced labour is thus becoming a significant risk, requiring immediate business attention.

This one-day meeting aimed to explore these questions with a focus on the experiences of companies working independently and in co-operation with others. The meeting set out to discuss the challenges faced by business in addressing these issues and describe the ways companies have responded to these challenges. Participants discussed a number of issues, including the:

- Role of government in tackling this problem;
- Need for clear guidance and examples of best practice;
- Need to prevent abusive practices among recruitment agencies;
- Need for strategic mapping of forced labour concerns by country and sector; and the
- Role of social auditing and development of credible monitoring systems.

Finally, consider also developing a handbook on combating forced labour, taking the material presented here as a guide. Translate the relevant booklets and make sure to include national and sector-specific information that is relevant to your audience. Adapt the case studies provided in **Booklet 7**, or collect and prepare your own. However, make sure that you have a clear purpose and target audience in mind when you prepare the material, and make the handbook as practical as possible. Consider involving some of your members in the design phase of the project, and consult with the IOE and ILO on technical or political matters.

Engaging with others in taking action

In the previous section, it is recommended that employers' organisations play a central role in providing their members with information and advice on addressing forced labour and human trafficking. Employers, however, may wish to move beyond awareness raising and become more engaged in an operational manner.

In many cases, engagement of this kind will not to be undertaken alone. It will be done in partnership with other organisations, for example with government, national or international NGOs, United Nations' agencies, the ILO, IOE and/or workers' organisations. Funding and management of the activities will likely be distributed across the partnership; however, there are certain activities that employers can lead because of their unique position as labour market actors.

Working with government

Government is a key player in the elimination of forced labour and trafficking in persons. A co-operative relationship with different government agencies will enable employers' organisations to lobby effectively on public policy matters such as labour and migration.

As a key first step, employers' organisations should be involved in all negotiations to ratify relevant ILO and UN Conventions. They should be engaged in the development of national legislation, and any changes or revisions to the labour and criminal codes. Engaging government in this way ensures that an employers' perspective is represented throughout negotiations. Employers' organisations can also engage government on labour inspection as it relates to forced labour. They may wish to lobby the Ministry of Labour on technical matters, for example to facilitate labour inspections and contribute to making them more effective and efficient. Sector-based associations may wish to do this in sectors where the risk of forced labour has been identified as particularly widespread.

Working with workers' organisations & others

In working with government, employers' organisations are also likely to work with workers' organisations in dialogue on the above-mentioned matters. Employers' and workers' organisations will play similar roles vis-à-vis government in representing their respective positions on public policy matters.

However, employers' organisations may also wish to engage workers outside the scope of legislative reform or policy development. For example, an employer may want to play a lead role in engaging workers at the sector level to develop a joint statement on eliminating forced labour. Sector-based associations show by example that effective co-operation can be built with global union federations to develop and implement programmes addressing these issues.[2]

Non-governmental organisations are also likely to be important here. These organisations are a broad and varied group, with some operating internationally and others operating nationally or even locally. Whatever the case, NGOs are increasingly important actors in multi-stakeholder initiatives and, as such, employers and their representatives may wish to engage with them more directly. In this case, it is advisable for employers to be clear about their objectives and responsibilities when building these alliances.

i *More information and guidance on the role that employers' organisations can play in working with government, workers' organisations and NGOs can be found on the IOE's website: **www.ioe-emp.org**.*

Taking action in prevention and protection

It has been noted that employers' organisations are well-placed to provide advice to members, play a role in raising awareness, and engage in dialogue with government and other actors. These are important activities. However, an employers' organisation may also wish to participate in programmes that take preventive and protective action against forced labour and trafficking. In this case, the organisation can be involved at several levels. It may wish to:

[2] The International Cocoa Initiative is a multi-stakeholder initiative that brings together companies and other business actors alongside workers' organisations and civil society to address forced and child labour in cocoa growing and processing.
See: www.cocoainitiative.org.

- Take the initiative itself;
- Join an initiative launched by others; or
- Support the efforts of a member association that is taking action.

An employers' organisation, notably one with expertise on the issue, may assist a constituent association with advice and information, and with access to networks, donors or potential partners. It may also wish to pass on information about good practice developed by other members that have faced similar problems.

By virtue of their role in representing business, employers' organisations can develop or participate in programmes that seek to rehabilitate and reintegrate former victims of forced labour and human trafficking. They can lead job placement or apprenticeship programmes, and provide vocational training and skills development opportunities. These programmes have both a preventive and protective function: they can provide income-generating opportunities to workers and help them reintegrate into their communities; but they can also act as a mechanism to prevent a worker from being re-trafficked or targeted again for forced labour exploitation.

Whatever the approach taken, it is necessary for the employers' organisation to consider the issues of money and staff time. Initiating or participating in a programme like this takes time and resources. There are three main sources of funding:

- Use of existing, internal funds;
- Reallocation of staff time; and
- Outside funding, notably from bilateral donors and UN agencies.

Consider using internal sources to fund preparatory activities, while looking for external donors for larger aspects of the work. However, be sure to consider developing a sustainable funding schedule so that the organisation does not become dependent on donors and risk having to close down good initiatives when donor engagement ends.

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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 Good Practice Case Studies

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Combating Forced Labour

6

Tips for Taking Action

A Handbook for Employers & Business

Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

6

Tips for Taking Action

Special Action Programme to Combat Forced Labour

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Note

This booklet presents a series of action guides which indicate some of the concrete and practical measures that business and employers' organisations can take in their efforts to combat forced labour and human trafficking. It complements **Booklet 5** of this handbook by providing specific tips for taking action in an accessible and easy-to-use format.

It is not expected that companies and employers' organisations will do everything that is suggested here. Every company is different and every organisation will develop its own approach to addressing the needs of its members. However, these tips are straightforward, and in most cases don't require substantial financial investment. What they do require is time, energy and a commitment to effective and sustainable engagement. It is to this end that the booklet provides a broad list of practical steps to action.

These guides address the following key topics: forced labour, prison labour, debt bondage and bonded labour, coercion in employment, forced overtime, and human trafficking. They can be used as reference material for human resources and CSR staff, or as promotional material, for example in the form of posters that can be displayed in an office or at the workplace. They can also be used to great effect by employers' organisations, for instance in training programmes or as reference guides for workshops and conferences.

Taking action against forced labour

Tips for taking action

- Establish a clear and transparent company policy that sets out the measures to prevent forced labour. Clarify that this policy applies to all enterprises in the company's product and supply chains, and report on the implementation of this policy.
- Adopt recruitment and human resource practices (e.g. concerning wages, working hours and employment contracts) that minimise the risk of forced labour.
- Monitor your suppliers and sub-contractors, and provide training on forced labour for social auditors, compliance personnel, human resource managers and other supervisors.
- Work in partnership with other companies, sectoral associations and employers' organisations to develop an industry-wide approach to forced labour.
- Build bridges with stakeholders, including workers' organisations, law enforcement authorities, labour inspectorates and non-governmental organisations.
- Take preventive measures against human trafficking and raise awareness about the vulnerabilities and hazards that can face irregular migrants.
- Initiate or participate in programmes that re-integrate former victims of forced labour and/or human trafficking by providing skills development and job training opportunities.

Benefits of action

- Clear policies and implementation programmes send a positive signal to buyers, investors, workers and other stakeholders. Reporting on how the policy is implemented raises brand image and company reputation.
- Industry-wide and multi-stakeholder action can be an effective way to pool collective resources, skills and knowledge to address forced labour in a broad and systemic way.
- Taking measures to prevent conditions that may lead to human trafficking and helping to re-integrate former victims of forced labour can have a positive effect on local and national labour markets.

Practical steps to action

- Convene a working group to develop a company policy against forced labour, and include provisions on implementation and reporting. Establish a bi-partite enterprise-level committee that has responsibility for the issue.
- Establish an enterprise and/or workplace level complaints mechanism that is anonymous, confidential and easily accessible to workers.
- Consult with your employers' organisation and members of your industry on good practice in monitoring suppliers and sub-contractors. Convene a working group to develop effective policies and procedures.
- Establish and participate in a task force or committee on forced labour in your representative employers' organisation at local, state or national level.
- Support the development of an employers' National Action Plan against forced labour as part of key policy and institutional mechanisms to combat forced labour at national level.

Taking action against abusive prison labour

Tips for taking action

- If you directly employ prison workers or sub-contract to a prison, make sure that work is carried out voluntarily. Prisoners should not be forced to work.
- Ensure that prisoners have provided their formal, preferably written, consent to work.
- Provide prison workers with wages, social security and occupational health and safety standards that are comparable to those enjoyed by regular workers.
- Make only legal deductions from prisoners' wages, for example for food and lodging.

Benefits of action

- Some governments may restrict the importing of goods produced using prison labour. Avoiding the use of prison labour and adopting good practice when using it may reduce the risk of facing import bans.
- Taking actions like these will minimize the risk of legal action and help you avoid damages to your company reputation that can result from association with abusive prison labour.

Practical steps to action

- Create a standardised written consent form for prison workers to sign when they agree to work. On this form, provide information about wages and working conditions so that workers can give their free and informed consent to work.
- Provide workers with a clear and detailed wage slip that shows the hours worked, wages earned and any legal deductions made for food and lodging.
- Determine what wage levels are for free workers in the relevant industry or occupational group, and provide comparable wages to prison workers.
- Meet with prison authorities, including prison inspectors, to discuss employment policies and practices. If possible, speak with prison workers about working conditions in order to determine whether they have freely given their consent to work.

Taking action against debt bondage & bonded labour

Tips for taking action

- Adopt human resource policies that prevent the risk of debt bondage for workers.
- Do not require new employees to lodge a deposit when they begin employment.
- Be cautious about providing wage advances and loans to employees. If you do, make sure they do not put workers in a situation where they feel forced to work to repay the loan.
- Know national law and practice. If you make deductions from workers' wages, make sure they stay within legal limits.
- Make sure that your contracts give clear information about the terms and conditions of employment, and that they are in language that workers can understand.
- If you recruit workers internationally and use a private employment agency to do so, make sure that workers are not charged excessive recruitment fees to get a job.

Benefits of action

- Adopting good practices like these will help prevent the risk of your company being associated with abuses such as debt bondage.
- Taking measures to carefully select and monitor the private employment agencies you use will reduce the risk that workers in your company will face unethical recruitment practices and suffer conditions akin to forced labour.

Practical steps to action

- To prevent the risk that employees become indebted and feel forced to work, pay them at regular intervals, on time and directly, or agree with them to pay their wages into a bank account in their name.
- Create a standardised wage slip and payment system that provides clear information about hours worked, wage rates, and legal deductions (if applicable) to prevent a miscalculation of wages that may put workers and your business at risk.
- Make sure that deductions from wages do not push workers' take-home pay below the minimum wage.
- Interview new employees, particularly migrant workers, and ask them whether they paid a recruitment fee to get the job. Where relevant, check directly with the recruitment agency as well.
- If you provide wage advances or loans to employees, make sure they can pay them back in a reasonable amount of time. (e.g. provide smaller loans, charge lower interest rates or use shorter instalment periods).
- Make sure your contracts of employment include provisions on wages, wage deductions, conditions for terminating employment and other issues related to preventing debt bondage.

Taking action against coercion in employment*

Tips for taking action

- Establish a strict policy on preventing coercion and train all relevant personnel on their respective roles and responsibilities under the policy.
- Adopt recruitment and human resource practices that prevent conditions that may result in coercion.
- Take appropriate measures to minimise the risk of coercion associated with wage payments. Avoid non-payment or delayed payment of wages that may have the effect of binding workers to employment.
- Make sure that all employees are free to terminate employment at any time given a reasonable period of notice, in accordance with national law or collective agreement.
- Do not confiscate or force workers to hand over personal documents. However, if asked, take measures to provide them with a safe and secure place to deposit their valuables.
- Do not use abusive practices or threats to coerce migrant workers to work, for example threats of denunciation to authorities.
- Take a "zero tolerance" approach to physical violence; imprisonment or confinement at the workplace or in dormitories; sexual violence; deprivation of food, shelter or other necessities; and verbal abuse and threats.

* Coercion in employment refers to forms of deception or compulsion in the workplace that can result in forced labour under specific circumstances, for example withholding or not paying wages or confiscating identity documents with the aim of binding the worker to employment.

Benefits of action

- These measures will help to ensure that employees work in freedom. This is a fundamental human right protected under international law and the national law of most countries.
- Having a clear and effective policy on preventing coercion, and training managers, supervisors and other relevant personnel sends a positive signal to buyers, investors, workers and other stakeholders.
- Allegations of forced labour or coercion in the production of goods or services may result in some countries preventing them from being imported. Taking preventive measures as a company or industry can help ensure that your goods or services have access to international markets.

Practical steps to action

- Establish a committee to draft a company policy on preventing coercion and consult with representatives of your employer organisation for advice and technical assistance.
- Hold periodic training for managers, supervisors and workers on good and bad practices relating to coercion.
- If requested by employees (e.g. for security or other reasons), provide a safe place to lodge personal documents, for example a safe or a secure cabinet. Make sure your employees know where this is and that they can access it freely at any time upon request. Provide workers with photocopies of their documents, and nominate a "contact" person in your management or supervisory team.
- If you provide loans or advances to employees, make sure that these do not place workers in an "at risk" situation: provide smaller loans, use shorter instalment periods and lower your interest rates.
- Do not ask employees to lodge deposits when they take up employment.
- Prepare written contracts of employment for all employees, in language that they can understand, specifying their rights with regard to wage payments, overtime and other issues related to preventing forced labour.

Taking action to prevent forced overtime

Tips for taking action

- Know and respect national law and its provisions on working hours and overtime, and if applicable abide by the provisions of collective bargaining agreements in your company or industry.
- Establish a company policy on overtime that clearly states it will only be undertaken voluntarily. Train human resource personnel and supervisors on this policy.
- Negotiate overtime with your employees and do not make it compulsory. Get their consent to work overtime hours, and stay within the limits and conditions of the law.
- Do not threaten employees who choose not to work overtime.
- If periodic use of overtime is required to meet production deadlines, plan ahead and speak with workers beforehand.
- Address the root causes that can lead to persistent use of overtime; for example, consult with buyers on questions related to production requirements and deadlines.

Benefits of action

- Negotiating overtime and making sure that you have the consent of employees helps to guarantee that overtime is always undertaken voluntarily.
- Having a company-wide policy on working hours and overtime, and training the relevant supervisory and managerial staff, reduces the potential for abuse.
- Consulting with buyers can help raise awareness, strengthen buyer-supplier relationships, and encourage sustainable trading relationships that, in turn, can help prevent conditions that can lead to abuse in the workplace.
- Good practices like these help to prevent reputational risk for your company and industry.

Practical steps to action

- Establish a joint labour-management committee (including trade union representatives in workplaces where unions exist) and speak with employees about overtime. Notify and agree with them beforehand that overtime may be necessary during peak periods of production.
- Address the issue of overtime with new employees and make sure they understand the law and relevant company policies.
- Make information about overtime available to human resource personnel, supervisory staff and workers clarifying what is and is not allowed under the law. Distribute copies of company policies and make sure everyone concerned understands the relevant provisions. Identify and reward good practice.
- Hold periodic consultations with buyers to discuss lead times and other production requirements that may have consequences for working hours and lead to abusive situations involving forced overtime.

Tips for taking action

- Take measures to protect migrant workers against the conditions that make them more vulnerable to situations of forced labour and trafficking.
- Do not confiscate or force workers to hand over personal documents. However, if requested by workers (e.g. for security reasons), develop policies and procedures for holding such documents that prevent the possibility of abuse.
- If you use a private employment agency to recruit workers, make sure this agency operates to a high standard of ethics. Use the services of agencies that do not charge fees to workers.
- Do not threaten to report irregular migrant workers to the authorities.
- If you provide accommodation to your employees, make sure that their movement is not restricted outside working hours.
- If your company contracts work to a recruitment agency, agree with the agency that it is responsible for complying with the law and relevant collective agreements.
- Within your sphere of influence, participate in prevention and re-integration programmes for former victims of trafficking by providing skills development and job training opportunities.
- Where possible, participate in national and international anti-trafficking programmes, including media campaigns, and co-ordinate with local and national authorities, workers' organisations and other stakeholders.

Benefits of action

- Monitoring the recruitment practices of employment agencies can help identify the most reputable and ethical organisations. This in turn can minimise the risk posed to your company of association with abuses of human trafficking.
- Establishing good policy and practice with regard to document retention and recruitment fees helps to ensure that workers are not placed in vulnerable situations that can amount to abuse and coercion.
- Working in partnership with government, law enforcement and other stakeholders can ensure that anti-trafficking measures are more effective and sustainable.

Practical steps to action

- Talk with new employees who were recruited through employment agencies to determine under what conditions they were recruited and whether they were required to pay a recruitment fee.
- If requested (e.g. for security reasons), provide your employees with a safe place to lodge personal documents, for example a locked safe or secure cabinet. Make sure they can access these documents at any time upon request, and nominate a "contact" person in your supervisory team.
- Provide workers with photocopies of their documents, and communicate all such measures to workers.
- Train managers, human resource personnel, supervisory staff, compliance officers, and workers on how to identify and prevent human trafficking. Discuss good and bad practices related to identity documents, migrant workers, payment of wages and other issues.
- Before contracting a private employment agency, learn more about it and meet with representatives to discuss policies concerning recruitment fees and other employment practices.

- Talk to other companies in your industry, create networks, and use those networks to exchange information and ideas for action. Take advantage of the services provided by your employer organisation and the International Organisation of Employers.
- Provide clear and concise contracts of employment that are written in languages that workers understand and clearly state conditions of employment regarding wage payments, overtime and retention of identity documents

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Combating Forced Labour

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Good Practice Case Studies

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7

Good Practice Case Studies

Special Action Programme to Combat Forced Labour

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Case Study # 1

Country: Brazil
Commodity: Pig Iron
Industry: Automobile Manufacturing

the issue

It is estimated that around 25,000 Brazilian workers are in conditions analogous to slavery in Brazil today. Most are trapped in situations of debt bondage in camps of the Amazon region where they work and forced to pay for transportation, food, lodging and tools. Although the workers will generally enter into employment voluntarily, it is the role of the 'gatos' (recruitment agents) to persuade individuals to join the camps through promises of good pay, good working conditions and benefits. Once employed, the individuals often discover that they are not free to leave because of the debts they incurred and the threat of physical violence.

Individuals forced to work in such circumstances are denied the possibility of leaving their employer, as their debts increase and armed guards patrol the working camps. Upon arrival, workers have their work registration card confiscated. This prevents them from accessing their rights to protection and benefits, which are otherwise available in the formal sector. Workers work very long hours and often remain unpaid for long periods; testimonies note that workers are reluctant to demand back-payment for fear of not receiving any income at all.

In late 2006, several major news stories focused on the use of forced labour in the supply chains of major vehicle manufacturers in Europe, Japan and the US. In Brazil, forced labour occurred in the 'charcoal camps' which provide charcoal to major pig iron exporters. Although this represents only a very small percentage of the activities that use forced labour in Brazil, about 90 per cent of the pig iron produced from this charcoal is exported to the United States.

In recent years, the Government of Brazil has taken a number of important steps to combat forced labour, many of these in partnership with the business community. In 1995, it set up a Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel) to investigate and raid camps

accused of using forced labour. The Government also maintains a "dirty list" registry of the properties and companies found to have used slave labour. As of mid-2008, it contained over 200 persons and entities, mainly in cattle-raising, followed by charcoal and sugar.

In May 2005, the Brazilian business sector launched a National Pact to Eradicate Slave Labour, together with civil society groups. Over 180 companies and associations, including large supermarket chains, industrial and financial groups, have so far signed the pact. Under a follow-up process, a "Social Observatory Institute" monitors the performance of signatories to the Pact and documents good practice.

business responses to the issue

Collective action by Brazilian companies

The Brazilian industry group for pig iron manufacturers works to eradicate forced labour in the supply chain. From 2004, the Citizens Charcoal Institute (CCI) has been sending labour inspectors to charcoal camps to assess compliance and to circulate a code of conduct for the industry, which was developed in 1999. When faced with non-compliance, suppliers are decertified, and members of the industry group subsequently cease to do business with them. The CCI also produces a 'dirty list' to supplement the work carried out by the Government. Additionally, in August 2004, 14 pig iron companies in Brazil signed a joint commitment to end slave labour in the production of charcoal.

Individual action by Brazilian companies

In September 2007, one leading iron ore producer stated it would no longer sell iron to pig iron companies purchasing charcoal from camps using slave labour. It required its clients to prove they were not directly or indirectly involved in using forced labour and conducted a private audit at ten of them to this effect. As a result of the audit, the company suspended its supply to seven clients, citing forced labour and environmental problems as serious infractions. Four of these clients subsequently had contracts unilaterally terminated by the company. However, in undertaking this action, the company had to proceed with caution in order not to fall foul of anti-trust regulators since the company is the only iron ore producer in that region of Brazil.

One pig iron company in Brazil made the direct link between forced labour and deforestation in the Amazon. It stated that pig iron producers were buying charcoal from the illegal camps because it would otherwise take many decades to grow the trees necessary to produce the same amount of charcoal using the wood burning technique. This company instead uses its own employees and has its own eucalyptus forest to produce the wood required.

Collective action by US companies

On 4 December 2006, a press release announced that five major automobile manufacturing companies were working together to offer collective training for suppliers on how to avoid purchasing supplies produced using forced labour. This initiative was first coordinated by the Automotive Industry Action Group (AIAG) from October 2005 and then by Business for Social Responsibility from December 2006. Initial projects from the initiative include joint statements to create a shared industry voice on various issues relating to working conditions, including forced labour.

Individual action by US companies

In response to a Bloomberg cover story in late 2006,* and to other press reports on the use of slave labour in the US car manufacturing industry, various companies adopted a number of measures, including:

- Immediately ceasing to purchase pig iron traced to slave labour in Brazil; and
- Requesting suppliers to certify that their pig iron was produced without slave labour, and ceasing to do business with suppliers who fail to do so.

* Michael Smith and David Voreacos, "The secret world of modern slavery," *Bloomberg Markets,* December 2006.

initial lessons from the issue

It is evident that there is room for greater cooperation on this issue in order to move towards the complete eradication of forced labour in the supply chain of major car manufacturers. There has already been progress in terms of the willingness of companies to work together on this, as seen in both the CCI venture and the AIAG initiative. Additionally, the steps taken by one company to stop supplying iron ore to pig iron producers that use charcoal produced with slave labour is a step in the right direction. However, there could be greater cooperation at the governmental level to ensure that steps taken to block or boycott particular suppliers do not fall foul of anti-trust provisions. Moreover, further government support could be provided to US companies wishing to break the cycle which perpetuates forced labour in their supply chain.

It is also worth noting that the large majority of companies involved in this debate are significant actors in the industry. For smaller companies, the resources to act on these issues are more limited. In such instances, a pro-active position taken by an industry body can have particularly significant results.

The issue of available timber is an important one and should not be underestimated. A move from charcoal to coke-based pig iron production may be helpful. However, this would require financial assistance for the pig iron producers due to the increased costs this would create.

In terms of auditing and monitoring the charcoal camps, the work carried out by the Brazilian government's Special Mobile Inspection Group, assisted by the mobile courts which can ensure speedy judgments and liberation of workers, is to be encouraged. There seems to be space for a collaborative effort between this group, the auditors of the ICC, and US and Brazilian business involved in steel production.

It is unclear which entities are running the charcoal camps where forced labour is being used. However, there seems to be significant interconnectivity between the camps and pig iron producers. On occasions where the camps have been closed down by mobile inspectors, pig iron producers (i.e. purchasers of the camps' charcoal) have been required to pay back wages to individual workers. Greater clarity in terms of the bargaining power of pig iron producers would be welcomed.

Case Study # 2

Country: China
Industry: Electronics

the issue

This case study focuses on allegations of forced labour in factories in China and on the actions taken in response by one major US electronics company. The factories in question were owned by two different companies and both were assembling separate products for the US multinational. One factory in particular attracted greater criticism in the media.

The descriptions of working conditions ranged from workers who were forced to work very long hours, live in cramped and insufficient accommodation, forced to pay for accommodation and food, and prevented from leaving the facility. In addition, there were allegations of child labour in the manufacture of some products, and use of disciplinary actions which involved workers being made to stand still for long periods. The allegations first appeared in a report which was not available on the Internet but which included some pictures of factory conditions that were later reproduced in the international press. The story was first published by a UK paper and then, shortly afterwards, by a business journal in China.

business responses to the issue

The US company in question responded with a statement within 3 days of the above-mentioned allegations. It stated that the company was taking steps to investigate the situation and that it took the allegations seriously.

The US company took steps to investigate the allegations through extensive factory visits and worker interviews. It published a report on its website within six weeks of the initial media coverage. In the report, the company states that an audit team sent to the factory was made up of staff from its human resources, operations and legal departments, and that the evidence gathered was cross-checked against many sources of

information from employees, management and staff records. It also points out that, in auditing for forced labour, security records were checked to look for false identification papers. The report goes on to summarize findings related to the working and living environment, compensation, overtime, and worker treatment.

Although the company report states that there was no evidence of forced labour or child labour, it made public the observation that the company's own weekly limit on hours worked, as stated in the company's code of conduct, was being exceeded. The company stated that, as a result of its findings, the supplier was changing its policy to ensure compliance with the weekly overtime limits. In addition, the company noted that improvements to the sleeping facilities were required but that the supplier was in the process of acquiring more land to build further facilities.

The supplier in question was quoted as having opened the factory to its customer and provided access for the audits to take place. It is noteworthy that this supplier is a significant company in the industry and has grown rapidly in recent years. The supplier was quoted as being satisfied that the US company's report cleared up the allegations about working conditions in their factory. It is also quoted as saying that the incident resulted in the company reflecting on being more open about its business than it had previously been.

It is interesting to note that the Business and Human Rights Resource Centre, which has a policy of requesting responses from companies cited in human rights abuse allegations, records this particular case in its summary as having been resolved prior to the company responding. It is the only case which appears with this indicator.

initial lessons from the issue

The US company in question was using around 15% of the total workers employed by the factory in China. The same factory was being used by other major high street electronics brands although there is little mention of these companies' reactions to the story. Nevertheless, this percentage share did not limit the access the company had in producing its audit findings.

The story also highlighted the Electronics Industry Code of Conduct, a sector-specific tool and initiative which brings together over 40 (as of September 2008) companies working in the electronics industry. This initiative is aimed at improving working conditions in the industry supply chain. At the time the story was published, the China-based supplier was a member of the EICC but the US company was not. However, in its report detailing the audit and its findings, the latter indicated that it would be joining the EICC.

Shortly after the publication of the company report, a related human rights issue was highlighted by the international media, involving the journalists who had initially published the story in the British and Chinese press. A wholly-owned subsidiary of the subcontractor based in China took legal action on grounds of defamation against the journalists in their own personal capacity. The lawsuit demanded a large sum of money and once the court accepted the case, the journalists' assets were frozen. The paper in question stood by its journalists and criticised the action being brought. There followed requests from press freedom NGOs to both the supplier and to the US company asking them to act so that the case could be dropped. The US company said that it was working behind the scenes to help solve the issue. The case was dropped shortly thereafter.

This case demonstrates that by acting quickly and being thorough in their response, the company quelled concern about the particular working conditions involved in the manufacture of key products. In addition, when the story took a different turn and moved into the sensitive political field of press freedom, it seems that the company was prepared to remain involved. Nevertheless, the case highlights the difficulties in ensuring compliance with company codes in situations where there is extensive outsourcing. The US company's decision to join the EICC demonstrates again the added-value of working in cooperation with other companies facing similar difficulties which may be seen as endemic to the industry.

Case Study # 3

Country: Jordan
Industry: Garments and Textiles

the issue

Since 2000, Jordan has benefited from a preferential trade agreement with the US through the Jordan-US Free Trade Agreement (FTA). This agreement is designed to ensure that both countries uphold ILO standards, including the prohibition of forced labour. As a result, when a full and frank investigation was carried out into working conditions in Jordanian factories, both the US and Jordanian governments were implicated, along with companies based in both countries.

In May 2006, the US-based National Labour Committee (NLC) published a highly critical report which examined working conditions in textile factories across Jordan that were producing goods for US-based companies.* The study looked at factories based in Qualified Industrial Zones (QIZ) which benefit from preferential access to the US market.

As of July 2006, there were 13 QIZs in Jordan which contained over 110 companies in total, employing over 54,000 workers. The American Chamber of Commerce in Jordan states that these QIZ factories are made up of 66% foreign workers, known as 'guest workers', who are brought in from China, Bangladesh, Sri Lanka and India. Although the QIZs were designed to encourage foreign direct investment and provide employment to the local population, the factories involved rely on a predominantly migrant workforce.

The NLC report sets out a thorough investigation of harsh working conditions, including physical and sexual abuse, the lack of remuneration, the lack of access to adequate food and water, and poor living conditions. Individual guest workers were required to pay large sums of money in their home country to get a job, but in Jordan they were earning a fraction of what they had been promised, with some not seeing wages for long periods of time. In addition, upon arrival at the factories, workers' passports were reportedly confiscated and should there be

* National Labour Committee, *U.S.-Jordan Free Trade Agreement Descends into Human Trafficking & Involuntary Servitude,* New York, 2006.

complaints regarding lack of wages, there were incidences of workers being forcibly removed back to their country of origin to face the debt they could not repay. Having no access to their passports and no means of complaining without risk of removal, imprisonment, beatings or being denied food and drink, workers were effectively trapped both in Jordan and by the mounting debt incurring large sums of interest in their home country.

Furthermore, according to Jordanian law, non-Jordanian citizens, even those with a work permit to work in the QIZs, are prohibited from joining a trade union and therefore have no recourse to their assistance.

Shortly after the issues set out above were made public, the Jordanian government responded and the Ministry of Labour inspection teams, accompanied by representatives of the embassies of India, China and Sri Lanka, visited four of the QIZs to investigate the allegations. A number of penalties were issued and some establishments were closed.

business responses to the issue

Collective action

On 21 September 2006 the American Federation of Labour and Congress of Industrial Organisations (AFL-CIO) together with the National Textile Association (NTA) in the US filed a joint complaint with the US government requesting that it invoke the dispute settlement procedures of the FTA as a result of Jordan's "gross" violations of workers' rights. The complaint alleged that Jordan was in violation of its commitment to respect the core labour standards of the ILO and to effectively enforce Jordanian labour law. This was the first time business organisations filed a workers' rights case under a trade agreement.

Individual responses

In direct response to the NLC report, companies responded as follows:

One company stated that it does not work directly with the factories, but with vendors and that it expects all vendors and factories to follow local laws and their own standards. The company clarified that – of the 5 factories listed – it only works with one and it will follow up with the vendor concerned to monitor and work closely with them. The company stated that it is committed to taking corrective action.

Another apparel company stated that one of the factories in question had produced a valid certification from a recognized program. Following the report from the NLC, the company followed up with its own investigation and found some of the issues contained in the report to be present. The company noted that it attempted to encourage corrective action at the factory but also notes that its orders represent less than 1% of the factory's production capacity. The company concluded that: 'consequently we do not have any leverage or bargaining power with the factory'. As a result of the findings and the lack of cooperation from the factory, the company made the decision to not place further orders with them.

The response from a distribution company highlights a September 2006 on-site audit by its own internal auditors, which was followed up by a second visit in October 2006 where improvements were noted. The company observed that interviews with workers supported the evidence of improvement. The company also expressed its concern that, should it simply discontinue business with a particular factory, it would lose influence to negotiate for improvements in practice. However, the company does specify that where 'factory violations are egregious, such as prison labour, [it] immediately terminates [its] business with the supplier factory.' The company finally stated that it is working collectively with the Jordan government, other retailers and the ILO to address the issues.

initial lessons from the issue

It is clear that, although the main parties implicated in this case were the Jordan and US governments, the brands involved were also seen to be responsible for the conditions in the factories supplying them. The overall purpose behind the FTA with Jordan was to promote employment for domestic workers and attract foreign direct investment. However, it became apparent that the large migrant population brought into Jordan to fill the positions in the factories suffered most from the situation.

It seems that there is potential for companies to work collectively with the governments in question, the supplier factories and the ILO to aim at improving the situation. Companies should also look to working together with other companies that are supplied by the same factory. However, this does raise an issue for smaller suppliers attempting to tackle such problems since, if they are part of a significant supply chain, their influence may be limited. In such cases, a proactive industry body

working on these issues with a large number of companies of different sizes can have a positive and welcome effect.

Finally, it is evident from the work of the NLC and the subsequent steps taken by companies that there is wide discrepancy in the effectiveness of audit procedures, in particular in recognizing and documenting instances of forced labour. For example, instances were reported of factory managers briefing workers on what they ought to say in response to questions posed by auditors.

Case Study # 4

Country: USA
Commodity: Raw Food Stuffs
Industry: Agriculture and Food

the issue

The majority of individual workers on US farms who suffer from situations of forced labour are migrant workers from Mexico, Guatemala and Haiti. These individuals are sometimes trafficked directly from their country of origin or, increasingly, targeted upon arrival in the United States.

A number of cases have been documented by the Coalition of Immokalee Workers (CIW), an organisation established in 1993 by farm workers based in Florida. The CIW describes itself as a community-based worker organisation with members made up of Latino, Haitian, and Mayan Indian immigrants working in low-wage jobs in Florida.

According to the CIW, there is forced labour in practice on Florida farms which results from debt bondage whereby workers are required to work long hours and then see deductions from their wages for transport, tools and equipment. In several instances, these workers do not see the pay they are owed over long periods. They are kept at camps, live in poor conditions and often kept under surveillance by armed guards. The CIW has been instrumental in bringing about the prosecution of forced labour cases by working undercover with workers on the farms.

Several stories have been reported relating to poor working conditions and on 19 December 2007 three migrant workers who were working as fruit-pickers escaped from their employer and relayed the conditions they had been subjected to. This included being forced into debt, beaten and being forced to pay for water to take a shower.

The CIW has focussed on a central issue of very low wages being paid to these workers, wages which have only marginally improved since the 1980s. They began a specific campaign targeting the tomato growers responsible for running the farms and then turned their attention to globally recognised international food brands.

business responses to the issue

In response to the campaigns spearheaded by CIW, international food brands have been involved in tackling the issue of forced labour in their supply chains.

In March 2005, one of these brands agreed to pay one penny more per pound of tomatoes it buys from the Florida farms. This was coupled with the condition that the company would henceforth only work with suppliers who could guarantee the money was reaching the individual workers directly. Another brand reached a similar agreement with CIW in April 2007, which included a commitment to work on a code of conduct for the tomato growers and to increase the involvement of farm workers in monitoring compliance with the code.

CIW has maintained its position of targeting fast-food giants rather than growers, but in May 2008, it put an end to its campaign against one of the brands after the announcement that the company would work together with CIW to improve working conditions for farm workers.

Fast-food industry leaders agreed to take part in the increased wage programme and, together with CIW, called for industry-wide participation. In order to encourage growers' involvement, one brand committed to fund the incremental payroll taxes and administrative costs that would be incurred as a result of the increase in wages. The company and CIW also adopted zero tolerance guidelines which prescribe that certain unlawful practices of growers require their immediate termination from the supply chain. The company also committed to ensure farm workers' participation in the monitoring of growers' compliance with its vendor code of conduct.

initial lessons from the issue

This case study sits in the wider context of responsible business practice relating to migrant workers. A study published in March 2007 by the Southern Poverty Law Center (SPLC)* notes that individuals coming into the United States as migrant workers on the guest worker programme are at risk of abuse. As the report states: "[b]ound to a single employer and without access to legal resources, guest workers are:

* Close to Slavery: Guestworker Programs in the United States, March 2007. Available at: www.splcenter.org.

- Routinely cheated out of wages;
- Forced to mortgage their futures to obtain low-wage, temporary jobs;
- Held virtually captive by employers or labour brokers who seize their documents;
- Forced to live in squalid conditions; and
- Denied medical benefits for on-the-job injuries."

The CIW campaign and subsequent media coverage of the issue have focused principally on the poor wages paid to workers rather than on their working conditions amounting to forced labour. However, even if more companies were to pay an extra penny per pound to workers, the conditions for forced labour may well still exist and need to be addressed.

The danger here is that companies involved in the debate focus on the extra penny per pound campaign to the detriment of solving the more widespread problem set out in the SPLC report, which relates to instances of forced labour.

Additionally, there is scope here for questions to be asked about the private employment agencies which are responsible for recruiting workers in their home countries, who then are employed in the US agricultural sector. At present, this industry is highly unregulated to the extent that workers arrive in the US bound by high debts with exorbitant interest rates. Although US local law includes provisions requiring that the worker's travel and visa costs are repaid, in practice full refunds are rare.

It is hoped that the companies publicly targeted through the work of the CIW are also able to examine the agencies, which provide workers to their tomato growers. It is to be hoped that a collaborative effort from several companies, industry bodies, relevant governments and the ILO could address the issue proactively. The pioneering work commenced by the signing and promotion of the Athens Ethical Principles is a helpful reference in this context.*

* http://www.endhumantraffickingnow.com

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Special Action Programme to Combat Forced Labour

Programme on the Promotion of the Declaration on Fundamental Principles and Rights at Work

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