

# Training Materials for a Global Alliance Against Forced Labour



International  
Labour  
Office  
Geneva

International  
Training  
Centre  
Turin



**PILOT VERSION**





Training Materials  
for a  
Global Alliance  
Against  
Forced Labour

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# Acknowledgements

The thematic point of departure for these materials is *Global Alliance Against Forced Labour*, the 2005 Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work. Text appearing here is inspired by or taken directly from the report, as well as from *Stopping Forced Labour*, the 2001 Global Report under the Follow-up to the ILO Declaration. Material has also been drawn from other publications, edited as necessary to suit this document. Original sources are cited, particularly in the Annexes, where text has been used largely as is.

Materials from other sources are hereby acknowledged. Several Training Dossiers and Activities dealing with trafficking are drawn from or inspired by material appearing in *Trafficking and Forced Labour: Monitoring Recruitment, Training Manual for Trainers*, ILO/SAP-FL (unpublished 2003 draft), *Human Trafficking and Forced Labour Exploitation: ILO Guidelines for Legislators and Law Enforcement*, ILO/SAP-FL (unpublished 2005 draft) and Employer Handbook on Self-Regulation to Combat Trafficking for Forced Labour, ILO/SAP-FL (unpublished 2005 draft). Annexes 1 through 12 are derived from *Forced Labour, Migration and Trafficking in Europe*, ILO/SAP-FL, (2003). Some texts discussing *Forced Labour, Migration and Trafficking* are inspired by a work of the same name by Roger Plant. Treatment of NGO issues draws inspiration from the NGO Program of Action for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 28 August to 1 September 2001.

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# Introduction to these Training Materials

## *Objectives of these Training Materials*

These Training Materials have been designed to **provide training tools** on the subject of forced labour. They can be used in a wide variety of training contexts, involving persons with government, employer, or worker organization backgrounds, or mixed audiences. They can be used to focus on just one type of forced labour problem, or forced labour in a particular region of the world. Together, they constitute a tool box from which selections can be made to suit the training need.

The following **development objectives** can be achieved by using these materials.

- Improvement in respect for and protection of human rights;
- Increased participation of employers', workers' and non-governmental organizations in combating all forms of forced labour;
- Improved understanding of the international standards that underpin efforts to combat forced labour.

## *Orientation and arrangement of these Training Materials*

As can be seen from their organization and content, these materials are **action oriented**, focusing attention on efforts that can and are being made by governments, employers' and workers' organizations, and other non-governmental organizations. They also aim to be **relevant**, by calling attention to and explaining forced labour as it exists in the world today.

The materials aim to be both **knowledge- and skill-building** in providing trainers with basic information and orientations to the challenge of forced labour in the world today. The materials are not intended to be encyclopedic in their coverage of issues connected with forced labour, but **pedagogically useful** in suggesting methods for conveying fundamental messages about combating forced labour. Trainers interested in full expositions of substance are directed to:

- the 1979 and 2007 General Surveys of the Committee of Experts on the Application of Conventions and Recommendations on the subject of forced labour,
- *Stopping Forced Labour*, 2001 Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, and
- A *Global Alliance Against Forced Labour*, 2005 Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work

These Training Materials are arranged into **four Parts**, plus this **introduction** to the use and arrangement of these materials and an **annex** of resource documents.

- The first Part is designed to give the reader a **general introduction** to the problem of forced labour.
- The second Part addresses **forced labour and the State**.
- The third Part looks at **forced labour** in the context of **poverty and discrimination**.
- And the fourth Part discusses **forced labour** in the context of **migration and human trafficking**.

Each Part has a **further section** examining how governments, employers, and workers can meet the challenge posed by forced labour as it exists in the world today. These sections give pedagogical ideas of special relevance to these potential target groups. **Activities** of different types designed specifically for these different target groups follow the relevant section. Since several of these Activities can be adapted for use by different groups, the matrix below shows where this might best be done.

**Training Dossiers** are presented throughout these materials, each giving a “lesson” on a major topic in the section in which they are found. These Dossiers can be disassociated from the Part in which they are found and used modularly to build a training activity appropriate to different target groups. A list of all the Training Dossiers is included in the table of contents to help trainers in selecting appropriate materials.

A **handout** has been designed for each of these target groups, focusing on the types of forced labour discussed in these materials.

Documentation in support of the Activities and Training Dossiers can be found at the rear of this book, as **Annexes**; they are cross-referenced in the main section of the materials.

# Activities Matrix

●
▲
□

Primary target group; group for which the Activity was written

Group for which the Activity can be adapted and used

Group which may derive some benefit from the Activity

	G	E	W
<b>The Global Challenge</b>	●	▲	
Activity 1. The Cost of Denial	●	□	□
Activity 2. Comparative Analysis	●	●	●
Activity 3. Which Standard?			
<b>Forced Labour and the State</b>			
Activity 4. What is Your Country Willing to Do to Combat State-Sponsored Forced Labour?	●	▲	▲
Activity 5. Use of Prison Labour by Private Companies or Individuals	●	▲	
Activity 6. Joining with Trade-Unionists in Condemning Unfair Competition		●	
Activity 7. Joining the Global Compact		●	
Activity 8. Which Case is Worthy of Comment?		▲	●
Activity 9. Using Radio to Raise Awareness among Forced Labourers			●
Activity 10. What Message should be Communicated to Raise Awareness?			●
Activity 11. Targeting State-Sponsored Forms of Forced Labour by Pressuring Private Beneficiaries			●
<b>Forced Labour, Poverty and Discrimination – Forced Labour Exacted by Private Agents</b>			
Activity 12. What do Status and Discrimination Have to Do with Forced Labour?	●	●	●
Activity 13. Can Trade Unions and Civil Society Help Bring an End to Impunity?		□	●
Activity 14. What can be Done by Government to Eradicate Forms of Forced Labour Rooted in Poverty and Discrimination	●	□	□
Activity 15. What does Freedom of Association Have to Do with Forced Labour?	●	●	●
Activity 16. Mapping Employers’ Interests in Fighting Contemporary Forms of Forced Labour		●	
Activity 17. Employers’ Responses to Recommendations		●	
Activity 18. Planning Workers’ Organization Action to Combat Forced Labour			●
Activity 19. Dealing with Demands for the Repayment of Debt			●
Activity 20. How Workers’ Organizations can Force Bonds and Cooperate with Civil Society Organizations			●
<b>Forced Labour, Migration and Human Trafficking</b>			
Activity 21. Dos and Don’ts for Investigating Trafficking	●		
Activity 22. Role-Play: Questioning Victims	●		
Activity 23. What are the Challenges in Origin and Destination Countries, and What can Employers Do?		●	
Activity 24. What can Employers with Subcontracting Arrangements Do?		●	
Activity 25. Trade Union Action on Cases of Migration Turned to Forced Labour			●
Activity 26. Trade Union Action in Disseminating Information to Women and Children in Domestic Work			●



PART ① ② ③ ④



Eliminating  
Forced Labour –  
The Global  
Challenge



# Part I: Eliminating Forced Labour – The Global Challenge

## *A very brief history of forced labour*

From about 7000 BC until about AD 1800, slavery was practised without restraint. Not until the late-1700s did a drive begin to amend laws concerning slavery and end slavery in practice. The first efforts in this direction began in Europe, and by the early-1800s Britain had become the major State actor working for the prohibition of forced labour. The international slave trade was an early target for reform. Countries in South America also moved to ban slavery in the early 1800s. In 1861, serfs were liberated in Russia and, in 1863, slaves were freed in the United States. Forced labour continued, however, in many European colonies.

A milestone in **international action** to ban slavery was the International Convention for the Suppression of the White Slave Trade, signed in Paris in 1920. The Convention required signatory states to punish persons recruiting women below the age of majority into prostitution, even with the consent of the women involved. In 1926, the League of

Nations adopted the **Slavery Convention** and many countries signed up to it. But it was the adoption in 1930 of the ILO's **Forced Labour Convention** (No. 29) that marked the beginning of the widespread prohibition of forced labour in law.

During the 20th Century, the **condemnation and prohibition** of forced labour has become **complete and universal**. Yet the **practice continues**. The challenge at the opening of the 21st century is to eliminate forced labour practices everywhere, in practice, once and for all.

But let us turn back the clock a bit and return to a basic question: What is it that is universally condemned in law; what is forced labour?

Ask participants to ponder why forced labour practices continue, even though they are universally condemned, and prohibited in law?

## *What is forced labour?*

As part of the international movement to prohibit forced labour several international human rights instruments have helped **define** it.

The ILO instruments, **Conventions Nos. 29 and 105**, hold a privileged position on account of their authoritative definition.



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Definitions of Forced Labour

Convention No. 29 says that:  
**“For the purposes of this Convention the term forced 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.”**

**“Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”**  
 Slavery Convention

Article 1(a) says that debt bondage is **“ the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”**

**Forced Labour**

- Forced Labour Convention, 1930 (No. 29)

This ILO Convention **defines forced labour**. A portion of Convention No. 29’s definition is found also in Article 8, paragraph 3, of the later adopted International Covenant on Civil and Political Rights.

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

This ILO **Convention complements Convention No. 29** by specifying five circumstances under which forced labour may not be imposed under any circumstances, even by a court of law.

**Slavery**

- League of Nations’ Slavery Convention 1926

The aim of this Convention was to suppress the slave trade and eliminate slavery as soon as possible.

- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery 1956

This supplementary Convention first defined debt bondage. It requires signatories to bring about the complete abolition of debt bondage, serfdom, the sale or transfer of women, and the trafficking of persons under 18 for purposes of labour exploitation.

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**The ILO’s definition of forced labour has two basic elements.**

- First, the work or service is exacted under the menace of a penalty and the work is undertaken involuntarily. The penalty does not necessarily involve a penal sanction, but may also take the form of a loss of rights and privileges. Moreover, the menace of a penalty can take many different forms.
- Second, as regards the concept of “voluntary offer”, the ILO supervisory bodies have taken into account a range of aspects including: the form and subject matter of the consent; the role of external constraints or indirect coercion; and the possibility of revoking a freely given consent.

Menace of a penalty (the means of keeping someone in forced labour)	Lack of consent to (involuntariness of) work undertaken (the “route into” forced labour)
<p><b>Actual presence or credible threat of:</b></p> <ul style="list-style-type: none"> <li>● Physical violence against worker or family or close associates</li> <li>● Sexual violence</li> <li>● (Threat of) supernatural retaliation</li> <li>● Imprisonment or other physical confinement</li> <li>● Financial penalties</li> <li>● Denunciation to authorities (police, immigration, etc.) and deportation</li> <li>● Dismissal from current employment</li> <li>● Exclusion from future employment</li> <li>● Exclusion from community and social life</li> <li>● Removal of rights or privileges</li> <li>● Deprivation of food, shelter or other necessities</li> <li>● Shift to even worse working conditions</li> <li>● Loss of social status</li> </ul>	<ul style="list-style-type: none"> <li>● Birth/descent into “slave” or bonded status</li> <li>● Physical abduction or kidnapping</li> <li>● Sale of person into the ownership of another</li> <li>● Physical confinement in the work location – in prison or in private detention</li> <li>● Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance</li> <li>● Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)</li> <li>● Deception or false promises about types and terms of work</li> <li>● Withholding and non-payment of wages</li> <li>● Retention of identity documents or other valuable personal possessions</li> </ul>
<p>Source: 2005 ILO Report, Global Alliance Against Forced Labour</p>	

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### What is not Forced Labour?

Article 2(2) of Convention No. 29 sets out **certain exceptions** pertaining to practices which would otherwise have fallen under the definition of forced labour. These exceptions are very much narrower than previously permitted under the 1926 Slavery Convention:

#### **(a) Compulsory Military Service**

Convention No. 29 excludes “any work or service exacted in virtue of compulsory military service laws for work of a purely military character.” The drafters of the Convention agreed that military service should not be included as it was necessary for national defence.

#### **(b) Normal Civic Obligations**

ILO Convention No. 29 exempts from its provisions “any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country.” Some of the duties which come into this



category are specifically identified in the Convention, such as compulsory military service, work provided in an emergency situation, and minor communal services. Compulsory jury service is an example of an obligation which would also come into this category.

**(c) Prison labour**

The ILO forced labour Conventions do not prohibit prison labour but they do place restrictions on its use. It 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 the result of an administrative decision. The work must be done under the supervision of the prison authorities and the prisoners cannot be obliged to work for private enterprises inside or outside the prison.

**(d) Emergencies**

The right of a government to exact forced labour in times of emergency is recognized under the forced labour conventions. Examples of such circumstances include “war or a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic...” which threaten the existence of the whole or part of the population of a country. The ILO’s Committee of Experts on the Application of Conventions and Recommendations has noted that the concept of emergency in the Convention involves an unforeseen and sudden event which requires immediate action. The extent and length of the compulsory service should be limited to what is strictly required in the circumstances.

**(e) Minor Communal Service**

ILO Convention No. 29 also exempts minor communal services “being performed by the members of the community in the direct interest of the said community.” The ILO Committee of Experts identified the following criteria to distinguish communal services from forced labour: (1) the services must be minor in nature, for example involving mostly maintenance work or services improving the social conditions of the community; (2) the work must benefit the community directly and not a wider group; and (3) the community must be consulted on whether or not they believe the work is needed.

Can participants come to any other view of forced labour? Can such practices be justified in any way in the light of such universal condemnation?

The multiplicity of international instruments condemning and calling for the prohibition, abolition, penalization, and sanctioning of forced labour, and related practices such as slavery, the slave trade, trafficking, serfdom, and bonded labour,

should make it clear to all that there is absolute and universal agreement that all of these practices are completely reprehensible, and should be subject to all possible actions to end them. It is in this light that the global challenge is to be taken up.

International Human Rights Instruments  
related to ILO Standards on Forced Labour

Article 8(3)(a) of the Covenant says that “No one shall be required to perform forced labour”.

How might obligations found in Articles 7 and 8 help combat forced labour?

Following the adoption of ILO Convention No. 29 in 1930, the issue of forced labour began to be given more prominence in **other international human rights instruments**.

Like the 1948 UN **Universal Declaration of Human Rights**, the UN **International Covenant on Civil and Political Rights** (1966) also prohibits slavery and servitude. The Covenant also sets out a separate and specific prohibition against forced labour in Article 8(3)(a). This states that “No one shall be required to perform forced labour”, subject to certain exceptions which are broadly similar to those in ILO Convention No. 29, in particular prison labour. The Civil and Political Covenant states that forced labour does not include any work or service by a person who is being detained, without having been brought to trial or convicted, if that person is detained in accordance with a lawful order of a court. Similarly, it excludes work by a person during conditional release from detention ordered by a court. ILO Convention No. 29 only allows the authorities to oblige detainees to work if they have been convicted.

**The International Covenant on Economic, Social and Cultural Rights** (1966), prohibits slavery and servitude. It also has a separate and specific prohibition against forced labour. There is no definition of forced labour, but there are exceptions made to the term. The Covenant also recognizes rights at work which help to combat forced labour. Article 6 of the Covenant establishes “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.” Articles 7 and 8 of this Covenant set out certain conditions and rights that must be upheld and protected by governments, such as fair wages and equal remuneration for work of equal value, and the right to form and join trade unions.

Subsequently, **regional agreements** have reinforced the prohibition on forced labour. For example, Article 6 (2) of the American Convention on Human Rights (1969) and Article 4 (2) of the European Convention for the Protection of Human Rights (1950) specifically state that “No one shall be required to perform forced labour”.

In addition, the following international instruments can be mentioned for their relevance to forced labour.

#### General

- ILO Declaration on Fundamental Principles and Rights at Work 1998

The ILO Declaration identifies eight fundamental principles and rights at work; it does not define forced labour, because it is based on earlier ILO Conventions that do.



Article 3 says that “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, as 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...”

### **Migrant Workers**

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

These ILO Conventions contain provisions that may be useful in combating trafficking, but do not directly prohibit or define forced labour. Nor do they define or directly deal with trafficking.

- International Convention on the Protection of the Rights of All Migrant Workers and Their Families, 1990

This UN Convention came into force on 1 July 2003. It says in Article 11 that “No migrant worker or member of his or her family shall be held in slavery or servitude” and that “No migrant workers or member of his or her family shall be required to perform forced labour.” Exceptions to the prohibition on forced labour are given, but forced labour itself is not defined. A migrant worker is a person engaged in a remunerated activity in a State of which he or she is not a national.

### **Crime**

- The United Nations Convention Against Transnational Organized Crime (2000)

Yet, despite universal condemnation, **forced labour**, in traditional and modern forms, grounded often in poverty and discrimination, and sometimes in forms sponsored by States, **continues to exist** in the world. Tackling this denial of human freedom calls for multidimensional solutions to address the disparate forms that forced labour takes. These Training Materials have been produced by the International Labour Organization’s International Training Centre in Turin, Italy, to help in **tackling the knowledge gap** associated with this problem.

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The International Labour Organization (ILO) was established in 1919 and became the first specialized agency of the United Nations (UN) in 1946. The ILO is unique because it is the only international organization which includes representatives of workers’ and employers’ organizations, along with governments, in the decision-making process. The aim of the ILO is to improve working conditions and practices throughout the world. The ILO promotes this objective through the **adoption of international standards**, in particular ILO **Conventions** and **Recommendations**.

To ensure that these Conventions are properly applied, the ILO has set up a **supervisory system** which obliges governments to report regularly on

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime. It provides the framework for international cooperation in combating crime, including trafficking in human beings.

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (2000)

This Protocol defines **trafficking in persons**, which can be a **mechanism by which a person comes into a situation of forced labour**. It was designed as a tool for combating trafficking through judicial and law enforcement means. It requires the introduction of effective legal and law enforcement frameworks and responses to trafficking. These include: the criminalizing of traffickers, not victims; the protection of victims from repeat victimization; the sanctioning of individuals and organizations involved in trafficking; and the promotion of child-friendly procedures for securing testimony. It requires State parties to criminalize and combat trafficking in persons.

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### **Child rights and child labour**

- United Nations Convention on the Rights of the Child (1989)

This Convention is relevant and applicable to the issue of forced labour involving children or the trafficking of children because of its broad prohibitions of the exploitation of children.

- The ILO's Worst Forms of Child Labour Convention, 1999 (No. 182)

This Convention defines the worst forms of child labour. The definition includes "(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced labour, including forced recruitment of children for use in armed conflict" within the meaning of the term "worst forms of child labour". Governments which ratify the Convention are legally bound to take "immediate and effective measures to secure the prohibition and eliminat[e] ... the[se] worst forms of child labour as a matter of urgency".

## The ILO and the Forced Labour Conventions

Conventions that they have ratified. Employers' and workers' organizations and trade unions may also submit comments on these government reports. These reports are then reviewed by a panel of independent experts, called the **Committee of Experts on the Application of Conventions and Recommendations**, which meets each year and publishes its conclusions on whether governments are meeting their obligations under the Conventions they have ratified.

In 1930, the ILO adopted the **Forced Labour Convention** (ILO Convention No. 29). In this Convention, the ILO defines forced labour for the purposes of international law 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." The other fundamental ILO Convention, No. 105, the

**Abolition of Forced Labour Convention**, specifies that forced labour may never be used for the purposes of economic development or as a means of political education, discrimination, labour discipline, or punishment for having participated in strikes. This Convention clarifies certain purposes for which forced labour may not be imposed, but does not alter the basic definition in international law. ILO Conventions Nos. 29 and 105 are referred to as the "ILO Forced Labour Conventions". They are the key international instruments concerning the abolition and control of forced labour, and apply to work or service exacted by governments, public authorities, private bodies and individuals.

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## Introduction: International condemnation and estimating the extent of the problem

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#### Where is Forced Labour Prohibited?

At the **international level**, there are numerous international instruments which condemn and seek to prohibit forced labour. Here are some examples:

*Parties to the League of Nation's Slavery Convention of 1926 undertake "to prevent and suppress the slave trade" and "to bring about progressively and as soon as possible the complete abolition of slavery in all its forms".*

*Article 1 of the ILO's Forced Labour Convention, 1930 (No. 29) says: "Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced labour in all its forms within the shortest possible period."*

*Article 4 of the 1948 Universal Declaration of Human Rights proclaims: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."*

*Article 8 of the 1966 International Covenant on Civil and Political Rights reads: "No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited."*

*Article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) reads: "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women."*

It may be useful, depending on the background of training participants, to clarify the differences between the different types of international agreements.

**International treaties**, such as ILO conventions, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, CEDAW, the Convention on the Rights of the Child, or the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, are binding, multilaterally negotiated instruments which countries can ratify. A ratifying country is obligated to do what is required in the instrument. It is permissible under most of these instruments for ratifying countries to make reservations whereby they are bound to a lesser extent than the entire instrument requires. Reservations are not permitted under ILO conventions. There is typically a system of international supervision established to oversee actions

Participants should understand the distinction between condemning forced labour practices and defining forced labour (a matter dealt with separately). Ask participants if they understand the difference. It can be important where a local definition is inadequate by international standards.

Are participants familiar with laws or constitutional provisions in their own country(ies) that condemn forced labour or similar practices? If not, why not. And is this fact significant for national efforts to meet the challenges of forced labour?

The universal condemnation of forced labour really cannot be over-emphasized as the necessary foundation for building a consensus to meet the challenge. Forced labour is a violation of fundamental human rights and is universally prohibited in law.

Yet the elimination of its numerous forms — in practical reality — remains one of the most complex challenges facing local communities, national governments, employers' and workers' organizations and the international community.

taken by ratifying countries to implement the terms of the instruments involved.

**Declarations**, such as the Universal Declaration of Human Rights, and the ILO Declaration on Fundamental Principles and Rights at Work, are solemn statements of principles agreed in multilateral international bodies. They create moral obligations but are not international treaties, in that they are not open to ratification by States. The ILO Declaration on Fundamental Principles and Rights at Work has some special characteristics, which are discussed elsewhere in these materials.

**Codes of Conduct** or **Guidelines**, such as the OECD Guidelines on Multinational Enterprises, the UN Global Compact, the ILO Tripartite Declaration on Multinational Enterprises and Social Policy, are also non-binding instruments, negotiated in multilateral international (ILO, UN) or other inter-governmental organizations (OECD). These instruments may set standards for parties other than states, such as multinational enterprises. Some have follow-up mechanisms.

Annex 23, The UN Global Compact, and Annex 24, The Importance of Standards and Corporate Responsibilities – The Role of Voluntary Corporate Codes of Conduct, may be useful for distribution to participants or for the information of the trainer.

At the **national level**, virtually every country in the world has a provision in law that prohibits forced labour. We could provide examples, from every continent on the globe can be given.

In **Brazil**: Article 5 of the 1988 Constitution lays down that “no one shall be submitted to torture, inhuman or degrading treatment”. The Penal Code includes several prohibitions: Article 149 punishes “reducing someone to a condition analogous to slavery” with a prison sentence of two to eight years; Article 197 punishes the use of

violence or serious threats to constrain someone to work with a sentence of one month; and Article 207 declares that “the enticement of workers with the purpose of taking them from one area of national territory to another” is a federal crime punishable with a one to three-year sentence and a fine.

In the **Philippines**, Section 18 of the Bill of Rights of the Constitution provides that “(2) No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been convicted.” Article 32 of the Civil Code says that “any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable for the latter for damages... (14) the right to be free from involuntary servitude in any form.”

In **Eritrea**, article 16.2 of the National Constitution provides that “No person shall be held in slavery or servitude, nor shall any person be required to perform forced labour not authorized by law.”

In **Latvia**, Article 106 of the Constitution contains a general prohibition of forced labour, stating that “Everyone has the right to freely choose their employment and workplace according to their abilities and qualifications. Forced labour is prohibited. Participation in the relief of disasters and their effects, and work pursuant to a court order, shall not be deemed to be forced labour.

In the **United States**, the 13th Amendment to the Constitution says that “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

Today, forced labour remains a global problem. The challenge is to effectively eradicate it, wherever and in whatever form it exists. The starting point is to define the problem; as we have seen, much work on this has already been done. The next step is knowing how much of it exists, and in what forms. The final element of the challenge is developing a strategy for

combating the problem and then pursuing that strategy until the problem is resolved.

In various forms, forced labour exists in all continents and most countries. In 2005, the ILO made a minimum estimate of forced labour in the world, which provides a useful guideline.

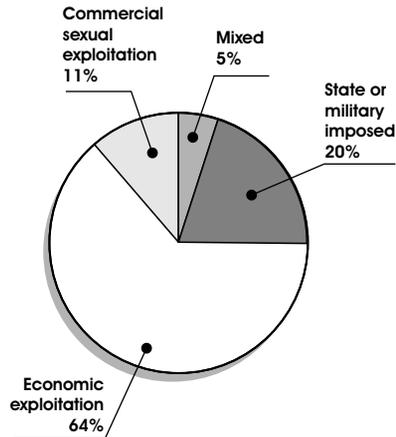
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How Much Forced Labour is there in the World Today?

Number of People in Forced Labour	
Asia & Pacific	9'490'000
Latin America & Caribbean	1'320'000
Industrialized Countries	360'000
Middle-East and North Africa	260'000
Transition Countries	210'000
Sub-Saharan Africa	660'000
World	12'300'000

According to the ILO's 2005 report, Global Alliance Against Forced Labour, 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. Another 2.5 million are forced to work by the State or by rebel military groups.

Globally, only 20 per cent of all forced labour is imposed directly by the State or armed forces. Private agents who take advantage of vulnerable people account for the remainder. Forced commercial sexual exploitation represents 11 per cent of all cases, and the overwhelming proportion – 64 per cent – is exacted by private agents for the purpose of economic exploitation. About five per cent are in forms of forced labour that could not be clearly identified by the ILO.



## The primary responsibility lies with Government

At the national level, governments, as policy and law-makers, and as law enforcers, have the primary responsibility for implementing international commitments to eliminate forced labour. This is therefore a good starting point for discussion. Points made in this section are elaborated upon, detailed, and looked at from other perspectives elsewhere in these Materials. This section is intended to provide an overview, and suggest the use of related Training Dossiers.

The challenge for governments in combating all aspects of forced labour practices revolves around four points:

- **recognizing** that a practice or practices exist,

- **understanding** the nature and extent of the practice(s),
- **agreeing** a strategy for combating the practice(s);
- **combating** the practice(s) effectively, in legislation and on the ground.

These points are enlarged on below.

Could participants imagine situations where employers' or workers' organizations, or other organizations, would be the first to take action to meet the challenge?

## Recognizing that forced labour practices exist

Facts and rhetoric about the different forms of forced labour often begin with and revolve around a State's **ignorance** or **denial** of the existence of a practice. This is quite distinct from a State's admission of the practice coupled with a denial that the practice amounts to forced labour.

**Ignorance** of a labour practice is not necessarily the same as ignorance of a forced labour practice. Where a practice – potentially one involving forced labour – is uncovered, continuing ignorance of the problem can be ended by fact finding to answer the fact-finding question: What is going on? Only after that question has been answered can the second question be asked: Is what is going on forced labour? In training, it may be useful to point out this two-step approach to analysis.

**Denial** comes into play when the facts of a practice are known. This may be as a result of fact-finding or because the practice is common knowledge. Another form of denial is when there is a refusal to think about the matter, even before facts are known. Denial is obviously an impediment to combating the practice, and is essentially a political issue. Denial will tend to

become the target of activists, as well as bodies whose responsibility it is to enforce international obligations freely undertaken by the State.

Where ignorance and denial have been overcome, the practice has been recognized. For the State to begin to take action, it is essential to develop an understanding of the nature and magnitude of the forced labour problem. This is the next step.

Depending on how the course of training has been presented and whether individual cases have been discussed, participants may be asked to identify cases in which the factors of *ignorance* or *denial* have played a role. They may be encouraged to speculate on the reasons in each case.

## Understanding the nature and extent of the problem

Forced labour practices have a wide variety of characteristics and causes, involving different economic sectors and affecting different segments of the population. The remaining three parts of these materials discuss them in detail. The materials in these three parts can be drawn upon in training activities to help analyse individual country situations as a basis for policy-making and action-taking by government.

Once a forced labour problem has been identified, consideration should be given to quantifying the extent of the problem.

In only a very few cases of forced labour in the world today have overall statistics concerning its incidence been gathered. And even where data has been gathered, there are doubts about its accuracy.

Depending on how the course of training has been presented and whether individual cases have been discussed, participants may be asked what data they are aware of concerning the incidence of traditional forms of forced labour.

Nevertheless, attempts need to be made to develop and apply appropriate methodologies for detecting forced labour practices in labour market information and other statistics. Where direct statistics are unavailable, appropriate proxies might be identified, but even this is a difficult task.

How important is statistical data? Reliable data would facilitate the monitoring of progress in eliminating forced labour. While it is clearly critical to have a good grasp of the numbers of, for example, bonded labourers involved, the need for data is not limited to the “supply side” of the equation.

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There are some major difficulties involved in estimating the extent of forced labour. The first is being sure of just what situations should be included. The second is technical, in that it is difficult to gather such information. The third relates to deciding why valid estimates are needed and establishing the political will to undertake the task.

Regarding the technical difficulty of quantifying forced labour, the steps that need to be taken are indicative of the magnitude of the challenge.

- A working definition of forced labour is needed. Such a definition needs to be practical and relevant to the forms of forced labour that are found in a particular area.
- Once definitions are in place, persons need to be classified as falling within the definition and, finally, there is the actual counting of persons.

The International Organization for Migration remarked on the technical challenges related to **trafficking** in its Quarterly Bulletin (April 2001):

“In most countries, there are few statistics on the scale of trafficking. The most recent global estimates of the scale of trafficking in women and children were prepared in 1998 by the US Government. It was estimated then that between 700,000 and 2 million women and children are trafficked across international borders annually, although the calculations used to arrive at these figures are unclear.

Do participants know what a proxy for direct statistics of traditional forms of forced labour might be?

## The Challenge of Estimating the Extent of Forced Labour

The reasons for the lack of data on trafficking include:

- The underground and illegal nature of trafficking;
- The lack of anti-trafficking legislation in many countries;
- The reluctance of victims to report their experiences to the authorities;
- The lack of government priority given to data collection and research.”

Concerning this last point, the following question may be posed to participants, before moving on to a discussion of the second major issue associated with estimating the numbers of forced labourers.

A number of important reasons can be cited for having accurate data on the incidence of forced labour in its various forms.

- Knowing numbers can help in allocating resources to combat the problem.
- Public attention can be better focused on the problem if actual numbers are known.
- Knowing the identity of forced labourers, as a consequence of counting them, is critical in achieving their liberation.
- Knowing the numbers before and after efforts to eradicate forced labour is crucial for monitoring progress in eliminating the problem.
- Accurate data on forced labourers, including their characteristics, can help in finding ways of solving the problem.

Annex 21 may be used to initiate discussion on this topic.

For details on this matter, see **Forced Labour: Definitions, Indicators and Measurement** by Kanchana N. Ruwanpura and Pallavi Rai, Declaration Working Paper 18 (March 2004)

Can participants say, “Why is it important to have reliable data on the incidence of forced labour?” Is it more important to have accurate data for some types of forced labour than others? If so, why?

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Gaining a clearer picture of the profiles of persons who hold others in bondage or slavery would provide useful clues on how to eliminate such practices in a sustainable way. Additionally, well-publicized statistics on prosecutions and penalties for those having violated the law may in themselves have a significant deterrent effect.

## Formulating a strategy for combating forced labour

Once these first steps have been taken, a comprehensive strategy against forced labour as it exists in practice must be established and made known. To be effective, it must address

the roots of the problem, which very often lie in the lack of income and asset security of the people whose freedom is at stake.

### 8 Training Dossier

#### Constructing a Government Policy to Combat Forced Labour

The aim of this training component is to call attention to possible aspects of government policy, or methods for developing such policy, perhaps with a view to an Activity involving the drafting of policy components. A three-pronged approach, focusing on **knowing the problem and its causes**, planning means of **attacking the problem**, and **attacking its causes**, might be suggested as a framework for developing government policy.

**Government policy must be based on knowledge of the problem, together with knowledge of its causes.** This idea goes hand in hand with the need for accurate data on the prevalence of forced labour. Thus, as a prelude to policy-making, it should be possible to draw up a matrix including such things as:

- the type of forced labour identified and its location (geographic and sectoral),
- the primary groups affected (both as forced labourers and as exploiters),
- the mechanisms of compulsion (abduction, economic bonding, etc.); the mechanisms of vulnerability to compulsion (poverty, constrained access to means of production, historical oppression, etc.),
- the numbers of persons involved, and
- the values and types of economic activity involved.

**Government policy must set out ways and means for attacking the problem itself.** This aspect of policy-making, unlike the first, has a great degree of political decision-making inherent in it. Nevertheless, it should be

possible to systematically identify and strategize ways and means of attacking all forms of forced labour. A **logical-framework** approach could, for example, be used. In its basic form, such an approach would allow participants to:

- analyse the existing forced labour situation (part of the first step);
- establish a logical hierarchy of means by which the objectives involved in eliminating the targeted forced labour practice – both short and long term – can be achieved;
- identify the potential obstacles to achieving the objectives, and to sustainable outcomes;
- establish how outputs of activities and outcomes might best be monitored and evaluated; and
- monitor and review progress in eliminating the targeted forced labour practice

A logical-framework matrix might, for example, be developed providing a complete list of possible objectives with related actions, risks, and monitoring methods, from which policy makers could select.

- **Government policy must set out ways and means of attacking the cause of the problem.** This is absolutely critical in developing policy for combating traditional forms of forced labour. A logical-framework approach may again be suggested for developing the necessary strategic approach to the issue.

## The Difference between What Needs To Be Done and How To Do It – Criteria for Action Plans

Can participants identify other critical criteria?

As a point of departure in a training environment – and this may be useful in relation to all the forms of forced labour discussed in these Materials – it may be useful to distinguish between what needs to be done, on the one hand, and how to do it, on the other. While it is broadly understood and agreed that an end to all forms of forced labour is **what needs to be done**, there can be disagreement over **how to do it**. It is useful then to establish some criteria for judging methods. Such criteria could be used when one or several ways of ending forced labour is proposed.

- **Is it possible to establish a time-frame?** It is important for any plan to have an associated time-frame. Will it take one week, one month, one year, or 10 years to accomplish what is proposed? It is also good to have the possibility of adopting time-frames in stages, where the overall time-frame for achieving the target is many years into the future.
- **Is it possible to do what is proposed with existing capacity?** Combating traditional and other forms of forced labour requires resources, be they human, material or financial. The resource may be the capacity to write an amendment to a law, to transport police to the site of an infraction of the law, or to build a shelter to house newly released bonded labourers. An assessment of the resources needed for a particular action plan is always needed if a choice is to be made between different plans. Where resources are not available, there must be a plan for securing them. It is useful to keep in mind that money is not always the most important resource needed for the success of an action plan; the availability of skilled human resources may be just as important for its success.
- **Is there the political will to support the initiative?** Without the active support of national leadership, the best action plans may well be doomed to failure. A related question is whether the plan has a strategy to deal with resistance from economic and political actors with interests in perpetuating forced labour practices.

9

### *Combating the problem legally and practically*

Once the challenge is acknowledged, understood and quantified, and a strategy for combating the problem finally worked out and agreed, governments have to make sure that appropriate and effective rules and procedures are in place for combating forced labour practices. All possible forms have to be prohibited, effective penalties have to be in place, and appropriate mechanisms and

institutions have to be established and ready to enforce the rules. See Training Dossier 10: What Makes for a Responsive Legal Framework to Combat Forced Labour Practices? (page 18), and Training Dossier 27: What Special Legal Provisions must be Enacted to Combat Bonded Labour? (pages 74-75), for more on these subjects.

10 Training Dossier

See Annex16: Creating The Legal Framework For Combating Bonded Labour: The Cases of India and Pakistan, for a case study

Can participants give examples of provisions in national legislation in these three respects?

What Makes for a Responsive Legal Framework to Combat Forced Labour Practices?

**Three elements** make for legal frameworks responsive to forced labour practices. This basic approach can be applied to any type of forced labour practice, not just bonded labour. But because the contracting and extinguishing of a “debt” often has legal ramifications, an adequate legal framework is particularly important in the context of debt-related forced labour.

First there must be a **prohibition of the practice**. It must be clear in the legislation that the bad practice is, indeed, declared to be unlawful. This can be achieved by describing a practice, defining it as “forced labour”, then declaring forced labour to be unlawful. Or the practice can be described and then directly declared unlawful.

Second, there must be an **adequate penalty** for engaging in the practice. An adequate penalty is one that discourages the practice, or creates a disincentive to engage in the practice. According to ILO Convention No. 29, penalties must be penal, i.e. there must be a possibility of the offender having to serve a penal sentence if found guilty of the offence. Fines may also be imposed, and probably should be, if the penalty is to be adequate in its dissuasive effect.

Third, there must be an **enforcement mechanism** for bringing allegations of the practice before the law for judgment. ILO Convention No. 29 requires strict enforcement of the law. In order for this standard to be met, the enforcement mechanism must work in a timely, predictable and reliable manner, showing clearly that violations of the law will, in fact, be prosecuted.

10

Do participants believe that reform or adaptation of labour inspection methods should be taken as an automatic part of government action against forced labour? Why so, or why not?

Stamping out forced labour also requires particular vigilance by law enforcement agencies. The strengthening of labour inspection services is obviously important, and preventive labour inspection strategies offer considerable promise for eliminating forced labour. Training labour inspectors to keep an eye open for situations that might involve forced labour is also important.

## Labour Inspection as a Way of Eliminating Abusive Employment Conditions

See Annex 14: Good Practice: Special Mobile Inspection Unit in Brazil, for an example of innovation in gaining access to the workplace.

Labour inspection is a broad topic for training. In the context of modern forms of forced labour, and particularly those resulting from migration, smuggling, or trafficking, labour inspection is used to eliminate the abusive employment conditions that keep workers bound to their work. Training may focus on **four areas**:

**Authority** – Labour inspectors must have the authority to enforce all laws that have an impact on the workplace and potential forced labour practices. This authority derives from the laws or regulations establishing it. Authority comes also with the perception of status created through policies that recognize labour inspection as an important part of law enforcement in a country.

**Access to the workplace** – Inspectors must have access to all workplaces. Here too, access depends on legal and regulatory provisions. This authority should be widely known, among both workers' and employers' interest groups. Access should be authorized to places known to be workplaces, as well as to places reasonably believed to be workplaces. Arrangements should be made for labour inspectors to receive support from other law enforcement agencies, when this is necessary for them to secure access.

**Access to the workers** – Inspectors must have access to all workers, and the authority and facilities to question them in order to determine the conditions under which they work. Every effort must be made to make it possible for workers to tell labour inspectors of their situation. This is difficult in coercive environments, but innovations must be considered to enable open and confidential communication between workers and inspectors.

**Resources to inspect** – Inspection services must have the human and physical resources needed to effectively inspect workplaces. Where forced labour is concerned, an inspection strategy in a resource-scarce environment may involve frequent short inspections rather than time-consuming ones.

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However, formal-sector agencies are generally inadequate for the task of investigating forced labour allegations in the rural and informal sectors. There is a need to explore innovative measures for addressing the problems, in consultation with the social partners. One way to mobilize support and seek relief for the victims of forced labour is through well-publicized litigation. Another is to form broad civil society coalitions, with the participation of employers' and workers' organizations, and to

bring instances of forced labour to the attention of such public bodies as Ombudsmen and national human rights institutions. Religious organizations have often been powerful allies in the fight against forced labour. Similar coalitions can also be formed at the local level, in areas where forced labour problems have been detected. The initiatives would need to be documented, and reports of best practice widely disseminated.

# Activity 1. The Cost of Denial

## Introduction

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It may be perceived as shocking that some governments **deny** or **minimize** the existence of forced labour in their countries. Others have decided to acknowledge the practice and combat it. This Activity asks participants to examine the possible costs of denying, ignoring or minimizing the existence of forced labour practices.

## Objectives

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- To provide government officials, employers and workers, and others with an opportunity to consider the costs of failing to investigate and/or denying the existence of forced labour practices; and
- To provide government officials, employers and workers, and others with an opportunity to explore the consequences of ignorance and/or denial of forced labour practices.

## Task and arrangement

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Participants should be exposed to examples of different forms of forced labour through training prior to this Activity, and in particular to governments' responses to allegations of forced labour practices. This may be achieved by reading Annexes 17 and 28, for example, or by examining a case, or cases, relevant to the region in which the training is taking place. This Activity is best done in plenary, provided the facilitator can be sure of eliciting inputs from participants.

**Task 1.** In plenary, participants are asked to **brainstorm** on the following question:

***How can government officials respond to allegations of forced labour made in credible fora (i.e. international supervisory bodies)?***

The following types of responses can be expected. Many – and variations on similar responses – should be elicited.

The government can receive the allegations and immediately set out to investigate them seriously and respond to them accordingly.

The government can receive the allegations, say that it will investigate, and actually not investigate, having planned to deny that the practice exists.

The government can receive the allegations, say that it would like to investigate, but claim that it is unable to do so due to a lack of resources. The government actually has no intention of admitting any incidence of forced labour on its territory.

The government can simply deny the allegations without further investigation.

**Task 2.** Participants are asked to consider the negative responses to Task 1, i.e. those indicating a lack of willingness to consider any allegation. Participants are asked to develop a **list of costs** that can result from such responses.

The following types of responses can be expected. Many – and variations on similar responses – should be elicited.

Cost: A negative reputation is attached to the country internationally.

Cost: The government might be seen as ignoring human rights violations on its territory.

Cost: Forced labour might actually continue to be practiced in the country, with potential negative results, e.g.. social unrest among affected persons.

Cost: The development of forced labourers – social, economic, educational, etc. – is hindered, arresting national development.

**Task 3.** Going around the room, participants are asked to agree or disagree with the statement below, making comments as they see fit in the light of Tasks 1 and 2, and the cases that have been brought to the attention of the group.

***“Governments always do all in their power to investigate and eradicate instances of forced labour occurring on their territory.”***

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### ***Approximate time***

10 – 30 minutes.

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### ***Hints***

This Activity might touch on people’s sensitivities in certain environments. The questions are nevertheless valid ones to consider coolly in the light of statements made and positions taken in transparent fora. Executed calmly, a positive conclusion to the Activity might be a resolution made in good faith to do more to eradicate forced labour, or at least to be seen to be doing more in this regard.

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### ***Reference documentation***

Annexes 17 and 28, or similar case documentation that suggests that either the government concerned is stonewalling allegations or is not doing all it can to answer them.

## Activity 2. Comparative Analysis

### *Introduction*

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Countries are encouraged to use international standards as a basis for reviewing their national laws, policies and practices. Such analysis is time-consuming, requiring meticulous attention to the details of both national law and practice and international requirements. The thoroughness of such an exercise will **typically expose problem areas** where efforts ought to be made to eliminate forced labour.

### *Objective*

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- To expose participants in training to the relevant international standards on forced labour;
- To derive, from appropriate training activities, a comparative analysis of international standards with national laws and practices.

### *Task and arrangement*

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Participants in training are asked to analyse national laws, policies or practices in the light of international standards. The task can be broken down, depending on the duration of the training course, the background and interests of the participants, and purpose of the training course. For example,

- In a course focusing on a particular international standard, break down the task according to the substantive provisions of the standard;
- In a course with participants from a particular occupational or economic sector, or a sector with known forced labour issues, break down the task on the basis of the relevant substantive provisions of several international standards, with one person/small group working on each particular provision;
- In a course for employers' or workers' representatives, or for representatives of a particular government ministry, task persons/small groups with assessing their role in promoting compliance with the relevant provisions of one or more international standards, beginning with an assessment of the conformity of practices with those provisions;
- In a course for lawyers responsible for comparisons of international and national law, the entire course of training, or a substantial portion of it, may focus on the Activity, punctuated with interventions from experts on particular substantive points concerning the particular international standard concerned.

## Approximate time

From 45 minutes to several days, depending on the extent of the task assigned.

## Hints

Since these Training Materials are not intended specifically for lawyers or legally trained participants, it is not assumed that any valid analysis will be completed within the training environment. Exposure and sensitization to international standards, in a relevant context, is the primary purpose of this Activity.

## Reference documentation

The potentially relevant international standards are:

### General

- ILO Declaration on Fundamental Principles and Rights at Work, 1998

### Forced Labour

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

### Migrant Workers

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

### Human Rights

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

### Slavery

- League of Nations Slavery Convention, 1926
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956

### Crime

- Convention Against Transnational Organized Crime, 2000
- Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000

National laws will have to be identified if the task is to compare international standards with national.

## Activity 3. Which Standard?

### *Introduction*

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There are now many standards relating to social conduct, as noted in this Part of these Materials. Many of them are concerned with forced labour. These standards differ in many respects: they may be binding or non-binding; addressed to governments, businesses or individuals; voluntarily undertaken or obligatory. They differ in their definitions of “forced labour”, in their geographical scope, etc. An understanding of these different types of instruments and the roles they play is important for some training audiences. These groups are the target of this Activity.

### *Objective*

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- To deepen participants’ understanding of standards of conduct touching on forced labour.
- To challenge participants to determine how international standards can be used for independent action planning in addition to serving as a point of reference for behaviour or policy.

### *Task and arrangement*

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Characteristics of the various types of standards discussed in this Part need to have been presented in training prior to the start of this Activity. Participants in training are asked to consider the various types of standards discussed in this Part and to decide which is “best”. The answer to this question depends, of course, on **how** “best” is defined and it is **in the process of defining** “best” that the objectives of the Activity are realized.

This Activity can be done in a small-group context or as a discussion in the plenary. Both formats can be preceded by individual work, where the opening question is posed for individual reflection. Use of this Activity will depend on the depth and focus of this presentation.

The facilitator poses the basic question (or a variation of it):

***Which of these standards is best, for whom, and why?***

The following instruction/clarification is then given.

In answering this question, you are to decide on several related questions. For example, you may decide that a standard is best for society as a whole on the grounds that it is most likely to help eliminate forced labour because it has the strongest enforcement mechanism behind it. Or you may decide that a standard is best for employers because it is most likely to be effective since it depends on voluntary effort and since employers would play an important role in eliminating forced labour practices. Or you may decide that a standard is best for government because it is the most understandable and specific, thus the clearest to use as a benchmark for achieving the goal for the benefit of society as a whole.

The discussion that ensues should raise basic issues, i.e. the pros and cons of different types of standards on forced labour.

Once a conclusion has been reached on the “best” standard, the facilitator can pose the **second question**:

***What can participants do to meet or live up to this standard?***

This question has a **pro-active focus**; it does not ask what is required of participants (in their real-life capacities) by this standard. To answer this question, participants will have to think more deeply about the actual meaning of the standard and what it concretely suggests in the way of action appropriate to a national situation.

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### ***Approximate time***

A minimum of 45 minutes for a discussion in plenary.

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### ***Hints***

The facilitator may adapt this question to suit the group or the desired focus of attention. The facilitator may wish to focus on a type of standard, i.e. international treaties, codes of conduct, national laws, and ask who might consider it a useful one and why. Or the focus may be shifted to a particular group, by asking which standard, for example, workers’ organizations might think is the best and why.

The facilitator may also identify particular standards and ask the questions in relation to each, i.e. “Why might Convention No. 29 be considered the best standard for combating forced labour?”

Lastly, only one of the two questions may be posed for discussion.

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### ***Reference documentation***

The various standards discussed in this Part, or those that are to be the focus of this Activity.

Annex 23, The UN Global Compact, may be useful for the facilitator or for distribution to participants



PART 1 2 3 4

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# Forced Labour and the State



## Part II: Forced Labour and the State

In contrast to situations in which governments acknowledge the existence of forms of forced labour and make attempts to address them, a few countries reject the idea that there is a problem. This perception has often coincided with the exaction of forced labour by local government or traditional leaders, military and related authorities and, of course, colonial regimes in the more distant past. Today Myanmar is a special case involving extreme abusive forced labour. In that case, the serious and widespread incidence of forced labour has led the ILO to take unprecedented action under article 33 of its Constitution in calling upon ILO member States' constituents individually to consider taking action to persuade Myanmar to remedy the situation.

Forced labour imposed directly by the State, while not the largest problem in terms of numbers, remains a cause for serious concern.

The main concerns in 2005 were the *special case of Myanmar*, the systematic though declining state practice of *compelling free citizens to work* for either economic or political purposes, and contemporary dilemmas of *prison-linked forced labour*.

This Part focuses particularly on the last two of these concerns.

Before looking at these examples, it will be useful to set the stage for the discussion using the following Training Dossier.

"In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith."  
ILO Constitution,  
Article 33

### 12 Training Dossier

#### ILO Standards as they Relate to State-Sponsored Forms of Forced Labour

ILO Conventions Nos. 29 and 105 apply to both state and private actors. In practice, a number of provisions are of particular importance in relation to state-sponsored forms of forced labour.

ILO Convention No. 29 identifies five practices that are not to be considered forced labour in terms of the Convention. All five can be claimed by a State to allow certain forced labour practices. The exceptions in the Convention are as follows:

(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;

#### Exceptions to forced labour



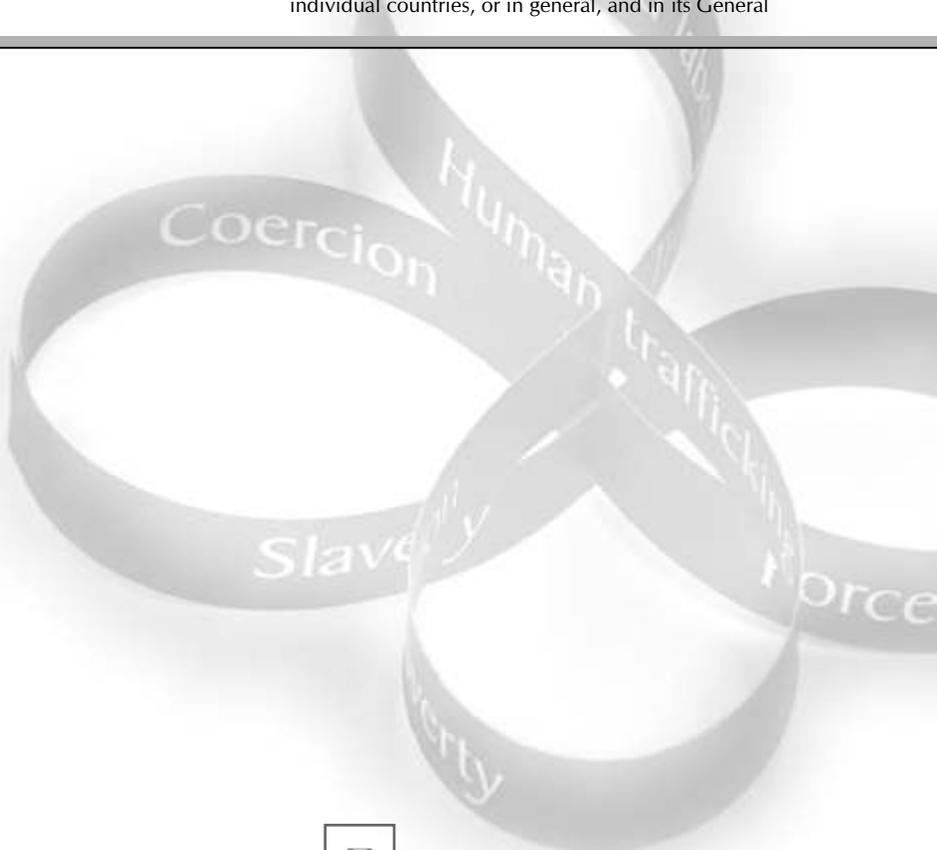
Use of the Convention  
in practice

(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."

In practice, a State would assert one (or more) of the exceptions to allow certain forms of compulsory labour contrary to the Convention.

Through its examination of laws and practices in countries over the past 75 years, the ILO's Committee of Experts on the Application of Conventions and Recommendations has explained how it judges whether an asserted exception does, in fact, fall within the exceptions set out in Convention No. 29. These explanations are found in the Committee's direct requests and observations concerning laws and practice in individual countries, or in general, and in its General



Survey on Forced Labour, last made in 1979. A new General Survey will be published in April 2007. An example of such an explanation follows below.

“...[I]n its earlier comments the Committee noted that the combination of sections 6, 27, 28(1)(p), (q) and (u) and 34 of the new Swazi Administration Order (No. 6 of 1998) provides for orders requiring compulsory cultivation, anti-soil erosion works and the making, maintenance and protection of roads, enforceable with severe penalties for non-compliance. With reference to the comments it has been making for a number of years concerning the ... Swazi Administration Act, No. 79 of 1950, which contained similar provisions, the Committee observed that provisions of this kind are in serious breach of the Convention. ... [T]he Committee pointed out that, in order to be compatible with the Convention, such provisions should be limited in scope to cases of a calamity or threatened calamity endangering the existence or well-being of the population, or (in case of compulsory cultivation) to circumstances of famine

or a deficiency of food supplies and always on the condition that the food or produce shall remain the property of the individuals or the community producing it, or (to fall under the exemption made for minor communal services) to cases where work is limited to minor maintenance and its duration is substantially reduced.

Since the above provisions of the 1998 Order are not restricted in application to the circumstances contemplated in Article 2(2)(d) and (e) of the Convention, such as e.g. cases of emergency (fire, flood, famine, earthquake, violent epidemic or epizootic diseases, etc.) or minor communal services, they are incompatible with the Convention.”

Similar explanations can be found concerning compulsory military service – the most important aspect of which is that the work in question must be of a military nature, – normal civic obligations, and prison labour.

For more information, see the General Survey of 1979 (or 2007) or reports of the Committee of Experts.

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**If a work is clearly voluntary, there is no need to show that it falls within an exception. The condition to apply the exceptions is that, under the menace of a penalty, the work is no exacted voluntarily. Do participants understand that these two conditions are a necessary prerequisite for the application of one of the named exceptions?**

### *Compulsory labour exacted from free citizens*

For the most part, it would appear that the systematic state practice of compelling free citizens to work is on the decline worldwide. There are exceptions, however, where state-sponsored labour mobilization campaigns are practised. In a number of societies, able-bodied individuals are required to participate in certain aspects of community or even national development. In any discussion of forced labour and development, the role of traditional authority systems is bound to arise. Some communities have a long-standing tradition of participatory voluntary labour, including the reciprocal arrangements in which families assist each other in agricultural and other tasks. The contemporary relevance of such situations is seen mostly in Africa and Asia, although it may exist elsewhere. However, the fact that such practices are designated as “minor communal services” or “normal civic obligations” should not be allowed to mask situations that are in fact forced labour.

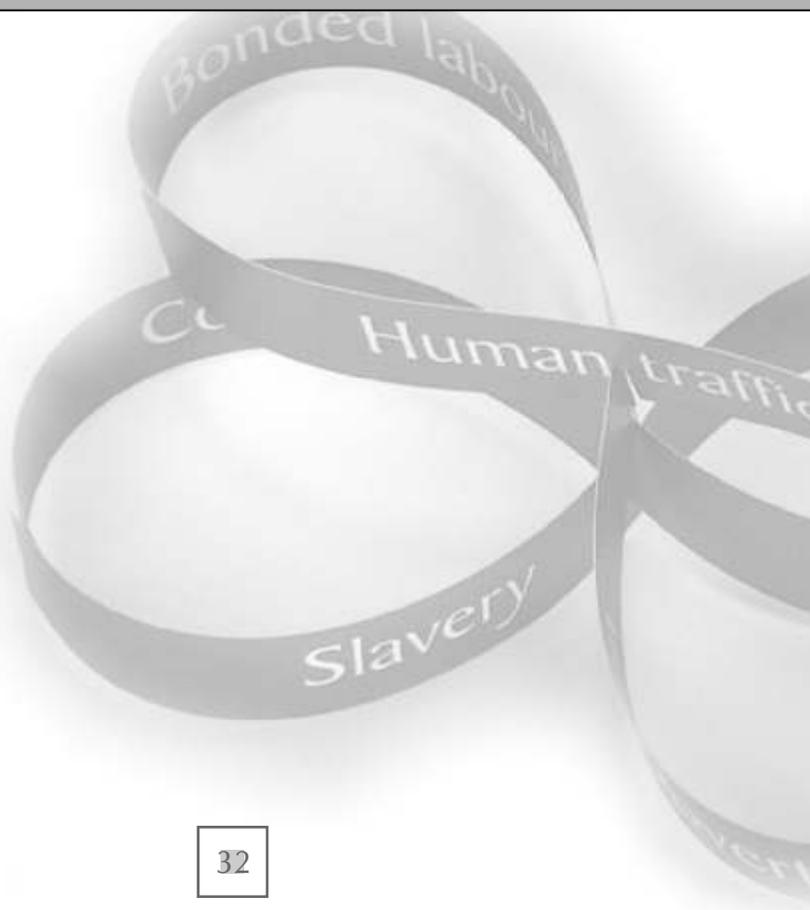
Examples of Compulsory Labour in Public Works

In parts of Asia, there have been requirements for compulsory participation in the construction or maintenance of public works such as roads, water works and other physical infrastructure. It has sometimes been argued that there is cultural acceptance of the practice as a contribution to rapid economic development. Such views were expressed by the Government of *Myanmar*, for example, in the context of the ILO Commission of Inquiry findings of widespread and systematic resort to forced labour in that country.

In its initial annual report under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, the Government of *Viet Nam* observed that “for the Government and the ILO, there are differences of definition of forced labour and public works duties for the citizens of Viet Nam”. Under legislation enacted in January 2000, all adult men under the age of 45 and

all adult women under 35 have been required to provide ten days of community service per year. Following criticism of the use of community service conscripts in road construction, Viet Nam drew up new regulations in October 2000 to provide for the payment of minimum wages and national insurance contributions for all persons engaged in road construction under the community service programme; nonetheless, this does not alter the underlying issue of the compulsory nature of the work.

Similar developments have recently been reported in *Cambodia*. A measure adopted in February 1994 had provided for up to 15 days per year of compulsory labour for irrigation works. This was repealed in July 2000 by provisions calling for one day per year of manual hydrology work for all adult citizens, but on a voluntary basis.



The ILO's 2005 Global Report on Forced Labour under the Follow-up to the ILO Declaration of Fundamental Principles and Rights at Work cites labour mobilization campaigns detected in certain Central Asian countries. In **Tajikistan** and **Uzbekistan**, for example, forced labour in the cotton industry has affected mainly women, children and young students. During the planting and harvesting seasons, they are transported to the cotton fields and made to work. They receive little or no salary. Coercion can be exercised through such penalties as threats of dismissing students from university. Families send women in accordance with an established quota system, and children take part in this compulsory work as part of their school curriculum.

In terms of international labour standards, the analysis of these and similar practices is two-tiered. First, is the work exacted under conditions that amount to forced labour? And, if so, do any of the five exceptions apply?

Do participants think that getting paid or receiving benefits associated with regular (unforced) work should have the effect of making forced labour unforced?

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Gradually, understanding is increasing that economic development is retarded rather than helped by forcing people to work under threat of a penalty.

Do participants agree that forcing people to work retards economic development? Can examples be cited? Is account taken of the future human or social cost of the practice?

### *Prison-linked forced labour*

The core questions of coercion, imposition of penalties and withdrawal of privileges – the essence of the definition of forced labour – assume an entirely different significance in situations in which people are deprived of their liberty by virtue of their imprisonment. Some of the most difficult policy and ethical issues relate to work performed by prisoners, since not all of it is prohibited forced labour. Work performed under decent circumstances is seen by employers' organizations as advantageous for prisoners: "it could fulfil therapeutic functions and play a role in retaining skills and providing a minimum income for the prisoners or enabling them to compensate the victims of their crimes".<sup>1</sup> However, the work performed by prisoners raises some complex issues that have long been of concern to the ILO supervisory bodies, which are the appropriate fora for such debate. How can forced labour in prison be against international standards? The following Training Dossier tells how.

Convention No. 29 clearly excepts labour exacted as a result of a conviction in a court of law from its meaning of forced labour.

But the exception lays down a **number of important conditions**.

- Firstly, the work or service must be exacted as "a consequence of a conviction in a court of law".
- Secondly, the work or service must be carried out under the supervision and control of a public authority.
- Thirdly, the person or persons involved must not be hired to or placed at the disposal of private individuals, companies or associations.

### *Prison labour performed in the context of private enterprise*

Prison labour performed in the context of various forms of private enterprise is a growing trend, fuelled by a general wave of enthusiasm for privatization. Countries are increasingly resorting to privatized prison labour, under various arrangements, in sectors ranging from agriculture and stockbreeding to computer component production and airline reservation booking.

These developments, which started in developed countries but have spread to others, have aroused serious concern over "both basic rights and unfair competition".<sup>2</sup> The extent of the impact of these arrangements on the free labour market has not yet been thoroughly measured and analysed, even though the practices are far from new. They are increasing, with private prison services now being marketed internationally.

<sup>1</sup> ILO: Report of the Committee on the Application of Standards, International Labour Conference, 86th Session, Geneva, June 1998, *Provisional Record*, No. 18, para. 93 (Statement of the Employer members).

<sup>2</sup> ILO: Report of the Committee on the Application of Standards, International Labour Conference, 86th Session, Geneva, June 1998, *Provisional Record*, No. 18, para. 90 (Statement of the Worker members).

## How Compulsory Prison Labour can be Forced Labour against International Standards

Failure to abide by **any** of these three conditions results in the exception not being applicable, and the law or practice of prison labour being contrary to Convention No. 29.

It is **important to note**, however, that before any of these possible exceptions needs to be examined, the practice in question would have to fall within the definition of forced labour, that is to say, involving a menace of penalty and a lack of consent. The exception concerning prison labour – with its associated conditions – would not need to be considered if it could be shown that the working prisoner voluntarily consented to the work. This point is an essential one for arguments being made by employers and workers in the ILO supervisory bodies concerning ILO standards and private prison labour.

Convention No. 29 excludes “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”.

Do participants understand what is meant by “falling within the definition of forced labour”, in the context, that is, of needing to rely on one of the exceptions in Convention No. 29? This is an important point for audiences concerned with conformity with Convention No. 29.

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### 15 Training Dossier

See Annex 34: Examples of Private Prison Labour, on page 208, for two country examples.

## How Prison Labour can be Connected with Private Entities

Prison labour can be connected with private entities in many ways.

- Prisoners may work with a private entity as part of an educational or training scheme.
- Prisoners may labour 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.
- Some prisoners work with private firms outside the prison during the day, returning at night.

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For purposes of conformity with international labour standards, what are the appropriate safeguards for prisoners? Where a prisoner is said to consent to work – eliminating a forced labour issue – by what standards can the nature of that consent, the fairness of compensation, the sufficiency of protection against injury and other questions be assessed? An answer is suggested in Annex 30. But see also Annex 35.

## *Economic conditions as a push factor*

In certain countries, notably in Africa, governments have justified the hiring out of prison labour on the grounds of the severe economic conditions affecting their state budgets for the care of prisoners. One Government has said that the hiring out of prison labour is permitted, provided that the work is undertaken for the good of the country. The Government acknowledges that the practice does exist, to an unknown extent, and has requested ILO assistance in amending its law. In other African countries, legislation permits the transfer of prison labour to private enterprises, but there is limited information available as to the extent to which this practice is actually carried out.

## *Appropriate safeguards*

The trend towards private involvement in prison labour poses dilemmas of policy as well as ethics. ILO Convention No. 29 stipulates that the work of convicted prisoners should be carried out under the supervision of a public authority, and that the prisoner is not to be hired to or placed at

the disposal of private individuals, companies or associations – i.e. he or she cannot be obliged to work for a private enterprise without his or her agreement. This stipulation was made as a safeguard against the economic exploitation of prisoners.

The ILO's system of international labour standards and supervision of their implementation is built on the involvement of both experts and the ILO's tripartite constituents, i.e. employers' and workers' organizations, and governments. A committee of independent international experts (the Committee of Experts on the Application of Conventions and Recommendations) is first involved in reviewing information on efforts made to implement international standards. The tripartite partners are then involved at the annual International Labour Conference in reviewing the work of the Committee of Experts and making their own comments

## *A situation requiring tripartite debate*

With prisoners already deprived of their liberty, there is an obvious risk that the private hiring of prison labour may involve exploitation, thus negating any pretence of the exercise of free will. When such practices constitute forced labour, they work to the detriment of both the prisoners

involved and the economically active population as a whole. Privatized prison labour is nonetheless seen by some as positive — provided that marketable skills are imparted and prisoners engage in such employment and training on an entirely voluntary basis — and ILO constituents could usefully explore these issues more deeply.

## *Trade unions voice concerns*

The International Confederation of Free Trade Unions (ICFTU) has criticized a number of aspects of private prison labour systems. It points to instances of prisoners who refused such work losing their chance for early release and being deprived of privileges and time outside their cells. Workers' organizations in industrialized

countries have expressed serious concern over wage rates and/or prisoners' terms and conditions of work, especially when private enterprise is involved. As in the case of developing countries, governments of industrialized countries have sometimes cited financial reasons for introducing public-private arrangements.

## *Employers state their position*

The Employers' group within the ILO has taken a different position on private prison labour. See Annex 35 on page 208 for their view of the matter. They believe that prisoners benefit in many ways from

working, and that the standard for judging whether prisoners have voluntarily taken up work offered to them by private employers need not be whether the work is done under conditions approximating to a normal employment situation.

### ILO Tripartism and Forced Labour Standards

about the implementation – as well as the meaning – of international labour standards.

It is in this context that the ILO's employers' group is able to disagree with the Committee of Experts concerning what is required in a system of prison labour under Convention No. 29. According to the ILO Constitution, only the International Court of Justice has the authority to interpret ILO Conventions. Until the Court does so, the meaning of any Convention, and the efforts made to supervise countries that have ratified a particular Convention, is the subject of debate and dialogue within and between the tripartite constituent groups and the Committee of Experts. Although these actors have during the past decades mostly agreed on the meaning of particular Conventions, one of the very few points of disagreement is on the issue of private prison labour.

#### 16 Training Dossier

**For more detailed information on the authorities, methods, and operation of these bodies, see the ILO Constitution, the Handbook of Procedures relating to international labour conventions and recommendations, or other training materials devoted to the subject of the ILO's international labour standards.**

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## Meeting the challenge of state-sponsored forms of forced labour

The challenge of stopping state-sponsored forms of forced labour is particularly vexing. Where forced labour is used by the State to compel free citizens to perform work, democratic institutions that might help bring the practice to an end are typically lacking. Where offensive prison labour is the issue, it may well be democratic institutions that have made a conscious policy decision to

put prisoners at the disposal of private individuals or companies. And where these institutions do not exist – and persons are typically imprisoned as a result of administrative rather than judicial order as required by international standards – problems similar to those existing in public works situations arise. What can be done in these difficult circumstances?

## Meeting the challenge as Government

The examples of state-sponsored forced labour examined in this Part suggest that a government's role in combating problem found within its own area of responsibility may well be limited. It is often not the case that agencies within the State are unanimous in their idea of sponsorship. Ministries with different competencies within government can, for example, have different views on the meaning of the international obligations undertaken by the State in question. If this is the case, efforts can be made to promote

understanding of obligations under international treaties. Other governments, the social partners and civil society may also be able to play supporting roles in efforts that can lead to the elimination of state-sponsored forced labour.

Governments other than those engaged in offensive practices can, of course, act to try to stop those practices. Such actions can be made in bi- or multi-lateral contexts, at regional or global levels, or through diplomatic or commercial channels.

### 17 Training Dossier

#### Bringing a Complaint under Article 26 of the ILO Constitution

By ratifying an ILO Convention, a State becomes obliged to implement the terms of the Convention and to report periodically on the steps it is taking to implement the Convention. In addition, **a State becomes able to make a complaint** against another State which has ratified the same Convention, alleging that that State is not implementing the Convention. Article 26 of the ILO Constitution says this. Considering that almost all ILO member States have now ratified Conventions Nos. 29 and 105, member States have ample opportunities to make such complaints against States that have policies of state-sponsored forced labour.

Once a State makes a complaint, the ILO Governing Body may communicate with

the government in question, inviting the government to comment as it sees fit. If the Governing Body does not think it necessary to communicate the complaint to the government in question or if, when it has made such communication, no reply has been received within a reasonable period of time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.

Commissions of Inquiry have not frequently been used in ILO history, but when they have – as in the case of forced labour in Myanmar – the full weight of the Organization is engaged in efforts to end the practice involved.



## Activity 4. What is Your Country Willing to Do to Combat State-Sponsored Forced

### *Introduction*

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Pressure can be exerted by the international community to try to effect changes where the State itself is the perpetrator of forced labour practices. This Activity explores the question: What is your country willing to do?

### *Objectives*

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- To give participants the opportunity to consider what actions would be appropriate to pressure an offending State into ending its forced labour practices;
- To sensitize participants to the strengths and weaknesses of the international supervision of international labour standards.

### *Task and arrangement*

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Participants should be familiar with the case of state-sponsored forced labour in Myanmar in advance of undertaking this Activity.

Participants, working in plenary or in groups, should review the 2002 International Labour Conference resolution concerning Myanmar (Annex 31: Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar on page 204 ), noting particularly the call for action by governments, employers, and workers in paragraph 1(b). Participants should also look at subsequent action on this subject including Conference discussions.

Participants should then address themselves to the question:

***What “appropriate measures” could or should be taken by Government?***

If working in small groups, participants should report back in plenary, discuss, and reach conclusions.

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### *Approximate time*

A minimum of 45 minutes for discussion, 15 minutes for reporting. This time-frame should be increased if the Activity is the basis of real action planning.

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### *Hints*

This Activity can be adapted for use by employer, worker and civil society target groups, by asking what “appropriate measures” could or should be considered by the organization.

In a tripartite training environment, the social partner groupings can consider the question and report results back to plenary for discussion.

This Activity provides an opportunity to discuss the strengths and weaknesses of the system of international supervision put in place to monitor the application of ILO standards, including Article 33 of the ILO Constitution, which was used for the first time in the Organization’s history in this case.

Should the Myanmar case be resolved by the time this Activity is used, its focus can be generalized, i.e. what “appropriate measures” could or should be considered in a case involving a violation of international obligations concerning forced labour similar to that of the Myanmar case?

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### *Reference documentation*

Annex 31: Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar

## Activity 5. Use of Prison Labour by Private Companies or Individuals

### *Introduction*

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Some States have become attached to the idea that it is beneficial for prisoners to work, notwithstanding the fact that they are working for private companies or individuals. The ILO's Committee of Experts has pointed out that there is no contravention of ILO Conventions if a private prison system uses prison labour provided on a truly voluntary basis. This does not constitute forced labour as defined by Convention No. 29. What are the requirements for such a system and how would they be applied in local circumstances? This Activity looks at these issues.

### *Objectives*

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- To give participants an opportunity to develop a proposal for amending prison labour practices which are contrary to international standards;
- To improve participants' mental agility in dealing with the issues involved in the use of prison labour contrary to international standards.

### *Task and arrangement*

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Participants should be familiar with the prison system in their own country, including any current use of prison labour. Ideally, participants will have read the reference documentation and had a question-and-answer session with the facilitator(s) concerning its content before undertaking the following task.

Working either in plenary or a few small groups (maximum three), participants should consider the elements required by the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) for regarding prison labour for private companies or individuals as voluntary. Participants may also be asked to consider the view expressed by the international employers' community on the issue. See Annex 35, The Employer Groups' Position on Private Prison Labour. Each group should develop a proposal for implementing such an approach in the context of a relevant private prison system. The proposal should be detailed, addressing the various subject areas mentioned by the CEACR (wages, social security, safety and health and labour inspection, giving of formal consent), as well as any of the areas of concern expressed by the CEACR (alternatives to work, impact on early release as coercion). When completed, groups should present their proposals in plenary for discussion.

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### *Approximate time*

Minimum of 60 minutes in small groups, 15 minutes for presentation in plenary, plus time for plenary discussion, depending on the objectives of the training exercise.

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### *Hints*

This Activity may be adapted for other target groups interested in affecting public policy, by contemplating alternatives to the current use of prison labour. Employers' groups may be particularly interested where private prisons exist in their countries.

This Activity is a complex one which, to be meaningful, requires a good understanding of a situation in which prison labour is being used at present, as well as of international standards. It should therefore be used in circumstances where prison labour is being used for private profit, i.e. private employers inside state-operated prisons, private employers outside of state-operated prisons, or privatized prisons, and real consideration should be given to the option suggested in the Activity. The question for consideration is what an acceptable system of voluntary prison labour in private prisons would look like in practice.

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### *Reference documentation*

Annex 30: Voluntariness and conditions for the private employment of prisoners, and Annex 35: The Employer Groups' Position on Private Prison Labour

## Meeting the challenge as Employers

Why would employers or their organizations take action to fight state-sponsored forced labour? Indeed, in a major contemporary case, there are allegations that some companies benefit from – if not actually support – this State practice. Why might employers oppose systems that give them or their governments access to cheap prison labour for the production of goods or services?

### 18 Training Dossier

Although the General Agreement on Tariffs and Trade (GATT) did not make a link between labour standards and international trade, it did say that nothing in the Agreement would prevent any country party to the Agreement from adopting or enforcing measures “relating to the products of prison labour.” The meaning of this provision has always been clear, and

The global movement of employers and their organizations has taken an important step in becoming a driving force behind the UN’s Global Compact. The Training Dossier below gives basic information about the Global Compact, including why and how employers and their companies would want to participate

### 19 Training Dossier

For more information, see *The Global Compact: The Employers’ Guide*, available at the website of the International Employers’ Organization, [www.ioe-emp.org](http://www.ioe-emp.org).

## A Global Compact for Employers and Their Companies

### What is the Global Compact?

In an address to The World Economic Forum on 31 January 1999, United Nations Secretary-General Kofi Annan **challenged business leaders** to join an international initiative – the Global Compact – that would bring companies together with UN agencies, labour organizations and civil society to lend their support in the areas of human rights, labour, the environment, and anti-corruption. The Global Compact’s operational phase was launched at UN Headquarters in New York on 26 July 2000. During the first Global Compact Leaders Summit, held on 24 June 2004 at UN Headquarters in New York, the Secretary-General announced the addition of a tenth principle against corruption. This measure followed a long consultation process with all Global Compact participants.

Through the power of collective action, the Global Compact seeks to **advance responsible corporate citizenship** so that business can be part of the solution to the challenges of globalization. In this way, the private sector – in partnership with other social actors – can help realize the Secretary-General’s vision: a more sustainable and inclusive global economy.

## Article XX of the General Agreement on Tariffs and Trade

continues to be so under the auspices of the World Trade Organization: Any country may take measures to block the products of prison labour from being traded on its territory. The idea behind this provision is that products of prison labour represent a form of unfair competition and that a country would be justified in limiting imports of such products.

This aspect of the prison labour issue is of concern to employers, yet it appears that this means of pressuring a State to stop using prison labour for the production of goods in international trade is rarely used.

Participants' attention may be directed to the fact that the provision permits retaliation against the *products* of prison labour, and not the practice of prison labour alone. Can participants identify other ways in which the provision goes beyond what is prohibited by ILO standards on the use of prison labour?

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in it. The call for action made by the Global Compact would be a natural part of training on forced labour for employers since the fourth principle of the initiative directly addresses the subject. See Annex 36 for an elaboration of Principle Four.

Today, **hundreds of companies from all regions of the world, together with international labour and civil society organizations**, are engaged in the Global Compact. The Global Compact is a direct initiative of the Secretary-General; its staff and operations are lean and flexible.

The Global Compact is a voluntary corporate citizenship initiative with **two objectives**:

- to mainstream the ten principles in business activities around the world;
- to catalyse actions in support of UN goals.

To achieve these objectives, the Global Compact offers facilitation and engagement through several **mechanisms**: Policy Dialogues, Learning, Local Structures and Projects.

The Global Compact is not a regulatory instrument – it does not “police”, enforce or measure the behavior or actions of companies. Rather, the Global Compact relies on public accountability, transparency and the enlightened self-interest of companies, labour

and civil society to initiate and share in substantive action in pursuing the principles upon which the Global Compact is based.

The Global Compact is a **network**. At its core are the Global Compact Office and six UN agencies: the Office of the High Commissioner for Human Rights; the United Nations Environment Programme; the International Labour Organization; the United Nations Development Programme; the United Nations Industrial Development Organization; and the United Nations Office on Drugs and Crime. The Global Compact involves all the relevant social actors: governments, who defined the principles on which the initiative is based; companies, whose actions it seeks to influence; labour, in whose hands the concrete process of global production takes place; civil society organizations, representing the wider community of stakeholders; and the United Nations, the world’s only truly global political forum, as an authoritative convener and facilitator.



Are you as an employer or company ready to commit to the Global Compact? Why or why not? See Annex 36: Principle Four – Businesses should uphold the elimination of all forms of forced and compulsory labour

### **Why Participate?**

There are numerous benefits to participating in the Global Compact. These include:

- Producing practical solutions to contemporary problems related to globalization, sustainable development and corporate responsibility in a multi-stakeholder context;
- Promoting universal principles and responsible corporate citizenship to make the global economy more sustainable and inclusive;
- Leveraging the UN's global reach and convening power with governments, business, civil society and other stakeholders;
- Sharing good practice and learning;
- Accessing the UN's broad knowledge in development issues and its practical reach worldwide.

### **How to Participate**

As a voluntary initiative, the Global Compact seeks wide participation from a diverse group of businesses and other organizations. To participate in the Global Compact, a company:

- **Sends a letter** from the Chief Executive Officer (endorsed by the board) to Secretary-General Kofi Annan expressing support for the Global Compact and its principles;
- **Sets in motion** changes to business operations so that the Global Compact and its principles become part of



strategy, culture and day-to-day operations (described below);

- **Is expected to publicly advocate** the Global Compact and its principles via communications vehicles such as press releases, speeches, etc.; and
- Is expected to **publish** in its annual report or similar corporate report (e.g. sustainability report) a description of the ways in which it is supporting the Global Compact and its ten principles.

In terms of the practical ways in which companies pursue the principles, the Global Compact offers engagement opportunities to all participants through the following:

- **Global Policy Dialogues.** Each year, the Global Compact convenes a series of action-oriented meetings that focus on specific issues related to globalization and corporate citizenship. The meetings bring businesses together with UN agencies, labour, non-governmental organizations and other groups to find solutions to contemporary problems. Issues addressed have included “The Role of the Private Sector in Zones of Conflict”; and “Business and Sustainable Development”.

- **Local Networks.** The Global Compact encourages the creation of local structures and networks at the country or regional level. Such networks are designed to support: the implementation of the ten principles; mutual learning and information exchange; the convening of local/regional dialogues on globalization issues; partnership projects; and the recruiting of additional companies. The Global Compact Office and UNDP facilitate and support the process leading to the formation of these local structures.

- **Learning.** Companies are invited to share examples of corporate practices on the Global Compact web portal. In addition, participants are encouraged to develop in-depth case studies and analyses, and to use these for Learning activities in the corporate and academic worlds. Local, regional and international Learning events support the sharing of knowledge.

- **Partnership Projects.** The Global Compact encourages companies to participate in partnership projects with UN agencies and civil society organizations that are aligned with UN development goals.

Source: The Global Compact Website

## Activity 6. Joining with Trade-Unionists in Condemning Unfair Competition

### *Introduction*

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Employers in some countries have complained about unfair competition from goods produced by prison labour put at the disposal of private individuals or companies. In such cases, goods made by cheap forced prison labour have undermined the market for similar goods made with free labour. This Activity challenges the participating employer target group to take a position on this aspect of forced prison labour.

### *Objectives*

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- To give participants the opportunity to consider the persuasiveness of one argument against prison labour.

### *Task and arrangement*

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This Activity is carried out as a role-play, with participants divided into three groups. The script for the play is as follows. An employers' organization has received a draft resolution from the national trade-union movement. See Annex 32: The Exploitation of Prison Labour. The trade-unionists are asking the employers' organization to join them in urging government to suppress the use of forced prison labour where it represents unfair competition.

The **roles for the three groups** are straightforward. One group of employer members **favours** supporting the resolution, the second group **opposes** it, while the third group acts as an executive council, with power to **decide** the issue. The first and second groups must decide themselves on the arguments they will use to defend their positions.

The supporting and opposing groups are given 20 minutes working individually to muster their arguments and organize their presentations. After this, each group has five minutes to present its position to the executive council members, who are then free to ask questions. The executive council is then given 10 minutes to arrive at its conclusion and five minutes to present it, with a justification.

An open discussion of the matter follows.

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### *Approximate time*

45 minutes, plus time for the executive council to put questions to the opposing and supporting groups.

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### *Hints*

This Activity raises a “conservative” objection to forced prison labour, i.e. the unfair impact it may have on product competition. On its own, this argument seems to imply that a state-imposed system of prison labour that puts prisoners at the disposal of private companies but has **safeguards against unfair competition** is acceptable. **This is not, however, acceptable under international standards.** This point ought to be made to participants.

It might also be noted that the unfair competition resulting from the products of prison labour, **whether at the disposal of public or private individuals**, is grounds under World Trade Organization rules for the imposition of sanctions in international trade.

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### *Reference documentation*

Annex 32: The Exploitation of Prison Labour

## Activity 7. Joining the Global Compact

### *Introduction*

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The United Nations Secretary-General conceived the Global Compact as a challenge to the business community to abide by and promote ten principles, one of which deals with forced labour. It has become an important framework in which the business and employer community can help end forced labour practices. This Activity asks participants to decide if they can take up the Secretary-General's challenge.

### *Objectives*

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- To give participants the opportunity to see and discuss what the Global Compact is about;
- To give participants the opportunity to decide whether they, as employers/companies, could subscribe to the Global Compact;
- To actually secure letters committing to the Global Compact.

### *Task and arrangement*

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Participants should be familiar with the Global Compact, its purpose and means of operation. Participants' attention should be drawn to the following expectation of subscribing supporters of the Compact:

***... Is expected to publicly advocate the Global Compact and its principles via communications vehicles such as press releases, speeches, etc.***

**Task:** In small groups or in plenary, the following question (appropriately adapted to the group) should be posed:

***Can you/your company commit to the UN's Global Compact? If so, how would you/it participate, in particular, in bringing to an end state-sponsored forced labour practices?***

**Note:** The "How To Participate" section of Training Dossier 19: A Global Compact for Employers and Their Companies gives a general indication of how companies/employers are expected to participate. Groups should be asked to prepare an explanation of why they decided as they did and, if appropriate, what types of participatory action they would consider taking.

After the small groups have completed their consultations, their conclusions should be reported in plenary discussion.

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### *Approximate time*

30 minutes for discussion in small groups, 10 minutes for each small group to make its presentation, 15-30 minutes for discussion in plenary.

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### *Hints*

Ideally, this Activity should lead to employers/companies actually sending a Global Compact commitment letter.

Used on its own, this Activity could be the basis for a small, employer-targeted training exercise on forced labour, leading to the signing of a commitment letter by companies in a national, regional, or sectoral context.

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### *Reference documentation*

The model commitment letter, Annex 37: Company Information on the Global Compact, should be circulated to participants as a basis for deliberation.

Annex 36: Principle Four – Businesses should uphold the elimination of all forms of forced and compulsory labour

Global Compact promotional materials

The Global Compact: The Employers' Guide, available at the website of the International Organization of Employers, [www.ioe-emp.org](http://www.ioe-emp.org).

## Meeting the challenge as Workers

In this, as in other forms of forced labour, workers and their organizations play a critical role in leading the fight against the human rights violation that is state-sponsored forced labour.

In the international arena, workers' organizations can draw attention to offensive practices on the part of governments. Domestically, these organizations can use their influence to call attention to the practices and urge change.

### 20 Training Dossier

#### Making Observations to the ILO's Committee of Experts on the Application of Conventions and Recommendations

**Under what circumstances do participants envisage making observations on state-sponsored forced labour practices to the ILO Committee of Experts?**

Workers' (and employers') organizations have the right to make observations to the ILO's Committee of Experts on the Application of Conventions and Recommendations at any time concerning the application of an ILO Convention ratified by the State in question. This applies, of course, to the two ILO Conventions concerning forced labour, Nos. 29 and 105.

Each year the Committee receives between 250 and 400 such observations; 15 to 25% of which come from employers' organizations. The Committee typically acknowledges receipt of these observations in a published comment to the State concerned, and asks for its reply to any allegations made. The Committee can ultimately ask the Government to change the law or practice referred to in the observation so as to bring it into conformity with the relevant Convention.

There is no standard form for such observations. An observation may, for example, be sent in letter form to the Director General of the ILO, indicating that it is an observation addressed to the ILO Committee of Experts on the Application of Conventions and Recommendations concerning the application of a particular Convention, ratified by a particular State. The content of the letter would then constitute the allegation and the facts substantiating it.

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In addition to making an observation to the Committee of Experts, there is another procedure workers' organizations can use under the ILO's Constitution to bring offensive practices to light.

## Bringing a Representation under Article 24 of the ILO Constitution

By ratifying an ILO Convention, a State is obligated to implement the Convention and to report periodically on steps it is taking to implement it. Article 24 of the ILO Constitution allows an “industrial association of employers or of workers” to make a representation to the International Labour Office alleging that any member State of the ILO has failed to secure the effective observation within its jurisdiction of any Convention it has ratified. Considering that almost all ILO member States have now ratified Conventions Nos. 29 and 105, there is ample opportunity for such organizations to make representations against States that have policies of state-sponsored forced labour.

Under the special Standing Orders of the ILO Governing Body, the following procedure is used to examine representations.

First, the Office acknowledges receipt and informs the government concerned. The matter is then brought before the officers of the Governing Body, who subsequently report to the Governing Body on the receivability of the representation. Receivability is determined on the following criteria. The representation must:

- (i) be communicated to the ILO in writing;
- (ii) come from an industrial association of employers or workers;
- (iii) make specific reference to article 24 of the Constitution;
- (iv) concern a Member of the ILO;
- (v) refer to a Convention to which the Member in question is a party; and
- (vi) indicate in what respect it is alleged that that Member has failed to secure the effective observance within its jurisdiction of that Convention.

The Governing Body will then reach a decision on receivability without discussing the substance of the matter. If the representation is receivable, the Governing Body sets up a tripartite committee to examine the matter according to rules laid down in the Standing Orders. (There are separate rules concerning freedom of association allegations.)

The tripartite committee will report to the Governing Body, describing the steps taken to examine the representation and giving its conclusions and recommendations for decisions to be taken by the Governing Body. The government concerned will be invited to be represented at Governing Body meetings when the matter is under consideration. The Governing Body will decide whether to publish the representation and any government statement in reply, and will notify the association and government concerned.

The representation procedure has been used more frequently in recent years. Through it, the attention of the ILO’s Governing Body can be brought to bear on state-sponsored forced labour practices.

**Under what circumstances do participants envisage making an Article 24 representation on state-sponsored forced labour practices to the ILO Governing Body?**

## ***Building alliances and partnerships with civil society to end state-sponsored forced labour***

What can civil society organizations do to help end state-sponsored forms of forced labour? How can civil society organizations contribute to the important work done by workers' organizations in combating state-sponsored forced labour?

Workers' organizations are increasingly reaching out beyond the traditional workplace, connecting with other civil-society groupings and building alliances and partnerships at community, national, regional, international and global levels. Even organizations whose basic interests differ considerably may undertake joint action against various forms of abuse. The list of potential areas of common concern and shared values is long and varied, including the defense of human rights and workers' rights, the rule of law, the promotion of equality and anti-discrimination, corporate accountability, consumer protection, environmental protection, protection of vulnerable groups such as child labourers and trafficked women and children, etc. Fighting forced labour figures prominently in this list.

The tasks for civil society organizations working in alliance with trade unions to combat state-sponsored forms of forced labour clearly are different from those where, for example, private actors are the main beneficiaries of the practice and the state can at most be blamed with ineffectiveness in enforcing its own prohibitions. When it comes to state-sponsored forms of forced labour, trade unions, civil society organizations and employers' organizations operating within the State in question, face the full power of the State, its executive, police, military, and judiciary. This power can be formidable if the State moves in any of a multitude of ways to exercise it. The State's authority to maintain its borders can be used to hamper the efforts of international trade-union and activist organizations based outside the country to bear witness against abhorrent practices. All of the mechanisms within the State apparatus normally available to civil society

### 22 Training Dossier

Successful workers' organization alliances and partnerships with other civil-society groupings tend to have certain characteristics.

- The organizations in the alliance clearly derive mutual benefit (for example, through joint action, enhanced capabilities and resources, and the exchange of information).
- The alliance or partnership results in action that wins the support of the wider public.
- The union is able to capitalize on the fact that its membership represents not only workers but also consumers, who can make their voices heard through their purchasing power, political parties, religious organizations, etc..

organizations to promote their work – even if they are of only marginal assistance – are completely absent where the State sponsors forced labour practices. Helpful labour inspectors, police and prosecutors and favourable law and policy themselves, are absent when it comes to forced labour matters. Worst still, the state apparatus is used in support of human-rights violations. These differences may mean that trade unions have to adopt different emphases and strategies in the way they work, and in their cooperation with civil society organizations.

What can civil society organizations, in alliance or partnership with workers' organizations, do? A three-pronged approach is required.

**Can participants suggest other differences between state sponsored forms of forced labour and other forms of the phenomenon, in relation to the challenge faced by civil society?**

## Characteristics of Successful Partnerships

- The union itself demonstrates its own democratic credentials. A union cannot successfully enter into alliances to promote democracy and social justice unless its own internal structures demonstrate such values.
- There is an established institutional structure or framework for such alliances (For example, some unions now have units specifically mandated to seek out alliances with other groups).
- There is some initial investment of human or financial resources by all parties to fund joint action.
- There are opportunities for the general union membership to become involved.
- The alliance or partnership leads to better understanding of the perspectives of different social actors and helps build mutual respect and trust.
- There is an open and honest relationship, with a maximum of information-sharing and reciprocal transparency and accountability.
- The alliance or partnership is a means of reaching otherwise difficult-to-reach groups. For example, collaboration with local member-based organizations enables unions to tap into the networks that the civil-society organizations have developed at grassroots level, especially with women in the informal sector and in atypical forms of work.

Based on Promoting Gender Equality: A Resource Kit for Trade Unions, Booklet 6 – Alliances and Solidarity to Promote Women Workers' Rights (ILO 2002), page 10

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## Witnessing and documenting

Establishing that a forced labour practice actually exists can be particularly difficult where the State is actively involved in trying to hide it. The work of civil society organizations in **witnessing and documenting offensive practices**, together with efforts by workers' organizations, is of utmost importance.

**Developing training methods for witnessing and documentation is beyond the scope of these materials.**

An organization called *Human Rights Information and Documentation Systems, International* has worked for decades in this area, producing internationally recognized methodologies for civil society organizations. See [www.huridocs.org](http://www.huridocs.org).

## ***Raising awareness and calling for action***

A second main area of work for civil society groups in alliance with workers' organizations is in **calling for action by others**. This can be done in ways ranging from petitioning or lobbying for an end to

the practice – practical in democratic environments – to publishing recommendations that others act to call for condemnation through national and international mechanisms.

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## ***Pressuring for action***

A final area for civil society efforts, amplifying similar efforts by workers' organizations, is in taking **steps specifically designed to pressure** the offending State or parties benefiting from its forced labour practices to put a stop to them. Examples of action designed to exert pressure and bring an end to state-sponsored forms of forced labour include:

- Non-violent civil disobedience;
- Filing allegations of non-compliance with international supervisory mechanisms;
- Initiating boycotts.



## Filing Complaints to Enforce International Human Rights Standards

Developing training methods for civil society group use of UN procedures is beyond the scope of these materials. However, an organization called *Human Rights Information and Documentation Systems, International* has worked for decades in this area, producing internationally recognized methodologies for civil society groups. See [www.huridocs.org](http://www.huridocs.org).

Unlike their alliance-partner workers' organizations, civil society groups do not have access to formal reporting and complaint procedures within the ILO. They can, however, be involved in bringing complaints directly under international human-rights treaties and complaints filed through special procedures with the Commission on Human Rights and the Commission on the Status of Women. Depending on the case and the procedure involved, a civil society organization may be able to bring a complaint directly; alternatively, it can assist the person(s) actually affected by the offensive practice in bringing a complaint.

Complaints mechanisms exist under the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination against Women. Where aspects of a state-sponsored form of forced labour fall within the scope of the rights set out in these treaties, a basis for complaint may exist.

The complaint mechanisms under the individual treaties are complemented by procedures for bringing complaints before the Commission on Human Rights and the Commission on the Status of Women. These two procedures, involving political bodies composed of state representatives, are among the oldest in the United Nations system. They have a different focus from complaints under the international treaties, which provide individual redress through quasi-judicial mechanisms. Complaints to the Commissions focus on more systematic patterns and trends of human-rights violations and may be brought against any country in the world.

Complaint mechanisms under the four treaties named above are different, and are worthy of individual study and presentation each in its own right.

Generally speaking, however, two conditions determine whether a complaint can be brought against a particular State. First, the State must be a party to the treaty in question. Second, the State party must have recognized the competence of the committee established under the relevant treaty to consider complaints from individuals. If these two conditions are met, anyone can lodge a complaint alleging that his or her rights under the relevant treaty have been violated.

Further information on the content of training can be found at the website of the Office of the High Commissioner for Human Rights, [www.ohchr.org](http://www.ohchr.org).

## Activity 8. Which Case is Worthy of Comment?

### *Introduction*

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When would a workers' organization voice objections to state-sponsored forced labour through the ILO's regular system of supervision of international labour standards? This Activity poses the question using current cases.

### *Objectives*

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- To give workers' organization representatives the opportunity to consider what type of case would provoke sufficient concern to merit a comment to the ILO's supervisory bodies;
- To expose participants to the operation of the supervisory mechanisms, and the role they can play in making comments on the application of ratified conventions.

### *Task and arrangement*

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Participants should be made familiar with the regular system of supervision of ratified ILO Conventions prior to undertaking this Activity.

This Activity may be done in plenary or in small groups.

**Task.** Working from a selection of observations made by the Committee of Experts on the Application of Conventions and Recommendations, participants are required to quickly review the cases and choose one that would warrant its comments **if the laws and practices described were occurring in the participants' own country.**

The facilitator should select cases that involve elements of state-sponsored forced labour.

If working in groups, each group may have the same or different sets of cases to choose from. The groups should return to plenary after they have deliberated and made their selection, each presenting a short summary of the nature of the case and the basis for their selection.

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### ***Approximate time***

To be determined according to the number of cases to be considered, approximately 15 minutes for each case, plus five minutes for each group presentation and time for final discussion

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### ***Hints***

This Activity can be adapted for use by an employers' organization target group.

The selection of cases may also be adapted to bring in other forms of forced labour.

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### ***Reference documentation***

A selection of observations concerning application of Convention Nos. 29 or 105 from a recent report of the Committee of Experts on the Application of Conventions and Recommendations.

## Activity 9. Using Radio to Raise Awareness among Forced Labourers

### *Introduction*

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This case study Activity looks at the potential role of trade unions in raising citizen's awareness of their human rights, including the right to be free from forced labour.

### *Objectives*

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- To give participants an opportunity to appreciate the awareness-raising role that can be played in difficult state-sponsored forced labour scenarios;
- To get participants to design an awareness-raising message;
- To get participants to consider the difficult question of proposing action to oppose state-sponsored forced labour practices.

### *Task and arrangement*

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Participants should be divided into a small number of small groups to consider the following situation and perform the related task:

You are members of a trade-union committee tasked with proposing a method for raising the awareness of citizens of your country who are subjected to state-sponsored forced labour practices. In this case, the Government uses the police and military to force the rural population to harvest cash crops grown on government-owned plantations. The practice has gone on for decades, despite the ratification of international forced labour conventions, national constitutional provisions against forced labour, and national labour laws making forced labour or slavery a criminal offence. The trade-union movement is weak in the areas concerned, with little opportunity for access and limited financial and human resources. Much of the population concerned is illiterate. **Radio has thus been selected** as the most appropriate method for raising the awareness of workers as to their rights.

**Task:** The trade-union committee is to decide the following three questions and prepare a short oral report justifying their results.

***What message should be broadcast via radio?***

***What is the primary objective of the message?***

***Should the message recommend, suggest, or tell affected population groups what to do if or when forced labour is imposed upon them?***

After small-group deliberation, participants should report and compare their results in the plenary session.

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### ***Approximate time***

30 to 60 minutes for group work, 15 minutes for each group presentation, 30 to 45 minutes for comparison and discussion. This time-frame would be extended if the Activity were done in a real-life context.

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### ***Hints***

This Activity would ideally be undertaken in a training context where an actual awareness-raising campaign is being considered by the target participant group.

This Activity can be adapted to deal with other forms of forced labour, and for use by civil society target groups.

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### ***Reference documentation***

None needed

## Activity 10. What Message should be Communicated to Raise Awareness?

### Introduction

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The messages that need to be communicated to raise awareness of the unacceptability in terms of international standards of forced or compulsory prison labour, and of forced labour in public works contexts, are likely to differ considerably. However, workers' organizations, in alliance with civil society organizations, have an important role to play in both cases. This Activity looks at how such messages could be developed, with a view to strengthening awareness-raising capacity.

### Objectives

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- To strengthen awareness raising capacity by looking closely at the messages most likely to help end offensive practices.

### Task and arrangement

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Prior to this Activity, participants should be exposed to these two forms of state-sponsored forced labour, and shown how they are contrary to international standards.

This Activity is to be done in two small groups. One group is to deal with **clearly unacceptable** prison labour (i.e. there is no question of the work being voluntary, and prisoners are put at the disposal of private individuals) and the other group with **state-sponsored forced labour in public work**.

**Task.** Each group is to discuss and develop the main messages to be communicated in an awareness-raising campaign on its respective form of forced labour. The campaigns in both cases are intended for a **domestic audience**; the media used is irrelevant. The **precise** characteristics of the offensive forced labour practices are also irrelevant; the groups are to base their campaign and messages on what they know about the type of practices that would be contrary to international standards, i.e. prison labour placed at the disposal of private companies or individuals, or the State compelling persons to work under threat of penalty. Precise characteristics may be referred to if the participants are familiar with specific practices in the context of a training activity.

The results of the group work should have **two components**:

- A statement of what the audience receiving the message(s) is **asked to do**;
- A description of the **content** of the message communicated and **how it is expected to influence** the receivers to do what is asked.

Groups may indicate that the target audience is **not asked to do anything**, i.e. that the message is intended to raise awareness of offensive practices and nothing more. **In this case**, however, the group must say specifically how the hoped-for increase in awareness will help end the offensive practices.

Groups are to present their results in plenary, after which discussion may ensue. Ultimately, members of each group are to vote on whether the other group's message was convincing and whether they would act in the way requested by the other group. If no action was requested, the vote should be on whether or not the increased awareness generated by the message would help end the practice in question.

A response of the following kind might be expected. Further detail is to be encouraged.

***Messages relating to prison labour:***

- Firms given access to prisoners' labour.
- Labourers have no choice and receive no wages or benefits.
- The practice is contrary to international standards.
- Jobs on the free labour market are lost.\*

*\*[Technically, this is not a forced labour issue but may well be included in a response given by a group.]*

***Asked to do:*** Sign a petition asking Parliamentarians to look into and change the practice.

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### ***Approximate time***

30–45 minutes for group work, 10 minutes for each group presentation, 15 minutes for discussion and voting.

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### ***Hints***

This Activity can be adapted and used in relation to other forms of forced labour. It may also be used by other target groups and in relation to non-domestic awareness-raising.

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### ***Reference documentation***

None needed

# Activity 11. Targeting State-Sponsored Forms of Forced Labour by Pressuring Private Beneficiaries

## *Introduction*

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Trade unions and civil society can bring significant pressure to bear on governments and private actors in their efforts to combat forced labour practices. But decisions have to be taken as to precisely how to do this and under what circumstances. This Activity deals with this issue.

## *Objectives*

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- To give workers' organization and civil society participants the opportunity to consider the tools at their disposal for influencing beneficiaries of forced labour practices;
- To give participants an opportunity to consider the factors that influence the use of these tools.

## *Task and arrangement*

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This Activity is a case study to be worked on in plenary or in two small groups.

Participants are given the facts of **two cases**:

A. The Government has an agreement with Company X whereby Company X provides work to common prisoners in return for supplying security, food, and consumables in the prison. Company X sells products produced in the prison on the open market.

B. The Government has an agreement with Company Y whereby Company Y agrees to develop and promote a leisure facility for tourists at a remote location in the country in exchange for Government's development of roads and other infrastructure (water and electricity supplies) that will service the newly developed area. There is talk of Government forcing local inhabitants to do the infrastructure development work.

**Task:** Participants are to consider the following list of factors and decide how they would influence their decision on the type of action to take in relation to companies X and Y in an effort to ensure that international standards on forced labour are respected. Participants should consider (a) the broad range of possible actions and (b) the range of characteristics relating to each factor.

1. Ultimate objective of the pressure
2. National vs. international trade-union body
3. Undisputed facts of the forced labour situation
4. Company's denial/acknowledgement of agreement
5. National or transnational nature of the company
6. Government's susceptibility to pressure
7. The nature of the companies' ultimate product and market
8. The public's attitude toward the type of forced labour being exploited

The task may be facilitated by first getting the groups (or group) to make a list of the possible actions that a trade union might contemplate in each case, reference being made to the discussion in Annex 33. (This could be done generically in plenary before splitting into groups.) They could then give further consideration to the possible actions.

If the Activity is done in small groups, the groups come together after considering their cases, report on their conclusions, compare and discuss their results in plenary.

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### *Approximate time*

45 to 60 minutes for small-group consideration of each the cases (each group working with one case), 30 to 60 minutes for reporting of group conclusions and discussion

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### *Hints*

This Activity can be adapted with a view to action being taken in relation to the Government. Its thrust may also be adapted to deal with other forms of forced labour; appropriate case scenarios would have to be prepared.

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### *Reference documentation*

Workers' organizations' participants may benefit from an analysis of civil society organization experience in this area. See Annex 33: Civil Society and the Politics of Pressure in a Globalizing Economy



PART 1 2 3 4

Forced Labour,  
Poverty and  
Discrimination –  
Forced Labour  
Exacted by  
Private Agents



## Part III: Forced Labour, Poverty and Discrimination – Forced Labour Exacted by Private Agents

Despite the universal condemnation of forced labour, and the longstanding illegality of the practice in almost every country of the world, **poverty and discrimination** create circumstances in which forced labour continues to exist in practice. The ILO's 2005 Global Report on Forced Labour, Global Alliance Against Forced Labour, argues that the elimination of forced labour, particularly that which involves private agents, ultimately requires the eradication of poverty and discrimination. The vulnerability that is so

closely linked to forced labour, and taken advantage of by private agents, will only then be neutralized.

Direct efforts to reduce poverty and discrimination need to be paralleled by action to combat the results of these types of social injustice, in particular forced labour, which can take the form of:

- slavery, and
- debt-related or bonded labour.

### Slavery

**Chattel slavery** is a distinct – and the most “traditional” – form of forced labour. Chattel slaves are **treated as property**, for purchase and sale, and are held as non-humans without respect for any human rights whatsoever. On account of the long-held traditions underpinning the practice where it still exists, actions to eliminate it can be hampered or made particularly difficult.

The **physical abduction** of persons for forced labour purposes is certainly not as common in the modern world as it was before slavery was outlawed. Relatively rare contemporary cases have nevertheless been detected, most particularly in parts of Africa, although abductions have also occurred elsewhere, particularly in conflict-torn societies. Abductions may take place in the context of traditional rivalries or in out-and-out armed conflict. The release and rehabilitation of former slaves is therefore a key element in national reconciliation. Breaking the cycle of forced labour in a conflict situation may also

Article 1(1) of the Slavery Convention of 1926 defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

influence its course, given that the fruit of that labour may be helping to sustain the fighting.

The linkage between “traditional” slavery and possible present-day forced labour is clearly a sensitive issue in Africa. It is principally in the Sahelian countries of West Africa that at least some concern has been expressed about alleged on-going slavery-like practices or

discrimination against slave-descendants. Indeed, the predicament of West Africans of slave descent, particularly those still suffering from discrimination and labour exploitation, has received considerable attention over the past decade.

In practice, there can be some blurring of distinctions between slavery and other forms of forced labour. This is particularly so in more popular literature. Do participants agree that it is important to distinguish between these types of forced labour? Why?

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Chattel Slavery's Long History  
Hampers Elimination

Legal provisions prohibiting forced labour, if they exist at all, typically cover chattel slavery practices. **Practical problems in their enforcement arise**, however, where the issue of ownership and control has disintegrated into a form of social interaction in which the slave, because of birth into servitude and generational continuity of the practice, subjugates him or herself to the master in a way that appears voluntary and mutually beneficial. Thus, the slave denies the fact of ownership when questioned as to his or her condition in relation to the master. This denial hampers liberation.

Where chattel slavery exists, the **State is often oblivious** to it, or decides to ignore it on account of its long history. A first critical task is therefore to win the political commitment of the government to actually do something to eradicate traditional practices of this kind.

If the State acknowledges the problem and attempts to intervene, an **issue of payment** for liberation may arise. As chattel slaves, these human beings are thought to have a monetary value like any other kind of property. This is a problem that has to be dealt with in a straightforward way that does not legitimize claims for property rights in human beings, and such claims must be dismissed.

Complex issues of **ethnic, social, and/or religious discrimination** also arise in cases of traditional chattel slavery. The result is to further entrench the practice.

Compared with other forms of forced labour, some might argue that traditional chattel slavery, where it still exists today, is among **the most difficult to combat because it is rooted in long tradition**.

For more descriptive information, see *A Global Alliance Against Forced Labour*, paragraphs 201 et al.

Can participants suggest solutions with respect to each of these aspects?

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**Debt-related forced and bonded labour**

When a worker continues to work involuntarily in order to **pay off a debt**, and faces coercion or a penalty if he or she attempts to leave the work, a situation of forced labour exists. There are many ways in which such a debt can come into being. It may be intergenerational, it may be started by an advance of wages, it may be augmented by the charging of excessive interest or the provision of goods or services by the employer/creditor. In all cases, it results in

coerced and involuntary giving of labour services.

Systems of **peonage** and **serfdom** have for the most part been successfully eradicated over recent decades. Other forms of debt-related coercion and compulsion have however been detected. **Rural workers** may still be locked into debt through advances made by recruiting and transporting agents, who are often independent

contractors supplying a labour force for landowners or other forms of rural enterprise. In isolated areas, workers have no choice but to incur further debt in return for food and other necessities supplied by the landowner or contractor, or to accept goods in lieu of wages (the so-called “truck system”). Physical restraint and force are often used against rural workers caught up in such debt bondage situations. Sometimes debts run up to finance dowries, weddings, funerals and other ceremonies have to be paid off by cultivating crops.

Serious problems exist in **remote areas**. For example, where tropical forests have been opened up for agricultural, mineral or forestry development, the persons susceptible to abuse may be indigenous and tribal peoples. A **common feature** tends to be that these workers end up very far from home, often in inhospitable and inaccessible areas. This isolation increases their vulnerability to abuse, and lessens the chance of effective redress through formal-sector law enforcement institutions, trade-union representation or community networks. Problems of coercion are therefore often **connected with seasonal labour migration**, both within and across national frontiers. The migration may be to jobs in agriculture, forestry, processing of food products or materials, or domestic work – but there is a danger in all cases that debt bondage will result.

Can participants elaborate on how and why *inaccessibility and distance from home* can lead to vulnerability and the potential for forced labour? Are similar environments found in the participants’ countries? What steps might be taken to deal directly with this aspect of the problem, without prohibiting migratory labour?

It is Latin America that provides the richest source of information on forced labour in rural settings.

Though rural serfdom has been largely eradicated, pockets of virtually **unpaid labour with service obligations** are still being detected in Latin America — with serious abuses mainly against indigenous workers in the rural sector. There have been allegations of the coercive form of recruitment under which indigenous workers are provided with the means of subsistence **through a debt** that has to be paid off by producing goods and services. In the Andean countries too, indigenous peoples have been particularly affected by forced labour in rural areas. This has been detected in parts of the Amazon basin. A joint inspection programme coordinated between the judicial authority, police, and a number of government agencies in Peru has found that most indigenous people employed in logging activities in riverside areas work for employers who pay for their services in food and clothing.

Can participants explain how efforts to eliminate this form of traditional forced labour are affected by the fact that abuses occur particularly against indigenous workers? What factors need to be taken into consideration in planning action involving this vulnerable group?

Can participants explain how efforts to eliminate this form of traditional forced labour are affected by the fact that recruitment occurs through intermediaries? What factors need to be taken into consideration in planning action where this is a factor?

From the available information on rural labour markets in Latin America, it would appear that present-day systems of **recruitment through intermediaries** represent an evolution of the traditional forms of recruitment that have existed in different forms in the region for many decades. One ILO study on seasonal rural workers in Latin America suggests that the debt factor may be far less important than previously in these recruitment systems. For indigenous workers, however, advance payments are still used to induce indebtedness before the harvest season.

Similar recruitment methods appear to be used in a number of Latin American countries where indigenous peoples perform much of the seasonal labour in commercial agriculture. Landowners have recourse to **independent labour contractors**, who make advance payments at times of scarcity in peasant communities. In Guatemala, research in the mid-1990s found that most recruitment was carried out in this way. Sometimes indigenous people themselves received commissions for each worker recruited, despite the prohibition of this practice by law; and advance payments were widespread.

Current ILO research on **indigenous (internal) migrant labour** in the sugar harvest has uncovered a similar pattern, with workers being locked into a cycle of debt-related forced labour. Contracts are verbal, and although labour contractors are expressly prohibited by law, they remain the key intermediaries. Cane-cutters may borrow the monetary equivalent of 40 tonnes of sugar at the beginning of the harvest and it is difficult for them to pay off their debts by the end of the four-month

campaign. Indigenous workers therefore tend to request another loan at the end of the harvest, subject to their promising to return the following year.

**Bonded labour** is still a widely practised form of forced labour, particularly in South Asia. We advocate a **five-stage approach** to conveying the nature of the problem in a training environment and suggesting ways of combating it:

- **Defining** bonded labour;
- Illustrating why a **responsive legal framework is essential** and how one is created;
- Showing that **identifying bonded labourers** is an essential step in combating the problem;
- Demonstrating that the **liberation** of bonded labourers must follow identification;
- Showing that the liberation of bonded labourers is not enough on its own and that only **employment ensures lasting freedom**.

## Defining bonded labour

Convention No. 29 does not provide a definition of bonded labour. Who then is a **bonded labourer**?

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Are participants aware of definitions of bonded labour from their own countries? What are the critical or common elements of these definitions?

### International Standards Defining Bonded Labour

Several international standards define forced labour, including ILO Convention No. 29. Convention No. 29's definition implicitly includes bonded labour.

The United Nations' 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery **defines debt bondage** 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.

This definition clearly distinguishes bonded labour from a situation in which a worker accepts credit for whatever reason and then repays the amount by working. In the latter situation, the repayment terms are fixed and the capital sum borrowed is subject only to reasonable interest rates. In the



case of bonded labour, these safeguards do not exist as the terms and conditions are either unspecified, or not followed, thus leaving the bonded labourers at the mercy of their employer or creditor.

The Convention goes on to define a related concept, serfdom, as

... the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.

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The term refers to a worker who renders service under **conditions of bondage arising from economic considerations**, notably indebtedness through a loan or advance. But factors of poverty, inequality and social status also play an important part in practice. The implication of the economic debt factor is that the worker (or his or her dependants or heirs) is tied to a particular creditor for a specified or unspecified period until the loan is repaid. The practical result of factors such as poverty, inequality and social status is that it is extremely difficult, if not impossible, for the indebted labourer to repay

the debt and secure his or her freedom.

Is child labour automatically forced labour? Do children have a special status in the context of forced labour arising from debt?

Can participants distinguish between situations where *conditions of work are extremely exploitative, but where workers are free to leave, and situations where economic considerations themselves bind the worker to the work and make it impossible for the worker to leave? Can they give examples of each type of situation? Enunciating the differences can improve understanding.*

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### The Special Situation of Children in Debt Bondage

A working child is not necessarily a forced labourer. As long as the child works voluntarily and free from threat of penalty or coercion, the harm done is in the nature only of child labour, not forced labour.

Leaving aside some difficult practical questions concerning how a child can assent to voluntarily giving certain types of labour (commercial sexual exploitation, for example), and focusing on those situations where children are clearly working as forced labourers, there can be little doubt that children are the most vulnerable of all workers when it comes to forced labour. This is seen from the circumstances surrounding their capture into debt-related forced labour:

- Children, along with women, are bonded into labour by male-headed households;
- Children are sold into bondage as payment for the debts of parents;
- In addition to being indebted labourers, children are often subjected to excessive

workloads because they are also burdened with domestic work;

- Child-bearing and child-health expenses can play a role in families taking on debt leading to debt-related forced labour;
- Systems of remuneration sometimes do not acknowledge work done by children, making a break in the cycle of debt-related forced labour less possible and perpetuating poverty;
- Parents accept wage advances against the labour of children who, in turn, are paid less than adult workers, with the result that the children have to put in even longer working hours;
- Forced labour interrupts schooling, making it even more difficult for children to break away from debt-related bondage by taking better-paying work;
- The normal dependence of children on adults makes them even more susceptible to coercion at work.

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What needs to be done to combat and eliminate the practice?

## *The responsive legal framework*

First, legal intervention is required to **declare unlawful** the kind of bonded labour outlined above, and to **provide for sanctions** against those landowners or other employers who hold their workers in bondage.

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In the case of bonded labour, legal provisions must be introduced to **nullify bonded debt obligations, as well as to prohibit bonded labour**. Under normal circumstances, debt obligations are treated in quite a different manner: they tend to be reinforced by mechanisms such as the withholding of wages, forced sale of property, etc., or tempered in cases of extreme economic hardship by bankruptcy proceedings. A method for legally extinguishing debt is required where debt bondage is concerned. Negotiating such a method among members of civil society can be difficult.

Appropriate legal provisions have been put in place in those countries most affected by debt bondage today. In India, for example, the Bonded Labour System (Abolition) Act,

While the introduction of domestic legislation is a **prerequisite** for tackling bonded labour, it has **not been sufficient** in itself to ensure that bonded labour is effectively eliminated. There are a number of reasons for this.

To be effective, laws must be **enforced**. This has proved to be challenging for many reasons. First, those who keep and control bonded labourers – landlords, factory owners, hotel and restaurant owners, quarry owners, etc. – are able to bribe officials to ensure that cases are not investigated, or do not reach the courts. Second, intimidation, threats and actual violence are used to prevent bonded labourers or non-governmental organizations from seeking their release through the law. Third, because bonded labourers are often from the lowest status social groups, they are typically subjected to discrimination and gross violations of many of their human rights, even beyond their right to choose work freely.

The challenge of law enforcement is, nevertheless, one that must be met if forced labour is to be eliminated.

Can participants say why domestic legislation is a necessary prerequisite, but not sufficient in and of itself, to eradicate bonded labour?

## What Special Legal Provisions must be Enacted to Combat Bonded Labour?

1976, makes the following important basic provisions, in addition to those for implementing the law:

- Abolition of the bonded labour system;
- Pronouncing null and void existing agreements, contracts or customs;
- Extinguishing liability to repay bonded debt;
- Freeing the property of bonded labourers from mortgage;
- Protecting bonded labourers from eviction from their homes;
- Prohibiting acceptance of an extinguished debt by a creditor, and making acceptance punishable by prison or fine.

The fact that debt bondage continues to exist leads to the next step in training: emphasizing the importance of law enforcement.

See Annex 25 for a selection of extracts from the Bonded Labour System (Abolition) Act, 1976 (India) illustrating these provisions. See also A Global Alliance Against Forced Labour, para. 83, et al.

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### *Identifying bonded labourers*

Once a proper legal framework is established, bonded labourers have to be identified. The identification of bonded labourers has presented certain difficulties, throughout the Asian region in particular.

Although much bonded labour has traditionally been in agriculture, recently attention has been paid to the emergence of forms of bonded labour elsewhere. Mining, brick-making, leather-working, fish-processing and carpet-making are among the industries where bonded labour has been detected outside agriculture.

See Annex 22 for a case describing a situation of impunity in the enforcement of laws prohibiting forced labour in Brazil. Activity 13. *Can Trade Unions and Civil Society Help Bring an End to Impunity?* takes up the question of what civil society organizations can do to help change situations in which the law is not enforced.

## How Rural Labour Relations can Make it Difficult to Identify Bonded Labourers

Can participants say why it is necessary to identify workers as bonded labourers?

There have been lengthy academic debates as to whether certain patterns of rural labour relations should be classified as “free” or “unfree”, in the light of the agrarian and social changes that have affected the Asian region over the past few decades. Some analysts associate bonded labour with traditional patterns of land-ownership, including the caste-based or personally bonded labour which is secured by debt, and which can frequently extend across generations. Others argue that bonded labour has also been a feature of recent trends in commercial agriculture, both large and small-scale, involving the debt-based attachment of casual and migrant workers. As now recognized within the framework of the United Nations Commission on Sustainable Development, sustainable agriculture is not possible without respect for fundamental principles and rights at work.

Precarious forms of tenure such as sharecropping can also present difficulties. Sharecroppers receive a proportion of the harvest, which can vary considerably, as earnings in kind. Under more favourable arrangements, they might receive half or more of the harvest without any obligation to provide tools, seeds or other inputs. Under less

### *Liberation of bonded labourers*

The next step is the actual liberation of bonded labourers. The process of liberation is not as simple as a declaration of the fact. Physical and legal liberation is often needed, requiring action by authoritative persons, typically the police. Labour inspectors, courts, vigilance committees, trade unions and civil society organizations can also play a role. Resistance by the creditors of bonded labour – the “employers” – can pose an additional, almost insurmountable, hurdle if current experience in affected countries is anything to go by. In some instances, labourers themselves flee with little or no assistance from external authorities, but at considerable risk to themselves and their family members.

Can participants say what would be the ideal authority for liberating bonded labourers? And why.

### *Rehabilitation measures*

Supplementary measures are normally needed, including economic assistance and rehabilitation, to assist the released workers in earning a livelihood, thereby ensuring that they do not fall back into a situation of bondage.

There has been criticism of the slowness of programmes to liberate bonded labourers. Some researchers have noted a lack of international attention to bonded and other forms of forced labour, in contrast to the issue of child labour. Would participants agree that international action is important to prompt more and better national action? If so, what type of action would be most effective?

favourable arrangements, they may have to furnish inputs, receive perhaps less than half of the produce, and also have to provide different kinds of unpaid labour services to landowners on demand. In such cases, sharecropping systems have much in common with the rural serfdom that has until recently been widespread in the Indian subcontinent and other developing regions, and that is sometimes interpreted as a form of bonded labour.

And yet sharecropping, like other forms of share tenancy, does not necessarily equate to poor working conditions, or any form of economic and extra-economic coercion. In the post-independence land reform era, the “land for the tiller” programmes of the South Asian region sought tenancy protection and some limitations on private agrarian property through the imposition of ceilings on the size of individual land ownership. As in India, the land reforms enacted in different states after

the 1950s aimed: first, at abolishing such intermediary forms of tenure as the *zamindari* system; second, at providing security of tenure to tenants; and third, at imposing a ceiling on land-ownership. Direct tenants of the *zamindar* estates became the new owners, though other complex layers of sub-tenancies and sharecropping were not affected by the reforms. However, while there has sometimes been a tendency in policy analysis to equate sharecropping with the perpetuation of “semi-feudal” conditions, these views have been quite widely challenged. As redistributive land reform has dropped off most development agendas, tenancy and sharecropping have been viewed more favourably — as steps on the “agricultural ladder” to full land-ownership.

These supplementary steps, similar to those taken in freeing people from most traditional forms of forced labour, involve such things as:

- social empowerment and group organization;
- literacy and numeracy training;
- skills training;
- access to employment;
- access to resources for self-employment, including land and finance;
- normalization of legal status;
- schooling for children;
- health services;
- housing.

See Annex 28, On the release and rehabilitation of bonded labourers, for a case study describing the issues associated with liberation and rehabilitation.

### *Meeting the challenge of forced labour stemming from poverty and discrimination*

The fact that some of the forms of forced labour discussed in this Part have been around for many, perhaps hundreds, of years poses particular challenges for combating them.

- How best to tackle the poverty and discrimination that lie behind the persistence of traditional forms of forced labour?
- How to create a sense that such forms of exploitation have no place in the modern world?
- How to tackle the climate that allows perpetrators of forced labour to go unpunished?

The Training Dossiers in the remainder of this Part give **examples of and approaches to** different efforts that are being made to stop slavery and abduction, bonded labour, forced labour in rural areas – all rooted in discrimination and poverty – globally.

## Activity 12.

# What do Status and Discrimination Have to Do with Forced Labour?

### *Introduction*

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How does the status of women and men, girls and boys, and various ethnic, racial, religious and age groups within society, affect their vulnerability to situations of forced labour? What are the implications for strategies to eliminate all forms of forced labour? This Activity deals with these questions.

### *Objectives*

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- To sensitize participants to an important aspect of the problem of forced labour in its traditional forms;
- To explore with participants how work on improving the status of vulnerable groups is an important part of any strategy to end forced labour practices as they exist in their traditional forms.

### *Task and arrangement*

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**Task 1.** In plenary, participants are asked to **brainstorm** on the following question:

***How can a particular status (i.e. childhood, gender, membership of a particular race, religion or political grouping) make persons particularly vulnerable to traditional forced labour practices?***

The following types of responses can be expected. Many should be elicited.

Children are weak and cannot defend themselves from abduction.

Children are dependant on others for food and shelter and can therefore be coerced into forced labour in order to get these things.

Disrespect for the human rights of a particular group leaves them vulnerable to abuse by dominant powers, e.g. they cannot look to the State for protection, their rights are not respected by other groups, etc.

**Task 2.** Participants are asked to read Annex 15: Abductions and Slavery in Liberia, Mauritania and Sudan, and Annex 17: Eradicating Bonded Labour: Practical Experience in India and Pakistan, and on the basis of these studies to:

- Identify the **groups** that are vulnerable to forced labour in the case of each country discussed;
- Indicate **how the vulnerability** of each group **is exploited** – according to the case study – with the result that group members are subjected to forced labour.

**Task 3.** Participants are asked to consider how the vulnerability of the various identified groups could be reduced, by what actions, taken by whom. Examples can be taken directly from the case studies, as well as developed by the participants themselves.

**Task 4.** Participants are asked to prioritize the proposed actions according to which would be the most effective in reducing vulnerability and say why, particularly taking into account the answers to the question posed in Task 2, point 2 (“Indicate how the vulnerability...”).

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### *Approximate time*

If the Activity is done entirely in plenary, **Task 1:** 15 minutes; **Task 2:** 30 minutes, plus time for reading (which could be done in advance); **Task 3:** 30 minutes; **Task 4:** 30 minutes.

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### *Hints*

This Activity can be done in plenary or in small groups.

This Activity can be shortened to include only Task 1, or adapted to include only Tasks 2 and 3, or only Tasks 2, 3, and 4, depending on the backgrounds of the participants and the broader purpose of the training.

The readings in this Activity can be substituted with actual local experience, where training is taking place in a setting where traditional forms or forced labour are found and are the subject of the training intervention.

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### *Reference documentation*

Annexes 15: Abductions and Slavery in Liberia, Mauritania and Sudan, and 17: Eradicating Bonded Labour: Practical Experience in India and Pakistan.

# Activity 13. Can Trade Unions and Civil Society Help Bring an End to Impunity?

## Introduction

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It has been suggested that, although an appropriate legal framework is absolutely necessary for combating modern forms of forced labour, it is not alone sufficient. Without respect for laws, and their enforcement in the face of violations, there can be little hope of breaking cycles of forced labour. Although government is charged with making and enforcing the laws of the land, evidence suggests that in some places there is little respect for the rule of law. In these places, circumstances have developed in which violations of the law go on with impunity. This Activity asks government participants: Can trade unions and civil society help tackle an environment of impunity?

## Objectives

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- To give participants an opportunity to consider the issue of impunity and how it helps perpetuate forced labour practices;
- To give participants the opportunity to consider how to bring an end to impunity with the help of trade unions and civil society.

## Task and arrangement

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Through training prior to this Activity, participants should be exposed to the idea that, although legal frameworks prohibiting and penalizing forced labour are necessary, they are not sufficient for combating the problem.

To work on this Activity, participants may either be divided up into groups (by country, region or interest area), or work through/discuss the Activity in plenary.

The case described in Annex 22 should be distributed. This may be substituted by other material which illustrates an environment in which violations go unpunished.

**Task 1.** Participants are asked to read the case study and identify specific **instances of impunity**. In other words, what evidence is there that, although there are violations of the law, **the persons responsible are not, in fact, held responsible** before the law? Possible answers:

Forced labour prosecutions are infrequent, despite an accumulation of incriminating evidence.

Freed forced labourers are subjected to forced labour again.

Individuals who were once charged with violations but not convicted are subsequently charged repeatedly.

Labour inspections repeatedly find forced labour violations.

**Task 2.** Using the case as a starting point, participants are asked to consider local forms of forced labour in the light of local prohibitions, identifying instances of impunity and listing them.

**Task 3.** Working from the list they have drawn up, participants are asked to consider, first, what conditions are present that make impunity possible; second, what specific actions could be taken to end such conditions; and third, what help trade unions and civil society might give in these efforts. For example,

1. Those benefiting from forced labour are politically connected, and have influence. 2. Publicity could be given to the violations in the political sphere. 3. Trade unions can be counted on to undertake publicity activities.

1. The justice system is slow to operate. 2. A research activity could be undertaken to document delays, with a view to publicizing them and exerting pressure for change. 3. University researchers could be called upon to do such research.

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### *Approximate time*

60-70 minutes to several hours, depending on the size of the groups. Assuming 2 groups of 8 persons each, allow at least 45 minutes for the group discussion and 10 to 15 minutes to each group for plenary presentation. If this Activity is done in plenary, the time allocated should be related to the overall objectives of the training and the degree to which an environment of impunity exists.

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### *Hints*

This Activity can be adapted for use by other types of participants. For trade union and civil society groups, for example, the third question in Task 3 would simply be omitted and the focus would be on what the participants and their organizations might do.

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### *Reference documentation*

Annex 22: Attempts to Eradicate Forced Labour in Brazil by Government and Civil Society in the Face of Impunity.

## Meeting the challenge as Government

To deal with forms of forced labour that stem from discrimination and poverty, governments must have multiple strategies in place. Such strategies, undertaken simultaneously, include such initiatives as:

- massive awareness-raising;
- coordination of government activities;
- promotion of laws with strong sanctions against offenders;
- greatly intensified release of forced labour victims through police and labour inspection interventions;
- increased prosecution; and
- improved programmes to get to the roots of poverty.

Overall, an **attack on the roots of the poverty problem** may require increased emphasis on such things as rural employment and development, the strengthening of rural workers' organizations, and the creation of the conditions for genuine social dialogue in the rural setting. Specific efforts, for example, can be made for the eradication of forced labour in any rural development programme that is planned or under way in an area where its incidence has been detected. Greater attention might be given to eradicating forced labour in the context of sustainable agriculture and rural development policies. This could include such things as awareness-raising, legal support, microcredit, control of the activities of recruiting intermediaries, and other similar activities. Special measures are needed to reach out to bonded labourers' families or vulnerable

groups, who are normally by-passed by regular or "mainstream" poverty reduction and rural development programs.

In countries where a serious incidence of forced labour has been detected, governments should also be encouraged to **include forced labour concerns in action taken within the United Nations Development Assistance Framework (UNDAF)**. UNDAF provides the operational framework for donor and agency coordination that is designed to treat structural and social concerns on the same footing as macroeconomic and financial issues. In countries where forced labour is a significant problem, its elimination belongs squarely within comprehensive development frameworks, including poverty reduction strategy policy papers (PRSP).

In recent years, private initiatives in the form of codes of conduct have also provided support in condemning and calling for an end to forced labour practices.

**From Government's standpoint, what role should international action or actors play in domestic efforts to combat forms of forced labour rooted in discrimination and poverty?**

**Do participants see a difference between government action to combat forms of forced labour rooted in discrimination and poverty, on the one hand, and state-sponsored forms of forced labour, on the other? What are the differences?**

# Activity 14. What can be Done by Government to Eradicate Forms of Forced Labour Rooted in Poverty and Discrimination

## Introduction

What can governments do, in addition to passing the necessary laws, to stop forced labour – particularly those types with their basis in poverty and discrimination – from occurring on its territory? This Activity takes up this question, using Annex 15 as a jumping-off point for discussing what types of action might be expected to produce results, and the necessary preconditions for such action.

## Objectives

- To expose government officials to examples of actions taken to eradicate traditional forms of forced labour;
- To give government officials the opportunity to explore critical factors for successful interventions.

## Task and arrangement

Participants are asked to **read** Annex 15 and **make a list of the actions taken by the governments involved** to deal with the forced labour issues in each case. Note should be taken of indications in the material of the effectiveness of the various actions.

The facilitator should elicit the results in plenary and ask the participants to share their observations. A consolidated list should be made and posted.

The facilitator should then ask what **prerequisites** may have been necessary to undertake the actions listed. For example, a sufficient level of civil stability may have been necessary in one case, the absence of corruption in another, or the existence of a sufficiently effective public administration in a third.

The facilitator should then explore with the participants in open discussion how these prerequisites and actions relate to a local or subject case of forced labour.

## *Approximate time*

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From 60 minutes to several hours, depending on the overall objective of the training. For actual action planning, the Activity could be expanded to progress to the actual planning of interventions which meet the prerequisites for success.

## *Hints*

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This Activity can be adapted for use by other types of participants besides government officials.

By adding additional questions to those posed in respect of the readings, the facilitator can orient the Activity towards a logical-framework approach to developing actions to combat traditional forms of forced labour. For example, in addition to prerequisites, the facilitator may ask about the immediate objectives of actions, factors likely to preclude success, and methods for monitoring and evaluation.

## *Reference documentation*

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Annex 15: Abductions and Slavery in Liberia, Mauritania and Sudan.

# Activity 15. What does Freedom of Association Have to Do with Forced Labour?

## Introduction

How does freedom of association relate to the elimination of all forms of forced labour? This Activity is an open discussion of the question.

## Objectives

- To sensitize participants to the relationship between this fundamental (positive) right of workers and the (negative) right to be free from forced labour.

## Task and arrangement

Participants should be exposed in general terms to the different forms of forced labour and to the ILO's principle of freedom of association through training prior to this Activity.

**Task 1.** Participants are asked to **identify** and **list** forms of forced labour that exist nationally or that affect the nation territorially or politically.

**Task 2.** Participants should **address the following questions**, bearing in mind the forms identified in Task 1 and considering the right to associate in its most basic meaning, i.e. individuals coming together for a common purpose with the resulting "association" of individuals recognized, respected, and protected by the State in the pursuit of its objectives.

**1. On a theoretical level, would associations of individuals in sectors/geographical locations connected with the identified forms of forced labour in any way hinder those forms? If so, how? [For example, the following sentence should be completed: "Association by (who are not necessarily the potentially forced labourers) would hinder forced labour in (where) by (how)."]**

**2. In legal terms, are there any impediments to association in the sectors/geographical locations connected with the forms identified in Task 1? Which of these are particularly difficult to overcome and why?**

**3. In practice, are there any impediments to association in the sectors/geographical locations connected with the forms identified in Task 1? Which of these are particularly harmful?**

**Task 3.** If participants find that effective recognition of freedom of association would help combat forced labour, they should identify what needs to be done to overcome any legal or practical impediments identified in Task 2. A list should be drawn up.

## *Approximate time*

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60-70 minutes to several hours, depending on the desired outcome of the Activity, i.e. if a specific plan of action is the desired outcome, more time should be allocated.

## *Hints*

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Keep in mind that the right of association applies to employers, workers and other groupings of persons in society. That is to say that the practice of “association” results in employers’ organizations, workers’ organizations, and civil society organizations.

This Activity can be adapted and targeted for use by government, employers’ and workers’ organizations, and civil society organizations, by asking what actions would need to be taken by the relevant group to harness the positive effects of association to combat forced labour.

This Activity should start as a plenary discussion, at least through to forming consensus on Task 2, point 1. Depending on the outcome of the discussion and the objective of the training, it may be useful to break into smaller groups to discuss and specifically identify what would need to be changed legally or practically.

## *Reference documentation*

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None needed. Local legislation may be useful, depending on the overall objective of the training.

## Meeting the challenge as Employers

Employers have **an interest in actively combating forced labour**, including those forms rooted in discrimination and poverty. Forced labour can give employers a bad reputation, which can translate into lost customers or markets. Forced labour practices are usually illegal, possibly leading to the

imposition criminal sanctions. Despite these interests in combating forced labour, and because forced labour practices are often on the fringe of the formal economy, even the most active employers' organizations can face challenges in pursuing changes in practices.

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## Employers' interests in combating forced labour rooted in discrimination and poverty

Where do employers stand in relation to forms of forced labour which are rooted in discrimination and poverty?

The **use** of forced labour needs "employers" of some sort. This much is clear. And it is questionable whether those employers who actually benefit from forced labour can be said to be **against the practice** and ready to take action to eliminate it. But where do such employers stand relative to other employers, and organizations of employers? It is important

to understand that employers are not typically a very homogeneous body, although most employers are certainly opposed to forced labour in its oldest forms. How does this analysis help in organizing training for employers with a view to action to combat forced labour?

See Activity 16. Mapping Employers' Interests in Fighting Contemporary Forms of Forced Labour.

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## Interventions aimed at employers

What types of interventions can employers make to help combat forced labour rooted in discrimination and poverty?

As suggested by Activity 16. Mapping Employers' Interests in Fighting Contemporary Forms of Forced Labour, the vast majority of employers typically will have a moral objection to forced labour. The challenge is finding ways of rallying employers to put their weight behind efforts to eliminate forced labour and to take action.

**Two overarching challenges** are faced in the training environment.

- The **first** is demonstrating that forced labour is a problem and that the problem is relevant to employers.
- The **second** is inspiring the target group to plan and take action.

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Getting Employers Involved in Eliminating Forced Labour

This approach can be proposed directly to participants in training, who can be asked whether it is valid. If the approach is accepted as valid, training can continue along the lines it suggests. If not, an alternative approach can be solicited, the ultimate objective being to get employers involved in eliminating traditional forms of forced labour.

For participants in training, who (or what body) plays the relevant leadership role in promoting action against traditional forms of forced labour?

To **demonstrate that forced labour is a problem and that the problem is relevant to employers**, logic suggests that:

- (1) the phenomenon needs to be **established in fact**;
- (2) the facts need to be **established as a problem**; and, finally
- (3) the problem needs to be seen as **relevant to the employer** group. In some training environments, one or more of these elements will not pose a challenge; facts may be well known, they may be fully accepted as amounting to a problem of forced labour, and/or the problem may be viewed as being one relevant to employers. Where the training environment is not so ripe, the following ideas may be useful.

**The phenomenon needs to be established in fact.** Exposure is the easiest way of dealing with this, but may not be possible (lack of data or evidence) or convincing (presenter not seen to be credible). It may be useful to present highly credible available facts on a small scale, and argue that similar situations are more prevalent. First-hand or on-site demonstration may be particularly convincing, backed by “common sense” arguments.

**The facts need to be established as a problem of forced labour.** A clear understanding of what forced labour is will be essential here. See, for example, the section entitled “What is forced labour”, starting on page 3. The facts of the particular local phenomenon would then be analysed in the light of that understanding. Arguments concerning exceptions to the definition of forced labour should be anticipated where they are at all plausible: minor community service, for example, in relation to some

In the light of the broad international agreement that forced labour is unacceptable, what additional role do codes of conduct play in this area?

Broadly speaking, a code of conduct is a statement of policy and practice voluntarily adopted by a business enterprise or group of businesses, to guide or control the way it runs its operations. Such codes typically deal with standards of conduct in relation to fair business practice, observance of the rule of law, fair employment or labour rights, environmental protection, and/or corporate citizenship. Codes of conduct sometimes include provisions concerning forced labour.

The relevant provisions might say that the enterprise will not make use of forced labour, that it will not handle goods that it knows are produced by such labour, or that it will not operate where forced labour is practiced.

Interestingly, an OECD study found that, of all the references to international standards as the basis for such provisions in codes of conduct, the most frequently cited were ILO and UN conventions and treaties.\* In some cases, mechanisms are put in place for internal or

traditional forms of forced labour. Other objections on the grounds that a situation does not amount to forced labour should also be anticipated and counter-arguments should be prepared.

**The problem needs to be seen as relevant to the employer group.** Some traditional forms of forced labour may be viewed as mostly irrelevant to employers as being, for example, highly exceptional (numerically rare or geographically distant), occurring in the informal economy (in traditional, rural settings) or in highly exceptional circumstances (armed conflict or civil unrest). Possible ways of countering these objections:

- Employers’ organizations can be urged to see themselves as bodies representative of all employers within a country, and as having a moral responsibility to bring exceptional groups into line with the mainstream;
- Employers at the global level have accepted an obligation to work to eliminate forced labour by acceptance, for example, of ILO standards, the UN Global Compact and voluntary codes of conduct condemning forced labour practices;

- Employers at the local level can suffer damage to their reputations, incurring “guilt by association”. Contracting producers can risk serious harm to business reputation even if forced labour practices are at the very end of their supply chains; moral persuasion may be helpful in some circumstances;
- Civil society, including civic, professional, religious, and non-governmental organizations, may be called upon to convince employers that traditional forms of forced labour are relevant for them.

To inspire the target group to plan and take action, leadership may well be the critical element in a training environment. While rationality may prevail, actually prompting a group to voluntary action usually takes the visionary skills of a leader. The fact that the leaders of employers’ organizations are sufficiently interested in the subject of forced labour to have made a training environment possible in the first place is a positive sign. With this basic support, Activities can be planned and executed to develop the membership’s willingness to plan and, ultimately, undertake action.

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Codes of Conduct and Forced and Compulsory Labour

external (sometimes independent) monitoring of compliance with the terms of a code. Sometimes the results of these monitoring procedures are published, but often they are not. This is consistent with the idea that codes of conduct are private voluntary initiatives.

The role that codes of conduct play is a much-discussed topic, on which divergent views exist. They may be the subject of participant discussion.

\* OECD, Code of Corporate Conduct: An Inventory, TD/TC/WP(98)74/FINAL

**What might employers’ organizations do to support the implementation of private initiatives to eliminate forced labour?**

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## Activity 16. Mapping Employers' Interests in Fighting Contemporary Forms of Forced Labour

### *Introduction*

Employers are not a homogenous group sharing identical interests. While some benefit from traditional forms of forced labour, the vast majority do not. This majority has an interest in working to combat these traditional forms. This Activity helps make this point and shows how employers can take action to fight traditional forms of forced labour.

### *Objectives*

- To sensitize employers to the fact that only a few in their ranks benefit from traditional forced labour practices;
- To provide employers with a framework of good reasons for taking action to combat these forms of forced labour.

### *Task and arrangement*

Participants should be exposed to examples of traditional forms of forced labour through training prior to this Activity.

Participants may either be divided up into groups to work on this Activity, or work/discuss the following in plenary.

**Task 1.** Participants are asked to consider the bipolar spectrum below, accepting the assumption that employers have differing interests.



**Task 2.** Participants are asked to imagine and list **reasons why** certain employers would have an interest on the left side of the spectrum and why others would have an interest on the right side of the spectrum. For example:

The reasons why some employers have an interest in continuing forced labour practices include: the fact that they benefit directly from forced labour in their production processes; that they benefit secondarily from forced labour by receiving cheap goods made with forced labour and selling them on at a large profit; that they want to “avoid upsetting the apple cart” by raising questions about forced labour practices when they are aware of them, etc.

The reasons why some employers have an interest in ending forced labour practices include: the fact that they face unfair competition from competitors who use forced labour; that they face challenges to their reputation in markets that have heard of forced labour practices in the country/sector/region where the employer is located; that they find such practices morally reprehensible.

**Task 3.** For each of the **reasons** developed in **Task 2**, participants are asked to imagine and list **qualitative** characteristics that might be associated with employers on the left-hand side of the spectrum and with those on the right, together with a **quantitative** indication for each qualitative characteristic. For example:

Reasons why some employers have an interest in <u>continuing</u> forced labour practices	Qualitative Characteristics	Quantitative Characteristics
1. They benefit directly from forced labour in their production processes.	● Small employers	Most
	● Rural employers	Most
	● Large employers	Very few
	● Employers with international interests	Extremely few
2. They benefit secondarily from forced labour by receiving cheap goods made with forced labour and selling them on at a large profit.	● Larger employers	A few
	● Urban employers	Many
	● Employers with international interests	A few
3. They want to avoid “upsetting the apple cart” by raising questions about forced labour practices when they are aware of them.	● All types of employers	All

Reasons why some employers have an interest in <u>ending</u> forced labour practices	Qualitative Characteristics	Quantitative Characteristics
1. They face unfair competition from competitors who use forced labour.	● Large employers	Some
	● Rural employers	A few
	● Small employers	Some
	● Employers with international interests	Many
	● Urban employers	Very few
2. They face challenges to their reputation in markets that have heard of forced labour practices in the country/sector/region where the employer is located.	● Larger employers	Many
	● Urban employers	A few
	● Employers with international interests	Almost all
3. They find such practices morally reprehensible.	● All types of employers	All

Working from these results, participants could consider how the perceived or real interests of employers less interested in ending traditional forms of traditional or forced labour can be altered.

### *Approximate time*

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60-70 minutes if done as a plenary session, provided the plenary consists of 10-15 persons. If done as group work, allow at least 45 minutes for the group discussion and 10 to 15 minutes to each group for plenary presentation, followed by further plenary discussion of group results. The time allocated to this Activity should be related to the overall objectives of the training and the amount of forced labour susceptible to this analysis.

### *Hints*

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The “map” developed through this Activity can be used to point up the idea that employers of certain types have distinct and particular interests in working for the elimination of forced labour.

The map can also be used to identify and prioritize targets for employer-group intervention, as well as to devise effective ways of changing the real or perceived interests of various groups of employers.

If this Activity is done in groups, one group can be assigned to work with employers on the left side of the spectrum and another to work with employers on the right side. A third group might be created to work with employers in the centre, i.e. those having no interest one way or the other in relation to traditional forms of forced labour. An alternative arrangement would be for each group to work on a particular instance of traditional forced labour found in the country concerned, looking at employers at both ends of the spectrum.

### *Reference documentation*

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None needed

# Activity 17. Employers' Responses to Recommendations

## Introduction

Trade unions, consumer groups, and other members of civil society may today be lobbying more than ever before for the elimination of forced labour. These forces have limited but relatively powerful means available to them to influence involved parties to do all they can to eliminate forced labour in practice. This Activity takes up where recommendations by a civil society pressure group leave off, asking employers: What should your response be to the recommendations?

## Objectives

- To sensitize employers to the important role they can play in working for the elimination of forced labour;
- To explore with employers the possible actions they could take in response to recommendations for the elimination of forced labour.

## Task and arrangement

This Activity is group work, requiring at least two groups, but no more than four.

Participants should be given and asked to **read the reference document**, Annex 26: Recommendations to Retailers, Suppliers, and National and International Consumers. The following scenario is described to participants.

An influential and respected international human-rights organization has recently completed a study on bonded labour and forced labour in industries located in rural areas. A set of recommendations has been published and widely circulated, part of which you now have before you. You are employers involved in the employers' organization and major business organizations of the country concerned and are in a position to respond to the recommendations. Your task is to decide on responsive action(s) to the recommendations, and to explain why you have decided to recommend such action(s).

At least two groups – Groups A and B – should be formed to work through the task. If many participants are involved in the training, Groups C and D may also be formed. The groups are to work under the following mandates.

Group A is to consider the recommendations favourably and determine actions accordingly.

Group B is to consider the recommendations negatively and determine actions accordingly.

Group C is to consider the recommendations without any preconceptions and determine actions accordingly.

Group D is to observe the actions and reasons given by the other groups and decide which of them are most consistent and persuasive, both internally and in relation to the manner in which each group has been instructed to consider the recommendation.

If a Group D is not formed, its assignment should be covered in plenary discussion, after all the groups have presented their actions and reasons.

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### *Approximate time*

Assuming two groups of eight persons each, allow at least 45 minutes for the group discussion and 10 to 15 minutes for each group to make its plenary presentation.

---

### *Hints*

In this Activity, the reasons for the responsive actions are as important as the responsive action itself. For instance, if a responsive action is:

The Employers' Organization will take up with the ILO the idea of starting a monitoring project in industries affected by bonded labour,

then an appropriate and consistent reason for the selected action should also be given, such as:

Such a monitoring programme will bring a neutral voice to bear on the question of how much bonded labour there really is in the industry;

Such a monitoring programme will identify bonded labourers and make their liberation possible;

Such a monitoring programme will help meet the public-relations interests of the companies involved.

The facilitator should be able to point out how some of the reasons given will help lead to the elimination of forced labour practices, while others will not.

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### *Reference documentation*

Annex 26: Recommendations to Retailers, Suppliers, and National and International Consumers, or an equivalent document, should be distributed to participants.

## Meeting the challenge as Workers

When it comes to forms of forced labour rooted in discrimination and poverty, workers and their organizations are in a position to call for the social changes required to eliminate long-

standing practices. Whether they actually take up this challenge, and what can be done to help them to do so, is a fertile area for training.

### *The relationship between workers and their organizations and forms of forced labour rooted in discrimination and poverty*

As a starting point for planning training activities for workers, it is important to identify the relationship between the targeted workers' group and the form(s) of forced labour concerned. Once identified, this relationship can be used to plan training with a view to action. For example, are the targeted workers:

- in the same occupational grouping as the persons subjected to forced labour?
- from the same geographic area?
- from the same ethnic or racial group?
- from a country or countries different from the persons subject to forced labour?

- in some other special relationship with the traditional forms of forced labour concerned?

It is also possible that the targeted workers are indirectly affected by problems of forced labour, for example, if such problems affect migrant workers from their country of origin; or that they have no specific interest in or knowledge of forced labour practices, but are interested generally in the subject.

**It is suggested that this matter be put directly to the participants when setting goals for the training.**

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#### What Workers and Their Organizations can Do to Fight Forced Labour Rooted in Poverty and Discrimination

Workers and their organizations can call for action on the part of others to eliminate forced labour. It may be action by government to enforce prohibiting laws. It may be action by employers to stop forced labour. What else can workers do?

**Sensitize workers at large to risk factors.** Workers' organizations can play an important role in sensitizing workers to the risk factors that can lead to forced labour. In the context of migration, for example, workers' organizations can publicize the methods of unscrupulous recruiters and the risk of migrant work being transformed into forced labour.



See Training Dossier 22: Characteristics of Successful Partnerships, on page 52.

Can participants brainstorm other direct actions that they or their organizations might take?

**Sensitize workers to their rights.** Workers' organizations can take action to make workers aware of their rights. In the context of bonded labour, for example, workers' organizations can help workers' claim in practice the rights they are accorded in law.

**Work with civil society.** Many civil society organizations are working to end forms of forced labour rooted in discrimination and poverty. They come up with good ideas and are often involved in important programmes. Workers' organizations should be ready to work with these organizations, contributing insights and playing roles that sometimes only they can.

### **Workers' organizations can work with and support the work of civil society organizations**

Substantial efforts are being made by civil society organizations to combat traditional forms of forced labour. This can be attributed to particular aspects of their mandates, their access to resources, the special position of trust they often hold in local communities, and the freedom of operational movement they often enjoy.

Synergies in the service of eliminating forced labour can be generated by combining the efforts of workers' (and employers') organizations with those of civil society organizations. This can be achieved by opening a dialogue between the organizations concerned, finding areas of common interest, and exploring how human, financial and operational resources might be shared or coordinated for the benefit of the cause.

Can participants brainstorm which workers' organizations may share common interests, what those common interests might be, and how resources might be shared or coordinated for the benefit of the cause?

What are the key intervention areas for civil society organizations in combating forms of forced labour rooted in discrimination and poverty? Six broad areas are suggested here.

**Advocacy for better legal measures** to establish a comprehensive picture of forced labour practices. This would involve promoting the establishment of, and supporting, appropriate legal frameworks and enforcement mechanisms:

- Promoting changes to national laws to:
  - prohibit bonded labour,
  - limit the debt accumulated by workers,
  - regulate recruiters,
  - increase penalties for bonding labourers,
  - create penal sanctions for enslaving workers;
- Promoting ratification of international instruments:
  - ratification of ILO Conventions Nos. 29 and 105;

**Investigate and quantify the problem.**

Workers and their organizations are in a unique position to help identify and quantify traditional forced and compulsory labour practices, helping to fill important gaps in knowledge of actual practices.

**Play a representative role in helping others take action.** Government and employers need counterpart organizations with which to dialogue and act. When these groups want to take action on forced labour, they need inputs from representative workers’

organizations. Workers’ organizations need to be ready to play this role, providing useful insights that will improve actions taken by government and employers.

**Be ready to represent forced labourers.**

Traditional forced or compelled workers need the benefits from representation. Workers’ organizations should be ready – and actively strive to take – this most fundamental of actions.

31

32 Training Dossier

Where can Civil Society Organizations Intervene to Combat Forced and Compulsory Labour?

- Proposing methods to combat corruption in law enforcement:
  - increasing the wages of enforcement personnel;
- Promoting community law enforcement methods:
  - community programmes to sound alerts for missing persons;
- Working with trade unions to uncover forced labour violations;
- Working with employers’ organizations to promote respect for forced labour prohibitions;
- Working with labour inspection services in detecting forced labour.

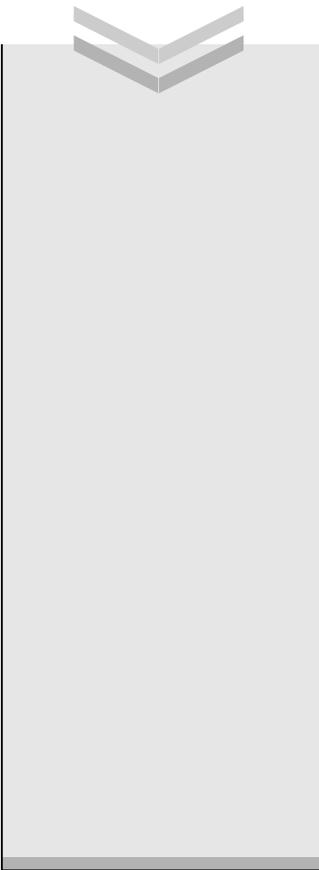
**Policies and programmes** with a focus on implementation. This would involve developing policy alternatives and promoting them. Programme implementation is a recognized strength of many civil society organizations:

- Developing new policy approaches identifying bonded labourers;
- Identifying slaves and bonded labourers;
- Liberating slaves and bonded labourers;
- Helping freed forced labourers to find housing;
- Providing freed forced labourers with educational opportunities for their children;
- Providing freed forced labourers with food;

This question may be posed directly to a civil society target group, either with or without this material as an introduction.

For each of the six areas, can participants brainstorm other actions they or their organizations can take directly?





- Serving as a representative organization on bodies working to eliminate traditional forms of forced labour;
- Systematically providing information to international bodies supervising the implementation of international treaty obligations.

**Education** as the most important preventative measure and remedy. This would include all types of campaigns at various levels, using different methods, all with the aim of sensitizing target groups to the problem of forced labour:

- Conducting nation-wide sensitization campaigns:
  - on national forced labour prohibitions,
  - on existing cases of forced labour,
  - on weaknesses in law enforcement,
  - on methods for preventing enslavement or bonding;
- Conducting targeted local sensitization campaigns:
  - in schools, on human rights,
  - in communities vulnerable to traditional forms of forced labour arising in migration contexts,
  - in geographical areas receiving forced labourers.

**Research** of actual practices. This is another area in which civil society organizations often have recognized strengths because they are close to local communities and able to observe and document forced labour practices:

- Documenting cases of forced labour;

### ***Workers' organizations as watchdogs over conditions leading to forced labour***

Discrimination and poverty are age-old problems. They have proved difficult to solve, although successes have been achieved all around the world. In fighting forced labour, too, workers' organizations have always played a role as social commentators, critics, and agitators for action to resolve social injustice. The ILO's Declaration on Fundamental Principles and Rights at Work and its Follow-up has provided yet another avenue for action in drawing both domestic and international attention to the social injustices that underlie the forced labour practices that still exist in the world today.

The ILO's 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up obliges ILO member States to respect certain fundamental principles and rights at work, including the right to be free from forced labour. The obligation stems from membership of the ILO, and includes the requirement that member States which have not ratified all of the relevant ILO Conventions on the subject of forced labour report to the ILO annually on the efforts they have nevertheless made to respect the principles concerned. Through this mechanism it is hoped to

- Identifying the characteristics of forced labourers;
- Being available to pass on the organization’s expertise to other researchers;
- Researching and providing information to bodies supervising the implementation of international treaty obligations;
- Documenting good practice in eradicating forced labour.

**Rehabilitation** as the first step toward alternative employment and income generation. This would include vocational, physical or psychological rehabilitation programmes designed to prepare forced labour victims for future employment or income-generating opportunities:

- Counselling forced labour victims:
  - legal counselling,
  - medical counselling,
  - psychological counselling,
  - access to land and housing;
- Providing assistance to reintegrate families freed from bonded labour into their communities of origin;

- Rehabilitating children freed from forced labour so that they can integrate into school.

**Sustainable decent employment** as the only long-term solution to forced labour practices. This is a broader area of intervention that can be harmonized with efforts more specifically aimed at combating forced labour practices:

- Working with local communities to identify income generation opportunities;
- Providing skills training for women and men;
- Providing microfinance services;
- Working to improve the access of remote rural communities to urban markets;
- Working to empower communities to exercise their voice in political decision-making and so open up broader economic opportunities;
- Facilitating access to the female labour market.

33 Training Dossier

Commenting on Forced Labour Practices where Relevant Conventions have not been Ratified

encourage greater respect for principles, as well as finding ways and means of overcoming obstacles to respecting them. The important aspect of this procedure is that it applies to countries that have not ratified either Convention No. 29 or Convention No. 105.

Employers’ and workers’ organizations are permitted and encouraged to send comments on respect or lack of respect for the fundamental principle of freedom from forced or compulsory labour. These comments may be concerned not only with issues of law and law enforcement, but also

with ways in which underlying social injustices leading to discrimination and poverty are contributing to forced labour practices.

Reports are due at the ILO not later than 1 August each year. Comments can be sent to the InFocus Programme on Promoting the Declaration, ILO, 4 route des Morillons, CH-1211 Geneva 22, Switzerland. An electronic version of the forms used for reporting – not required for comments made by workers’ or employers’ organizations – can be found at [www.ilo.org/declaration](http://www.ilo.org/declaration).

# Activity 18. Planning Workers' Organization Action to Combat Forced Labour

## Introduction

Workers' organizations are classically movers for change within society. Their efforts are, however, subject to resource limitations which make prioritization necessary. This Activity is about identifying plans of action and prioritizing efforts to combat forms of forced labour rooted in discrimination and poverty, taking into account resource limitations.

## Objectives

- To give participants the opportunity to design a plan of action for combating a traditional form of forced labour, or one/some of its aspects.

## Task and arrangement

The focus of this Activity will depend on the participant group; the tasks should be interpreted accordingly. The focus of action will be:

- regional or international, if the group is multi-national;
- national, if the group is from one country; or
- local, if the group is from a localized geographical area, i.e. a region or metropolitan area within a country.

Participants should be aware of the existence of forced labour rooted in discrimination and poverty within their reference area.

**Task 1.** In plenary, participants are asked to **brainstorm** on the following question:

***What form of forced labour (or aspects of it) would most benefit from your organization's action to help eliminate it, and why?***

Responses should be practical and realistic. For example:

Bonded labour among international migrant workers in the country, because we have strong international contacts with the sending country.

Agricultural workers trapped in the southern part of the country, because we have strong political influence in that part of the country.

The few instances of slavery remaining in the border area between country A and country B would be most susceptible, because our organizations have good relations and a strong presence in the area.

Child soldiers abducted in the smoldering civil conflict in the west of the country would benefit most, because financial resources are available from international sources.

**Task 2.** Participants are asked to **select from the list** those instances which they would like to consider in greater depth with a view to determining what exactly could be done, if resources are available to do what is proposed and, if not, to prioritize the actions proposed.

**Task 3.** From the short list, participants are asked to **consider and record**:

- the **objective** of what is to be done,
- what **exactly** could be done in each context,
- the **resources** (human, financial, etc.) that would be **needed** to do what is proposed,
- the **partners** with whom the activity should be undertaken,
- the **time-frame** within which action could be taken and could be expected to produce results,
- the risks and how to minimize them, and
- the **way of knowing** whether what was done was **successful**.

**Task 4.** Where multiple initiatives are considered, participants are asked to **prioritize actions**. Consideration should be given to:

- the **size and seriousness** of the problem,
- the **resources needed** for the action,
- the **likelihood of success**,
- the **potential impact of successful action**, and
- any **other factors** identified by the group.

The result of this Activity may actually be the basis for action, depending on its training context.

### *Approximate time*

The time needed to complete this Activity will depend on its scope.

If the Activity is very limited in scope, at least two hours should be set aside for a thorough job.

If the Activity is very broad in scope, an entire multi-day training event can be planned around it.

### *Hints*

The scope of this Activity may be very limited or very wide-ranging. It can be used as a basis for planning a single intervention or a multi-faceted national or regional campaign. The facilitator will need to determine this factor in planning a training event, and present the Activity accordingly.

This Activity can be adapted for use by other target groups, particularly civil society and employers' organizations.

### *Reference documentation*

None needed

## Activity 19. Dealing with Demands for the Repayment of Debt

### *Introduction*

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Dissolving the bond involved in bonded labour practices can meet with political opposition where exploiters of forced labour demand repayment of the debt that binds the labourers. What is an appropriate response to arguments that beneficiaries of forced labour should be repaid the debt they are owed before they are obliged to free their labour? This Activity takes up this question.

### *Objectives*

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- To expose participants to an important practical issue often standing in the way of eliminating bonded labour;
- To challenge participants to resolve this practical issue;
- To challenge participants, as representatives of workers' organizations, to consider the unique role they can play in dealing with this issue.

### *Task and arrangement*

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It would be useful if participants in training were exposed to the relationship between extinguishing debt (by law, for example) and actual repayment of debt, particularly from the perspective of the creditor.

**One** of the following scenarios is presented to participants:

**A.** The national constitution forbids slavery and similar practices, but the practice continues in the form of bonded labour. It is well known that the practice flourishes in agriculture and construction-material fabrication. The labourers' creditors demand that workers' debt – often very large, accumulated over several generations – be paid off before workers and their families are freed from the obligation to work in order to repay the debt.

**B.** National laws forbid slavery and similar practices. Penalties are established for violators of the prohibition. Owners of vast tracts of land in remote areas of the country have for decades recruited the poor from densely-populated urban centres to work the land. The advances payed to cover transport to the work areas, company housing and food create debt that is impossible for workers to repay through wage earnings. The labourers' creditors – the employers – demand that workers' debt be paid off before the workers are freed from the obligation to work in order to repay the debt.

As representatives of the labour movement in the country, the participants' **task is two-fold**:

- **First**, you are to **develop a strategy** for dealing with demands for repayment of debt before the labourers are freed. The strategy must propose a viable solution to the demands for repayment;
- **Second**, you are to identify what **factors will be critical for the success** of your strategy. These factors should take into account the role and position of workers' organizations in promoting the strategy.

### *Approximate time*

30-60 minutes as plenary work. If done as group work, allow at least 30-45 minutes for group discussion and 5-15 minutes for each group to make its plenary presentation. This is followed by further plenary discussion of group results.

### *Hints*

This Activity puts workers' organizations in the role of a moving force in combating this type of forced labour, giving them responsibility for proposing and promoting a solution to a fundamental underlying issue. This may not be entirely realistic in some training environments. If not, or if the issue arises in discussion, a further question may be asked: What prevents workers' organizations from being a moving force?

This Activity may be arranged using small groups, each group working on the same scenario. The two scenarios may also be used, each by a separate group; this would be followed by a plenary session comparing and contrasting strategies in the light of the slightly different scenarios.

The Activity may be adapted slightly and used with other target audiences, particularly civil society organizations and governments.

### *Reference documentation*

None needed

## Activity 20. How Workers' Organizations can Forge Bonds and Cooperate with Civil Society Organizations

### *Introduction*

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Workers' and civil society organizations can play a decisive role in combating forced labour, particularly when an appropriate legal framework has been established. Annex 28, On the release and rehabilitation of bonded labourers, describes both the disappointment felt at the lack of government action to liberate bonded labourers, and the important role that can be, and is, played by these organizations in filling the gap in a variety of ways. The case study is useful for analysing other situations of forced labour, and the role that can be played by these organizations. As well as examining this case, this Activity suggests ways in which workers' organizations can forge bonds with civil society organizations to promote their common objectives and efforts.

### *Objectives*

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- To sensitize participants to the need for liberation and rehabilitation activities, and the challenges they entail;
- To give participants the opportunity to explore liberation and rehabilitation policies, and activities currently in place;
- To give participants the opportunity to discuss the pros and cons of liberation and rehabilitation policies and performance and consider what additional activities may be useful;
- To give participants the opportunity to explore the roles their institutions can play in current or future liberation and rehabilitation activities.

### *Task and arrangement*

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Through training prior to this Activity, participants should be exposed to the idea that once legal frameworks prohibiting and penalizing traditional forms of forced labour are in place, they need to be **given effect** through liberation and rehabilitation measures.

To work on this Activity, participants may either be divided up into groups (as discussed below under **Hints**), or work through/discuss the Activity in plenary.

Annex 28 should be distributed. This may be substituted with other material, provided such material describes the roles played in actual practice by institutions that should be involved in liberation and rehabilitation activities.

**Task 1.** Participants are asked to read the case study and **identify the roles actually played**, according to the researchers, by the federal authorities,

local authorities, courts, police, and civil society organizations in liberation and rehabilitation activities. Groups should be asked to prepare a very short presentation of these roles. Drawing on their own experience, participants may speculate on why the role of workers' organizations is limited.

**Task 2.** Participants working in groups or in plenary are asked to consider **analogous institutions in their own country(ies)**, including workers' organizations, and the **roles** they actually play in liberation and rehabilitation activities. A comparison should be made with the exposition in the case study. Is it felt that institutions are doing a good job? What constraints are institutions facing?

**Task 3.** Focusing on the last portion of the case study, where future activities are proposed, the participants working in groups or in plenary should consider the situation and institutions in their own country(ies). In particular they should explore **what improvements can be hastened by action on the part of civil society organizations**, what direct involvement these organizations can have in liberation and/or rehabilitation activities, and what actions workers' organizations can take to develop links with these organizations and assist their efforts. The participants should also consider as a fundamental question whether current liberation and/or rehabilitation activities are sufficient, and if not, what additional ones might be undertaken (by any of the institutions).

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### *Approximate time*

120 – 180 minutes (or more, if the Activity is critical to actual decision-making), depending on the size of the groups. Assuming five groups of eight persons each, allow at least 45 minutes for the group discussion, five to 10 minutes for each group to make its plenary presentation, and plenary discussion of at least 30 minutes. If this Activity is done in plenary, the time allocated should be related to the overall objectives of the training.

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### *Hints*

Groups doing this Activity may be divided and each asked to focus on one (or several) of the institutions discussed in the case study.

This Activity can be adapted for use by other types of participants, such as civil society groups.

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### *Reference documentation*

Annex 28, On the release and rehabilitation of bonded labourers



PART 1 2 3 4

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Forced Labour,  
Migration and  
Human Trafficking



## Part IV: Forced Labour, Migration and Human Trafficking

Forced labour in the world today also takes forms that have developed or “matured” only in recent years. These modern forms of forced labour are, in many ways, the “underside of globalization” as they can be linked to the process and results of globalization. This Part IV considers forms of forced labour as they arise in the context of:

- migration,
- migratory domestic labour, and
- trafficking in human beings which results in forced labour.

### *Forced labour among migrant workers*

Migrant workers – whether present legally or illegally – are often the most severely exploited workers in a receiving country. Irregular migrants are often without any rights in the country of destination. But even with legal residence in the destination country, and legal employment contracts, migrant workers can be subjected to various forms of exploitation and coercion – leading, in extreme cases, to conditions of forced labour. These Materials

first examine those situations where migrant workers outside the closely related context of trafficking for labour exploitation fall prey to forced labour. We first look at the issue generally, then in respect of domestic work.

**Can participants identify migratory worker groups in their country(ies), specifying places of origin and types of work engaged in?**

#### 34 Training Dossier

#### The Distinction between Trafficking and Smuggling

**Are participants generally aware of migratory worker being smuggled into their country(ies)? Can their origins and reasons for relying on smuggling be identified?**

The UN Convention against Transnational Organized Crime (henceforth the Palermo Convention) and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (henceforth the Protocol) make an important distinction between smuggling and trafficking, which must be respected in the implementation and application of international norms relating to human trafficking. However, distinguishing between the two activities may require detailed information on the circumstances of any particular smuggling/trafficking case.

The smuggling of migrants involves two elements: a material benefit – usually financial – received for a particular action – getting a person into a country illegally. The formal definition is ‘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". Unlike trafficking, smuggling does not necessarily involve exploitation. Smuggling is typically a consensual relationship between the person wanting to be transported and the person from whom the transportation is purchased.

While smuggling does not necessarily involve exploitation, it may be carried out under degrading and dangerous circumstances. Smuggling involves crossing a border; trafficking need not – although it often does. The essence of smuggling is illegal entry into the destination country. Where trafficking does involve a boarder crossing, it may be with possession of genuine travel documents that authorize legal entry onto the territory of the destination country. There are also circumstances where a smuggler is involved in

### 35 Training Dossier

#### By What Means do Workers Become Migrants, then Forced Labourers?

**By what means do workers become migrants?** Migration for employment or with a view to permanent settlement in the destination country or new home-country location has been going on since the dawn of civilization. With ever-increasing globalization, migration today has taken on more complex dimensions. Motivations to migrate have changed, and knowledge of employment opportunities elsewhere for potential migrants has certainly increased. While the risks of migration on one's own, without the services of middlemen, have always been significant, those risks – along with the potential benefits – are perceived by potential migrants today as even greater than in the past, with the access to attractive foreign labour markets afforded to workers by modern transport. Therefore, since they are seen as **potential risk-mediators**, the role of recruiting agents has become significant in migration activities.

#### **How do migrant workers become entrapped into forced labour?**

Whether workers have migrated alone or with the help of a middleman, the typical forced labour scenario arises from the conditions of the employment taken up in the destination country or new domestic location. Essentially, something happens on the way to or at the destination which makes it impossible, in practice, for the migrant worker to leave his or her work.

Where recruiting agents are involved, they are generally not in control of the employment to which they help send migrant workers. The diagram below depicts how migrant workers, assisted by recruiters, can become forced labourers at the end of the migration cycle, when work is actually taken up.

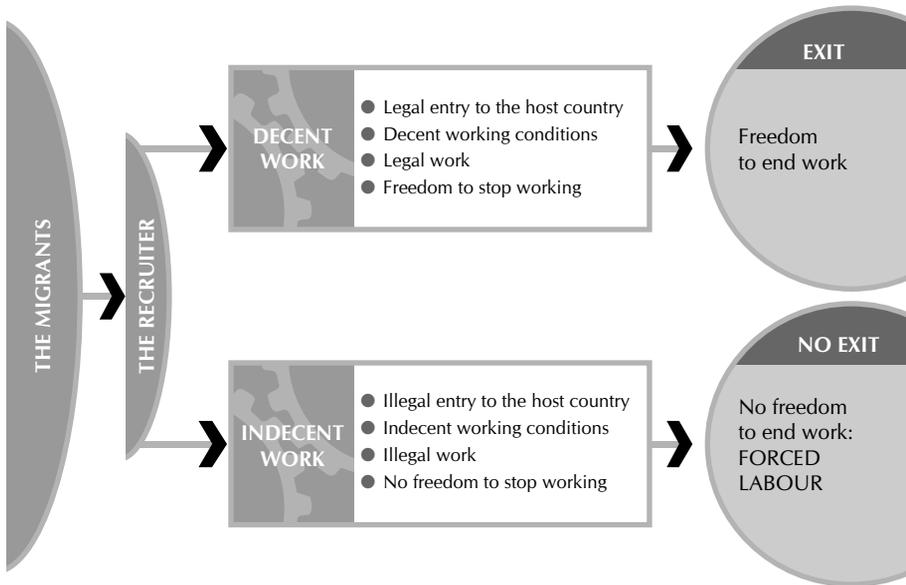
Can participants brainstorm the types of things that can happen at the work place of a migrant worker that can make it a practical impossibility for him or her to leave work?

trafficking. In such circumstances, he may be retained by the trafficker, but be innocent of deceiving the transported persons, or he may be a direct cohort in a trafficking scheme.

Since the activity of smuggling is less complex than trafficking, as it does not necessarily involve the same wide sphere of obligations, governments find that it is easier to enforce laws against smugglers than against traffickers. Indeed, many cases of trafficking, particularly for sexual or labour exploitation, are treated as smuggling cases because the legal framework does not provide sufficient clarity on the issue.

It should be borne in mind that migrating workers are not necessarily foreigners. **Intra-national migrants can be just as vulnerable** to forced labour as international migrants. A critical factor is that both the intra- and international **migrant worker is outside of his or her native element**, without a social network, and operating in an environment with characteristics – legal, geographical, economic, cultural, etc. – which are unfamiliar. This creates the vulnerability preyed upon by the unscrupulous exactor of forced labour.

## THE WORK



Although deception tends not to come in until a later stage when migrant workers become trapped in situations of forced labour, a strategy of carefully **regulating recruitment through institutions such as private employment agencies** helps ensure that migrant workers get

information very early – while prevention is still possible – about the possible risks involved. Such regulation also helps weed out similar but unscrupulous organizations in the business of trafficking. Again, the close relationship between the phenomena is clear.

36 Training Dossier

Six Approaches to Monitoring Private Employment Agencies

There are a number of possible approaches to monitoring the activities of private employment agencies and ensuring that potential migrants are protected from entrapment into forced labour. Some are more efficient than others, but all are complementary. Approaches normally used for monitoring purposes are:

- A. Licensing
- B. Codes of conduct
- C. Ceilings on fees
- D. Model employment contracts
- E. Competition
- F. Enforcement

Licensing

Licensing is the principal method used to monitor recruitment agencies. It will be performed under a domestic commercial or trading law, or by a special system of certification. Since different types of recruitment agencies may obtain licenses from different ministries (e.g. the ministry of labour, the ministry of tourism), there needs to be institutional cooperation between them.

The main purpose of licensing is to keep out unscrupulous individuals. Licensing implies treating recruitment as a profession: those practising the profession must satisfy set criteria before they can obtain a license allowing them to do their jobs. A parallel can be drawn with doctors, engineers and architects.

Licensing should be used as a means of improving the operation of the labour market. Licenses should aim at reducing the cost of recruitment and improving the quality of job-matching offers, thus ensuring that the migration process does not result in forced labour.

Typical requirements for granting a recruitment agency license (and supporting documentary evidence):

- Legal personality or license to conduct a business:

*Documentary evidence: Original articles of incorporation and limitations on foreign equity ownership.*

- Financial capacity

*The candidate should have sufficient financial capacity to:*

1. *Support international operations;*
2. *Sustain possible claims for compensation by migrant workers, foreign employers or other business partners;*
3. *Satisfy the legal requirements in respect of cash-bond deposits, surety bonds or such other minimum reserve stipulations or financial guarantees as may be a condition of obtaining a license.*

*This kind of policy is widely used because it seems to be effective in discouraging abuse and violations. In order to avoid discrimination against small firms, the financial guarantee should be related to the number of jobs that a firm is allowed to recruit for.*

*Documentary evidence: Significant minimum paid-up capital, income taxes paid, statements of assets and liabilities, cash bond deposit, surety bond.*

- Recruitment capability:

*Competence in identifying and selecting qualified persons for overseas jobs;*

*Agency staff should include trained recruitment specialists and documentation officers.*

*Documentary evidence: List of officers and staff with qualifications, security clearance showing that applicants have no criminal or adverse record.*

- Management capability:

*Competence in organizing and managing a business, including the possession of adequate facilities to undertake international operations and extensive domestic networking.*

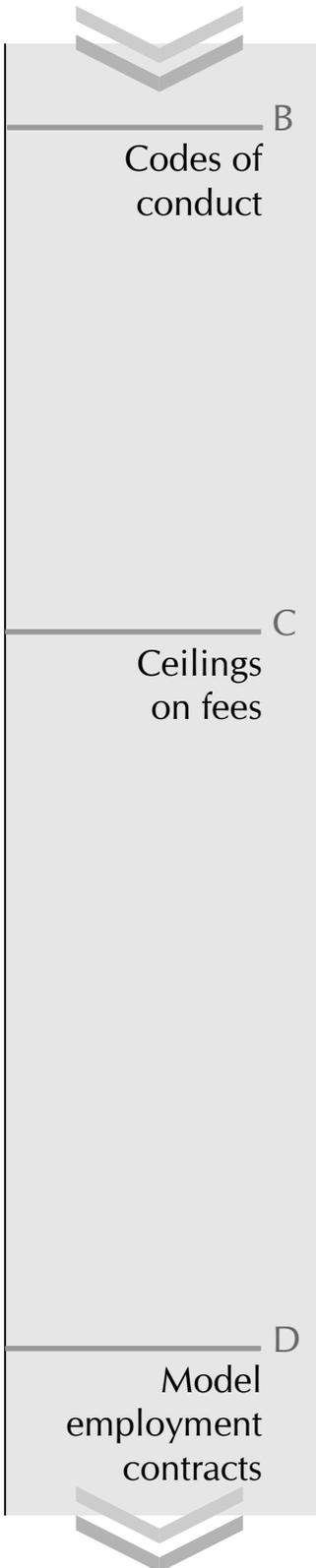
*Documentary evidence: Qualifications of managers, inventory of office equipment and facilities.*

- Marketing capability:

*Competence in identifying overseas employment opportunities and negotiating contracts that benefit not only the agency owners but also the workers who are to be hired.*

*Documentary evidence: Recruitment/service agreement with foreign principals attested by sending countries' officials or chambers of commerce in the destination country, job order or manpower request, special power of attorney*

NB. Where the state apparatus for policing violations of such license agreements is weak, licensing by itself will not prevent recruitment abuse. In fact, heavy financial commitments will simply push recruiters even further under ground. Licensing therefore needs to go hand in hand with law enforcement.



Once recruitment for employment is regarded as a profession, professional bodies can be established. Professional bodies are voluntary and cooperative organizations, not unlike business associations, with their own rules and regulations, also called codes of conduct. In this sense, professional bodies are self-regulatory, as compliance with the rules is ensured by the benefit obtained from conformity. For example, a business association of private recruitment agencies with a good reputation confers this good reputation on its members.

A code of conduct...

- Defines acceptable and non-acceptable forms of behaviour and activity;
- Establishes a framework for professional conduct and responsibilities;
- Promotes high standards of practice;
- Provides a point of reference for members to use for self-evaluation.

Most governments put a ceiling on the fee the recruitment agency is allowed to ask for its services. A measure commonly adopted is to set a maximum placement fee either as one absolute amount or as a relative amount based on a percentage of the contractual salary. However, this provision is not effective most of the time. In fact, the fees charged by the recruiter are much less closely related to the cost of testing and selecting candidates on behalf of foreign employers and paying government fees for various clearances, than to the following aspects of the labour market:

- The wage differential between the sending and receiving countries;
- The number of people competing for the job, *e.g. If there is a lot of competition, the future migrants are likely to offer bribes to the recruitment agency;*
- The employing country's policies, *e.g. How easy it is to obtain a visa;*
- Scarcity of skills *e.g. nurses seldom pay anything to find employment abroad.*

State intervention between consenting parties is bound to be ineffective and this approach on its own is unlikely to succeed. How can the imposition of a ceiling on fees be made effective?

Model employment contracts are one of the tools that recruiters should be required to adopt to ensure that the rights of the migrant worker are respected and that situations of forced labour are avoided. Model employment contracts should be skills-specific and country-specific, based on a proper understanding and in-depth knowledge of the working and living conditions of migrant workers, as

## Competition

well as the culture, traditions and legislation of the destination country.

The information in the employment contract can be used to establish a database of information on workers living abroad. When matched with a database in the country of employment, this kind of intelligence will make it possible to keep track of migrant workers. What conditions should be stipulated in an employment contract?

General conditions to be included in a model employment contract:

- Description of the job, place of employment and duration of contract;
- Basic monthly salary, including benefits and allowances, as well as rates of overtime pay;
- Non-cash compensation and benefits, including free food and accommodation;
- Regular working hours, rest days and holidays;
- Maternity leave;
- Transportation to the country /place of employment and return, including repatriation;
- Employment injury and sickness compensation, emergency medical and dental care;
- Social security rights and obligations;
- Grounds for termination of contract;
- Dispute settlement provisions.

Official policy should place greater emphasis on increasing access to more efficient recruitment alternatives. Fair competition between recruitment agencies will result in better quality services, lower fees and attempts by agencies to improve their reputations. This can lead to improved recruitment practices.

Competition should therefore be fostered with:

- Enterprises not having labour migration as their specialty

*Some countries have disqualified enterprises engaged in activities closely related to emigration, such as air travel, from obtaining licenses to recruit. The assumption is that these kinds of enterprises can gain financially from persuading people to travel and would therefore be prone to recruitment abuse. However, some management consulting firms and travel agencies have done remarkable work in placing workers abroad in jobs. Furthermore, enterprises that have established a good reputation in one area are unlikely to want to destroy it by resorting to abusive recruitment practices.*

## Enforcement <sup>F</sup>

- International competitors

*Many countries require the licensee to be a national. However, the nationality rule is not an effective guarantee against non-accountability as nationals also engage in recruitment activities which result in situations of forced labour. Furthermore, this protectionist stance prevents competition between agencies, and so militates against improved recruitment practices. Some countries, such as India, do grant recruitment licenses or certificates to foreign companies for specific job orders.*

There is no point in eliminating viable and functional options! For many migrants, especially women, private employment agencies are the most efficient means of obtaining employment abroad. These private employment agencies should not therefore not be forced into situations where they operate 'under ground', thereby becoming more difficult to monitor. This is why positive and negative law enforcement should complement each other. There should be incentives for adherence to legal requirements.

Law enforcement officials and labour inspectors play a crucial role. It is imperative that they enforce the law in a consistent and coordinated fashion while complying with national legislation, criminal procedure and state practice.

In order to operate effectively, law enforcement officials must have clear benchmarks and standards against which the performance of private employment agencies can be evaluated. The conditions and criteria stipulated in an agency's license can be used here, as well as codes of conduct and, of course, relevant legislation concerning recruitment, trafficking and forced labour.

Once the acts that constitute breaches of the law have been clearly established and are well known to the relevant policemen and labour inspectors, intelligence must be gathered on abusive recruitment practices.

Intelligence and information sources:

- Recruited workers who become victims of forced labour;
- Frontline police, border-post personnel, labour inspectors, e.g. following up on suspect advertisements in newspapers, on the internet and other media, undercover work, raids, labour inspections, informal surveillance, etc.;
- Community surveillance, e.g. by civil society organizations and community members;
- Information given by members of the public;
- Information received from registered informants;
- Local, regional and national databases;
- International databases such as Interpol, Europol, the SECI Center, etc.;

- Relevant databases maintained by other agencies, e.g. *immigration services, customs organizations, border police, relevant ministries (health, employment, labour, etc.);*
- Relevant inter-governmental and non-governmental organizations
- Open sources, e.g. *media reports, academic research.*

Types of intelligence required:

- Recruitment methods:  
*Deception and/or abduction, details of suspects and other victims involved, premises, etc.;*
- Advertising media:  
*'Word of mouth', print media such as newspaper advertisements, internet advertisements (the full contact details mentioned in the advertisement are important, as well as the actual text);*
- Forged identity documents:  
*How manufactured and acquired;*
- False visas:  
*How manufactured and acquired;*
- Travel documents:  
*Type of payment made and travel agents used;*
- Travel routes and means:  
*Routes to the country of origin and means of transport;*
- Employment in destination country:  
*Sweatshops, prostitution, construction, etc.;*
- Accommodation in destination country:  
*Personal space, other residents, as well as water, gas and electricity supply, etc;*
- Financial intelligence:  
*Transactions in respect of all the above.*

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Reducing the vulnerability of migrant workers is another way to get at the roots of forced labour resulting from migration. Efforts can be made to ensure that migrant workers:

- have the right to organize;
- have access to regular and, where necessary, special mechanisms for labour law enforcement;
- have access to transportation for return home; and

- become acquainted with local rules and regulations concerning their legal status and rights.

Since workers are often migratory because they face poverty and discrimination, there is a close analytical relationship between forced labour rooted in discrimination and poverty, and that arising in connection with migration. This relationship and all it entails for any particular practice involving forced labour should be taken into account in the training environment.

Can participants speculate on how these strategies would differ in the cases of international and intra-national migrants?

## Forced labour in domestic work

Working largely in private households, domestic workers experience a degree of vulnerability that bears no comparison to that of other workers. And the vulnerability is compounded when the workers are migrants. Domestic work *per se* is of course not forced labour. But it can degenerate into forced labour when debt bondage or trafficking is involved – or when the worker is physically restrained from leaving the employer’s home or has his or her identity papers withheld. The plight of women domestic workers in forced labour situations has grabbed headlines in a number of countries. The worst involve violence, sometimes extending to rape and/or torture.

When the domestic workers are international migrants, the problems

are compounded. Isolated but shameful cases of diplomats and international civil servants engaging in such improper practices have at least served to draw media attention to the plight of domestic servants who have been held in situations akin to slavery. Even under less dramatic circumstances, working in such situations can be particularly harmful, as when, primarily in developing countries, girls and sometimes boys spend long days toiling in private households instead of attending school. This phenomenon tends to be more common in urban areas, with children being lured from poor rural areas. As they often come from the countryside, even adult domestic workers are subject to the same fraudulent and coercive recruiting practices.

Can participants think of other types of work with characteristics similar to domestic work? Do participants understand the difference between domestic work and home work?

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Can participants agree with three concepts in the analysis of domestic work and forced labour? The first is the idea that domestic work is not automatically forced labour. Second, that it is the circumstances of domestic work that can characterize it as forced labour. And third, that it is where the work takes place, i.e. private households, that makes combating the problem so difficult and can exacerbate the resulting harm.

### The Mechanics of Forced Labour in Domestic Work

Domestic work is not forced labour in and of itself. Only when certain circumstances pertain does work in the household become forced. The critical question is whether the worker is free to leave work. Here are some typical scenarios in which this freedom is inhibited:

- In the case of migrant workers, confiscation of passports or other official papers;
- The worker’s indebtedness to the employer, particularly where the debt is, in practice, extremely difficult to liquidate;
- The age of the worker makes it impracticable for him or her to be able to leave the workplace;
- The worker is sold or given into bondage.

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Since domestic workers tend to work in isolation, there is abundant opportunity for disregarding labour legislation, if it applies to them in the first place. Indeed, domestic workers suffer prejudice on account of their frequent exclusion from the coverage of labour

legislation (in developed and developing countries alike) and the obstacles they face in exercising freedom of association. This combination makes it all the more difficult for them to extract themselves from situations involving forced labour.

## Forced Labour resulting from trafficking in human beings

What is trafficking in human beings and how does it relate to forced or compulsory labour?

### Trafficking and forced labour

The concept of trafficking is not new. Though trafficking was originally concerned with the sale of drugs and arms, by the nineteenth century it also included the trade in human beings, treated as a commodity and sold into slavery. In the twentieth century, the term trafficking refers to the movement of people, often illegally, across borders or within a country, resulting in exploitation, including the commercial sex trade.

Though understanding of the phenomenon of trafficking is continuously growing, the process of defining it has been an arduous and complex one, especially when it has to be distinguished from other forms of people movement.

Can participants articulate at this stage the difference/relationship between trafficking and migration?

Simply put, **three elements define trafficking** in persons:

- (1) the movement of people,
- (2) by deceitful or coercive means,
- (3) for the purpose of exploitation.

By further specifying that “exploitation” includes, among other things: “forced labour or services, slavery or practices similar to slavery [or] servitude”, the Palermo Protocol makes the relationship between trafficking and forced labour clearer: trafficking in persons can be for the purpose of forced labour. Current experience shows that it often is.

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), Supplementing the United Nations Convention against Transnational Organized Crime, trafficking in human beings is “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 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.”

The Mechanics of Trafficking

How does trafficking in persons take place? At its simplest, it involves movement of persons for the purpose of performing labour, most probably to engage in illicit activities or employment in working conditions that are below the statutory standards. It involves an agent, recruiter or transporter, who will most likely derive profit from the operation.

Coercion may not be evident at the beginning of the trafficking process or cycle. The person may enter into an

agreement with the recruiting agent on an apparently voluntary basis, albeit often without having been given full information. But conditions at the point of destination are likely to involve coercion, including physical restrictions on freedom of movement; abuse or violence; and fraud, often in the form of non-payment of promised wages. Victims frequently find themselves trapped in debt bondage and other slavery-like conditions.

**Combating forced labour as it results from trafficking: Orientation of the training**

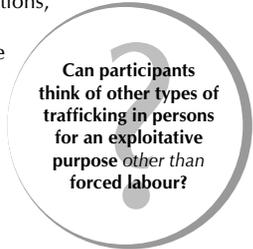
More effectively combating forced labour as it results from trafficking in persons calls for:

- First, greater understanding of how to **recognize the phenomenon**, to pave the way more effective policies, laws and programmes of action.
- Second, comprehension of the **nature and dimensions** of the problems. What are the main trafficking routes both within countries and across borders? What tends to be the profile of trafficked persons, in terms of sex, age, social origin, racial and ethnic group?
- Third, examination of the **causes and**

**effects**. What research has been done on the social and economic factors behind the growth of trafficking?

- Fourth, publicity about the **measures being taken** by governments, social partners, international organizations, religious groups and others to deal with the forced-labour aspects of trafficking.

The training is based on these four points.



**Recognizing forced-labour aspects of trafficking**

To improve participants' ability to recognize the forced-labour aspects of trafficking, a conceptual framework to distinguish it from other types of movement of people may be useful. With this in mind, the concept of a **Trafficking Cycle** is introduced in the following Training Dossiers.

The Trafficking Cycle can be described as a well-organized business that divides into **three consecutive stages**:

1. The process of mobilization by which migrants are **recruited**;

2. The requirements en route, as migrants are **transported** to an unfamiliar milieu;
3. The receipt or harbouring of migrants under coercive, exploitative or **forced labour conditions**.

The Trafficking Cycle begins when the victim is first **recruited**. Although forced labour may not be exacted at this stage of the cycle, deceit is commonly practised, laying a foundation for the coercive elements that will eventually lead to its exaction..

Recruitment for trafficking in persons operates:

- By force, coercion, or complicity:

*e.g abduction, purchase, luring victims through false promises of well-paid jobs in foreign countries, etc.;*

- Through voluntary recruitment of unsuspecting victims:

*Enticed by prospects of a better life, many migrants voluntarily go with recruiters, even seeking them out and willingly paying for expenses incurred;*

- Through the links between prostitution and trafficking:

*Women working in the sex industry of the country of origin are much more vulnerable to being trafficked. This is because pimps are often part of criminal networks and sex workers have often already been trafficked internally, sold and resold, etc.;*

- Through the use of false documentation:

*Migrants can be supplied with forged documents, including false passports and visas, work contracts, marriage certificates, etc.;*

- Through the enforcement of procedures:

*Prior to departure, traffickers may make the migrants and their families pay for their passage in part or in full, in cash or in kind. Traffickers may also impose certain conditions on the migrants, such as:*

1. *Sponsorship by a representative of the trafficking network in the country of destination,*
2. *Obligatory employment in the destination country on terms dictated by the traffickers,*
3. *Occupation in sectors selected by the traffickers, with no right to complain,*
4. *An oath of silence which, if broken, leads to police arrest and deportation,*
5. *Imposition of supernatural curses or spells which, if broken by denunciation of the trafficking practice, will cause great harm to the trafficking victim or his/her family.*

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After the victim is recruited, he or she is **transported**. Forced labour is not normally exacted at this stage. But once again, the basis for its future exaction – such as the incurring of

a debt, of either money or misplaced “gratitude” for a successful passage – may be laid at this stage.

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The Transport Stage of the Trafficking Cycle

Trafficking may be practised:

- Within countries or across national borders;
- Using a variety of means or methods,  
For example, traffickers may employ transport providers and operators;
- Using a variety of modes of transport,  
For example, the vehicles used may range from planes to containers to speedboats, or the migrants may simply travel on foot;
- Via straightforward or complex routes.

The time between departure and arrival may be several months or even years.

The traffickers, not the migrants, decide on the final destination.

Some examples of bad conditions during the journey:

- A breach in the initial agreement by the trafficker, for instance, being transported to a destination country different from the one initially agreed on;
- Travelling in crowded groups;
- Being passed from trafficker to trafficker;
- Physical, emotional and sexual abuse.

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While forced labour may, in some cases, occur en route, exploitative conditions of employment amounting to **forced labour**

almost inevitably arise when the victim arrives at his or her final destination.

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The Forced Labour Stage of the Trafficking Cycle

The coercive nature of trafficking often becomes apparent only at the point of destination. This happens through:

- Coercion, exploitation and abuse;
- A complex web of dependence;
- A shift from being smuggled to being trafficked.

Some examples of bad conditions at the destination:

- Breach of the initial contract,

For example, having to work too many hours, not getting paid or not receiving the agreed salary, or being

made to work in a sector different from the one agreed (e.g., prostitution);

- Physical, mental and sexual abuse;
- Seclusion;
- Forced drug use;
- Starvation;
- No sick leave;
- No holidays.

The conditions during the journey, and even more so during employment in the destination country, are likely to reflect the trafficker's control over his victims.





Different methods are used to establish and maintain this control, generally creating terrible conditions for the migrant. For example:

- Confiscation of identity documents so that the migrant is unable to travel back home;
- Threats to hand over the migrant to the authorities of the country of employment;
- Threats of physical harm to the migrant;

- Threats of physical harm to the migrant's loved ones;
- Social isolation;
- Locking-up;
- Debt bondage.

Source: *Trafficking and Forced Labour: Monitoring Recruitment, Training Manual for Trainers*, by Special Action Programme to Combat Forced Labour/ILO Declaration on Fundamental Principles and Rights at Work

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The ability to recognize instances of forced labour resulting from trafficking can be

improved through training on the three foregoing stages.

## The nature and dimensions of trafficking

It is difficult to estimate the number of people involved as most trafficking activity is irregular as well as unregulated. In 2005, the ILO estimated that a **minimum of 2,440,000 persons** are in forced labour at any given time as a result of trafficking. About 20% of all forced labour, and about one quarter of the forced labour exacted by private agents, results

from trafficking. There are regional differences, however. Thus, while the forced labour resulting from trafficking represents less than 20% of all forced labour in Asia, Latin America and Sub-Saharan Africa, in industrialized and transition countries, the Middle-east and North Africa, trafficking accounts for more than 75 per cent of the phenomenon.

### Regional distribution of trafficked forced labourers

	Number of People in Forced Labour as a result of trafficking
Asia & Pacific	1'360'000
Industrialized Countries	270'000
Latin America & Caribbean	250'000
Middle-East and North Africa	230'000
Transition Countries	200'000
Sub-Saharan Africa	130'000
World	2'440'000

Source: 2005 ILO Report, Global Alliance Against Forced Labour

Women and children are more vulnerable to trafficking for sexual exploitation, but increasingly men, too, are becoming victims of this form of exploitation; traditionally they were more likely to become victims of labour exploitation.

Once transported to the country of destination, victims of trafficking work in sectors such as the commercial sex industry, agriculture, the garment industry, catering, construction and domestic work.

## *The causes and effects of trafficking in persons*

Sources are generally agreed on the causes and effects of trafficking. With a view to combating the phenomenon, one Training Dossier is devoted to each of these two areas.

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The Causes of Trafficking	
Poverty and Desire for a Better Life	Traffickers exploit impoverished and vulnerable individuals seeking a better life. In countries with chronic unemployment, widespread poverty or a lack of economic opportunities, traffickers use promises of higher wages and good working conditions in foreign countries to lure individuals into their schemes. Even individuals with jobs or advanced degrees believe the traffickers' promises because they want better lives.
Ignorance of Trafficking's Consequences	Most families and victims are unaware of the dangers of trafficking. Displays of wealth, stories of earlier success, or remittances from relatives working abroad or in urban areas provide powerful incentives for others to migrate for work. The negative consequences of trafficking and horror stories tend not to be publicized in rural areas or among at-risk groups. Victims of trafficking are often ashamed or afraid to return home if they have not made good money, have not fulfilled the terms of the working arrangements imposed by traffickers, have contracted a sexually transmitted disease or have lost social status.
Disruption of Societal Values	Greed and the widespread subjugation of women and minority groups in much of the world facilitate trafficking. Poor countries have been flooded with images of wealth and prosperity beamed in through television, and lavish displays of wealth send powerful messages to impoverished citizens about the benefits of material acquisition. Sometimes an "ends justify the means" philosophy has taken root within communities to legitimize the pursuit of wealth, regardless of how it is acquired. The low status of women, girls and minority groups in some societies, combined with greed, provides a ready source of victims and contributes to the growing trafficking industry.
Political and Economic Instability	Areas of conflict and post-conflict, as well as countries in transition, are easy targets for those seeking to plunder a country's resources, exploit its people. Sudden political change, economic collapse, civil unrest, internal armed conflict and natural disasters greatly increase the likelihood that a country will become a hunting ground for traffickers, as displaced persons are vulnerable. In these environments, the victims may be one of the few resources of marketable value. Hundreds of thousands of men, women, and children have been exploited in areas

	<p>of armed conflict, where government forces and rebel commanders profit from the services of child soldiers, porters, and sex slaves, and in post-conflict and transition states, where organized criminal groups often fill the power vacuums created by war, political change, and economic upheaval.</p>
<p>Demand for Cheap Labour</p>	<p>Changes in formal and informal economies have increased the global demand for cheap and malleable labour in many parts of the world. In many countries, development patterns and imbalances between labour supply and the availability of legal work have created a demand for highly mobile workers to perform low-skill and service-sector jobs. A lack of employment and educational opportunities in villages and poor urban areas creates a ready pool of vulnerable workers.</p>
<p>High Profits</p>	<p>Trafficking thrives because of its profitability. United Nations estimates indicate that trafficking in persons generates \$7 to 10 billion annually for traffickers. Human cargo can be moved across borders and past immigration officials more easily than narcotics or weapons caches, which are often seized when found. Victims of trafficking, even if caught, can be re-trafficked. Traffickers can make additional money at the expense of victims by re-selling them after their often inflated debt is paid off.</p>
<p>Low Risk</p>	<p>Traffickers often go unpunished for their crimes where the rule of law is weak, anti-trafficking laws are rarely enforced and enforcement institutions are corrupt. Cases brought to court regularly fall apart due to a lack of protection for witnesses, family involvement in sending a son or daughter away, or fear of deportation. Victims of trafficking are afraid of retaliation from the traffickers, recrimination within their families and villages and, in cases of trafficking for sexual exploitation, the stigma of prostitution. Governments and rebel forces in countries where there has been conflict are rarely held responsible for the forcible recruitment of combatants and for sex slavery.</p>
<p>Can participants think of other causes of trafficking?</p>	<p>42</p>

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The Effects of Trafficking

Trafficking is a Human Rights Violation and a Crime

Traffickers violate the universal rights of all persons to life, liberty, and freedom from slavery in all its forms. Trafficking undermines the basic need of a child to grow up in a protective environment, free from sexual abuse and exploitation. Men, women, and children die in transit or upon arrival at their destination. Victims are killed for refusing to submit to forced labour or sexual slavery, or for trying to escape. Others die from contracting diseases or suffering abuse during their enslavement.

Trafficking Increases Social Breakdown and Promotes Crime

The loss of family support networks makes the victim of trafficking more vulnerable to the traffickers' demands and threats, and contributes to the breakdown of societies. For families and communities, trafficking weakens parental authority, undermines extended-family relationships, and eliminates the family's nurture and moral development of children. Trafficking interrupts the passage of knowledge and cultural values from parent to child and from generation to generation, weakening a core pillar of society. Victims who do return to their communities are more likely to become involved in criminal activity.

Trafficking Deprives Countries of Human Capital

Trafficking has a negative impact on the labour market, contributing to an irretrievable loss of human resources for developing countries. Long-term effects of trafficking include depressed wages for all workers, a lower number of individuals left to care for an increasing number of elderly persons, social imbalances in the proportion of males to females, and an under-educated generation. Forcing children to work at an early age and subjecting them to 10 to 18 hours of work per day denies them access to the education necessary to break the cycle of poverty and illiteracy that creates the conditions for trafficking. At-risk individuals cannot acquire the skills necessary to compete in their country's labour market, leaving national labour forces ill-equipped to compete in the global economy, where success depends on skilled labour.

Trafficking Undermines Public Health

Trafficking brutalizes men, women, and children, exposing them to rape, torture, HIV/AIDS and other sexually transmitted and infectious diseases, violence, dangerous working conditions, poor nutrition, and drug and alcohol addiction. Increasing numbers of adults and children trafficked into prostitution, as well as street children, are contracting HIV/AIDS. Trafficked children are less likely to participate in immunization programs, defeating government efforts to eradicate early-childhood diseases. Severe psychological trauma from separation, coercion, sexual abuse, and depression often leads to a life of crime, drug and alcohol addiction, and sexual violence.



Trafficking Subverts Government Authority

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Trafficking Funds Illicit Activities and Fuels Organized Crime Activities

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Can participants think of other effects of trafficking?

Some governments do not exercise control over their entire national territory. Trafficking operations thwart government attempts to exert that authority while undermining public safety, particularly the security of vulnerable groups. Some governments are unable to protect girls, who are kidnapped from their homes, schools or refugee camps. Moreover, the bribes paid by traffickers challenge a government's ability to combat corruption among law enforcement, immigration, and judicial officials.

The profits from human trafficking may strengthen criminal groups by funding other illicit activities, while weakening government attempts to establish the rule of law. Organized criminal groups, gangs, document forgers, brothel owners, and corrupt police and immigration officials funnel the profits of trafficking into both legitimate and criminal activities. Human traffickers are often highly successful because of links with other transnational criminal groups, such as arms dealers, drug traffickers, and theft rings, which provide them with tried-and-tested routes, access to cash, forged documents and knowledge of which officials can be bribed.

Based on U.S. Trafficking in Persons Report, 2003

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### Measures being taken to combat trafficking in persons

The fight against trafficking in persons can be intensified by spreading information about successful efforts to combat the practice. Unless **publicity** is given to these efforts, the lessons learnt cannot be applied elsewhere.

At the **international level**, an important breakthrough was the signing and coming into force of the United National Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

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The Protocol sets out the following objectives:

- To prevent and combat trafficking in persons, paying particular attention to women and children;

United National Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Purpose

- To protect and assist the victims of such trafficking, with full respect for their human rights; and
- To promote cooperation among State Parties in order to meet those objectives.





### Key features

The Protocol:

- Defines trafficking as a crime against humanity, characterized by an intention to deceive and exploit;
- Expands the range of actions considered part of the trafficking process (recruitment, transportation, transfer, harbouring and receipt of persons in end-institutions);
- Addresses a wide range of means used, from blatant force to subtle inducements that capitalize on vulnerability, to achieve “consent”;
- Makes “consent” to the intended exploitation irrelevant, where any of the means outlined in the definition are used;
- Acknowledges that men are also trafficked, though it puts the emphasis on trafficking in women and children;
- Recognizes a range of purposes behind trafficking, in addition to sexual exploitation;
- Contains rights-based and protective social, economic, political and legal measures to prevent trafficking, to protect, assist, return and reintegrate trafficked persons, and to penalize trafficking and related conduct;
- Calls for international cooperation to prevent and combat trafficking.

Source: UNIFEM and UN Project on Human Trafficking in the Mekong Sub-region, Trafficking in Persons – A Gender and Rights Perspective Briefing Kit, Sheet 2.

At the **recruitment stage**, two fundamental measures are being taken to reduce the recruitment of potential victims of trafficking

and forced labour: (1) the **monitoring of private employment agencies** and (2) the provision of **information for potential migrants**.

Since it is so easy for recruiters to work ‘underground’, it is essential to combine regulation with promotional measures in order to ensure compliance with the ground rules. See Training Dossier 36: Six Approaches to Monitoring Private Employment Agencies, for greater detail on this point.

Turning to the other aspect of preventing trafficking at the recruitment stage, governments are taking increasingly **proactive measures to inform** citizens of the possible risks involved in migration for work, and particularly about trafficking techniques.



## Ground Rules for Monitoring Private Employment Agencies

Can participants say whether these provisions are in place in their own country(ies)?

For countries that permit the operation of private, fee-charging recruitment agencies, it is essential to establish some ground rules. What obligations should be imposed on private agencies by law? What additional rules might be set up through industry organizations, in the form of codes of conduct? As a minimum, ground rules should include:

- The signing of a written contract of employment before departure;
- The promotion of equality of opportunity and treatment in access to foreign employment and to particular occupations (e.g. roughly equal numbers of job offers for men and women);
- The principle of never denying a migrant worker the right to freedom of association and the right to bargain collectively;
- A prohibition on supplying or using child labour;
- A prohibition on knowingly recruiting, placing or employing a migrant worker in a job involving unacceptable hazards or risks or where he/she may be subjected to abuse or discriminatory treatment of any kind;
- A prohibition on withholding or confiscating, even temporarily, a migrant worker's passport or travel documents;
- A ban on engaging in or tolerating contract substitution (leading, for instance, to women leaving their country of origin in the belief that they will work in the domestic sector but instead ending up in prostitution);
- The principle that agencies should not advertise or solicit applications for workplaces that, in reality, do not exist;
- A ban on unfair advertising practices or on providing misleading or false information to a migrant worker regarding the nature and terms of condition of employment, or to an employer on the qualifications of the job seeker;
- A prohibition on the use of forged travel documents or misrepresenting a migrant worker's personal details;
- A ban on charging fees or costs in excess of those determined by the government after a tripartite consultation.

Improving understanding and knowledge of the international labour market, and the rules and regulations used to monitor private employment agencies, enables potential migrants to distinguish between correct and abusive recruitment practices and to make appropriate choices. The procedures used by recruitment agencies must therefore be easy to understand and accessible to the public.

**Things about which potential migrants should be informed**

- Documents required:  
*Passport, visas, other authorization documents needed to enter the country of employment, information about employment contracts, etc.;*
- Clearances:  
*Health examinations or medical certificates, skills-testing, training or language certificates, etc.;*
- Countries recommended as destinations and those which the government discourages/ has banned migration to;
- The time it takes, on average, to get one's documents, clearances, etc.;
- The permissible maximum fees that be may be legitimately charged at various stages by intermediaries/recruiters or job-placement organizers, government officials, doctors, training institutions and, most importantly, transporters.

**Effective dissemination of information**

- Clarity:  
*Procedures should be simplified and paper work reduced to a bare minimum so that potential migrants can easily understand the stages in the migration and recruitment process;*
- Easy access to information:  
*Future migrants must have rapid and easy access to information about recruitment agencies, including ones that have been blacklisted or given awards, via hotlines, websites, etc.;*
- Increased visibility of the public employment office (if it exists), as well as information on its presence in the field:  
*This will enable future migrants to become familiar with the standards of recruitment practices established by the state, as well as facilitate the provision of information on the possibility of migrating via legal channels;*
- Coordination of institutions involved:  
*Public employment services, local authorities, labour inspectors, media, religious institutions, etc., should work together in an integrated fashion to provide information to potential migrants.*

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

At the **forced labour stage**, the state's policing efforts become most important. Consequently, domestic laws must criminalize the forced labour practices resulting from trafficking. This is discussed in the next section of these Materials.

- Awareness-raising campaigns:

*Targeted principally at the most vulnerable sections of the population (to be determined by research), school children, law enforcement authorities and other professionals. The public should be educated on trafficking and forced labour issues and related recruitment practices. They should also be informed about the opportunities and requirements for legal migration*

**Examples of media used for public information campaigns**

- Radio – e.g. soap operas;
- Television – e.g. special reports;
- Pre-recorded and widely distributed audio and video tape, especially for illiterate potential migrants;
- Travelling exhibitions of photographs and videos;
- Booklets in cartoon-strip form;
- Local and regional newspapers and magazines, especially those popular with potential migrants.

Can participants imagine organizations other than government providing this information? Employers' or workers' organizations, civil society or religious groups, universities or research institutions? What special input might be given by these groups, should they become involved in such efforts?

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## **Meeting the challenge of forced labour, migration and human trafficking**

The smuggling and trafficking of migrants is now high on the international human-rights agenda. Trafficking, especially for sexual exploitation, is seen as an increasingly profitable trans-national crime with close links to the arms and drugs trades as well as to money-laundering. The **emphasis on crime-prevention** and **security** has, however, obscured the fact that trafficking is also related to labour market failures in the countries of destination and origin of the trafficked workers.

This may be one reason why employers' and workers' organization have so far paid little attention to the issue. Only recently has there been increasing awareness of the gravity of trafficking and smuggling for labour exploitation, and the coercive conditions to which migrants – men as well as women – can be exposed in various economic sectors. It is in this context that action by the social partners is now developing.

## Meeting the challenge as Government

### An institutional approach

Training on what governments can do to combat forced labour resulting from migration and human trafficking will tend to take an

institutional approach, focusing on governments' legislative, enforcement, and judicial functions. We begin with **law-making**.

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#### The Challenge of Drafting Legislation Covering Forced Labour Resulting from Migration and Trafficking

The first task of legislative bodies in dealing with this challenge is to ratify the Palermo Protocol, as well as the ILO Conventions relevant to forced labour and migration. Their ratification gives a clear indication to domestic public opinion, as well as the international community, that the country is committed to pursuing the goals and implementing the policies framed by the pertinent Conventions.

The act of ratification commits the State to take action that will lead to the eradication of forced labour resulting from migration and trafficking. Legislation is the basis for such action because it:

- Translates the aims and principles of international standards into national law;
- Sets the principles, objectives and priorities for national action to combat trafficking and other forced-labour practices resulting from migration;
- Creates the machinery for carrying out that action;
- Creates specific rights and responsibilities;

- Places the authority of the State behind the protection of victims of trafficking/migrant workers;
- Creates a common understanding among all the actors involved;
- Provides a basis and procedure for complaints and investigations;
- Provides legal redress for victims;
- Provides sanctions for offenders.

Pertinent questions related to state legislative action:

- Does the legislation effectively prohibit all forms of exploitation as defined by the Protocol and the relevant ILO Conventions?
- Do criminal laws prohibit all forms of forced labour and trafficking?
- Do they include provisions for all the perpetrators involved?
- Do the laws provide adequate protection for victims, regardless of whether they agree to file a complaint against the offenders immediately upon identification?

Bringing existing legislation into line with treaty obligations is easier said than done. This is for three principal reasons.

First, there may be gaps in existing legislation. For instance:

- Legislation on trafficking may be interrelated with legislation on prostitution, limiting effective prosecution where forced labour exploitation but not prostitution is the result of trafficking.
- Legislation may make no clear distinction between trafficking, smuggling and migration law, impeding the efficient prosecution of perpetrators.
- Legislation may focus on slavery and slavery-like practices, which implies ownership of one person by another, which is most often not the case in forced labour arising from migration or trafficking.

Second, new legislation has to be consistent with existing laws. The trafficking legislation must be coherent, for instance, with the constitution, the existing labour code and migration law. To ensure consistency, an inter-agency approach is necessary, involving relevant ministries throughout the drafting process.

Third, migration laws can impede victim protection since most criminalize the irregular residence and work of a migrant. This approach fails to recognize victims of trafficking. Instead of harmonizing trafficking and migration law by requiring the expulsion of all irregular migrants, a regulation may be issued declaring that these particular provisions do not cover victims of trafficking.

**Can participants agree on the importance of ratifying international instruments?**

**Further detailed information can be found in *Human Trafficking and Forced Labour Exploitation: ILO Guidelines for Legislators and Law Enforcement* produced in 2005 by the Special Action Programme to Combat Forced Labour (SAP-FL), InFocus Programme on the Promotion of the Declaration on Fundamental Principles and Rights at Work.**

**Further elaboration of the implications of meeting the treaty obligations referred to here can be developed for the relevant audiences, based on the legislation of the country(ies) actually involved in the training.**

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Laws dealing with forced labour resulting from trafficking and migration need to deal with the problem in ways that go beyond a simple prohibition of forced labour. When it comes to

trafficking, laws need also to take into account the potential role of recruiting agencies; innovative methods can be used to approach the role such agencies play.

## Law Enforcement Using Sanctions and Positive Measures

After an exposition of the challenges posed by modern forms of forced labour, can participants brainstorm law enforcement methods that would be effective in their circumstances?

Of course not all recruiters are traffickers. For example, though smuggling is a violation of labour law, it is not a violation of human rights. Therefore sanctions need not necessarily be penal. They can be administrative. Nevertheless, it is crucial that sanctions have the appropriate deterrent effect.

Sanctions should not be limited to natural persons. If sanctions were limited to individuals, legal entities would go unpunished and the recruitment business would continue operating through other people.

Some examples of possible sanctions are:

- Fines;
- Withdrawal of license;
- Disqualification from performing commercial activities;
- Blacklisting;
- Confiscation of assets resulting from the abusive recruitment practices (which could be used to compensate trafficked persons);
- Closure of the recruitment establishment;
- Withdrawal of entitlement to public or tax benefits;
- Placement under judicial supervision;
- Imprisonment.

**Positive enforcement measures** can also be used. They provide incentives for the recruiter to comply with rules and regulations.

Some examples of positive enforcement measures for agencies that meet the criteria of good performance are:

- Tax incentives;
- Contracts are processed speedily or approved automatically;
- Agencies are invited to participate in government-organized marketing missions;
- Agencies may be allocated shares of the market developed by the government;
- Inclusion in a formal and publicly available list of recommended agencies.

Legislation is meaningless without **enforcement**. Unfortunately, law enforcement in respect of forced labour resulting from trafficking and migration is a difficult and complicated business. At best, it involves multiple domestic and international law enforcement agencies, complicated relations between law-breakers giving rise to complex

crimes, targets of investigation which are transitory or hidden, and victims and witnesses who are often reluctant to provide evidence. In a training environment, it may be best to begin with the idea that **government should review enforcement machinery for effectiveness** with respect to the challenges posed by forced labour resulting from trafficking and migration.

## 49 Training Dossier

### The Role of Coordination in Law Enforcement by Police and Labour Inspectors

Can participants comment on local coordination efforts? Is this an area requiring closer cooperation? Can all the concerned parties come together to discuss the issues?

Labour inspectors and police play important enforcement roles when it comes to forced labour resulting from migration and/or trafficking. Yet the absence of effective arrangements for cooperation and coordination at all levels often leads to wasted resources. Labour inspectors may have no contact with those responsible for parallel or particular aspects of forced labour, such as police and specialist safety inspectors. At worst there may be rivalry, leading to duplication of effort or one authority leaving the problem for the other to deal with. Cooperative labour inspectors, with broad powers and extensive geographical coverage, could serve to supplement the eyes and ears of the police. Cooperation between police and labour inspectors can be fruitful, since crime and labour laws tend to overlap in the places where victims of forced labour work.

In looking at cooperation between police and labour inspectors, several important questions should be considered.

First, where does the work of labour inspectors end and that of the police begin? With regard to forced labour resulting from migration and/or trafficking, both “inspectorates” should be clear about:

- their separate responsibilities and how to fulfil them,
- where these responsibilities may overlap, and
- how cooperation between inspectorates can be ensured on the basis of these responsibilities.

Second, what consideration has been given to the most serious difficulties facing police and labour inspectors in enforcing laws on forced labour, particularly resulting from migration and/or trafficking? For example:

- Finding and gaining access to premises is a major challenge faced by labour inspectors. Since many forms of forced labour are hidden from the public eye, such as domestic forced labour, which takes place in the private sphere, enforcement services and/or authorities may need to be strengthened and efforts made to improve their relationship with communities aware of local goings-on.

The approach of identifying mutual challenges among training participants should help establish common ground upon which cooperation can be built.



- In the event of a serious lack of resources, consideration should be given to prioritizing police and labour inspectorate activities – and optimizing cooperation between them.
- The law in many countries provides that when workers live and work on the same premises, labour inspectors may gain access to the workplace only if the occupier agrees. If permission is refused, the labour inspector has very little power to do anything. Might consideration be given to collaboration with policy authorities?

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Government action against forced labour resulting from migration, smuggling and trafficking will also have an **international aspect**. Examples of this include the making of bilateral agreements concerning the flow of migrants between a supplying country and the host country; taking steps to secure national boundaries to prevent the trafficking of persons; engaging in technical cooperation activities with other countries; etc.

**Integrated international approaches**, in addition to supporting rural development in places where migrants originate, can be adopted to address the entire recruitment cycle, including transport, employment conditions in

the place of destination where there is a risk of forced labour occurring, and repatriation to the place of origin. This approach is best suited to seasonal labour migration in commercial agriculture, within as well as across national frontiers, where coercive recruitment and employment practices are known to have occurred. It would be particularly appropriate in cases of large-scale migration, for example those involving indigenous workers in Latin America to the sugar, cotton, coffee and fruit harvests. Approaches of this nature could well be planned in other countries and regions where rural migrant workers are at risk of coercion.

**50 Training Dossier**

**Annex 19: US Monitoring Minimum Standards for the Elimination of Trafficking, and Annex 20: International and Regional Initiatives to Combat Trafficking, provide some examples of international action that can be used as a basis for discussion when presenting this Training Dossier.**

**Inter-agency Cooperation**

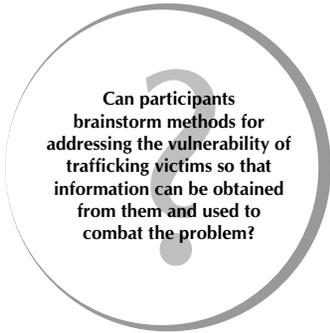
When monitoring the behaviour of private recruitment agencies, it is essential that different groups and institutions work together at local, regional, national and international level in order to have the fullest and most complete information concerning abusive recruitment agencies and their whereabouts. For example, labour attachés or consular staff working abroad may pass on intelligence gathered from victims of trafficking and forced labour to the authorities in the country of origin, thereby providing valuable information concerning the practices of private employment agencies back home.

The multi-agency approach is especially important when collecting intelligence. The main way of organizing this intelligence is by creating a database of information on

Traditional labour inspection as a method of law enforcement of fundamental importance for breaking the patterns of **abusive employment** that are typical of modern forced labour practices resulting, particularly, from migration. And labour inspectors can play a vital role not only at the end of the Trafficking Cycle, i.e. when a migrant is already in the position of a victim, but also at the beginning of the Trafficking Cycle, i.e. the recruitment stage. Monitoring and inspecting can be extended to recruiters and thus play an important role during the prevention phase. See Training Dossier 11: Labour Inspection to Eliminate Abusive Employment Conditions, on page 19, for more details.

The correct **identification of victims of trafficking and migrants working as forced labourers** by police is of paramount importance since they supply the most significant incriminating evidence against traffickers and labour exactors. Though proactive policing can be effective, using techniques which include human and technical surveillance, phone-tapping and undercover

deployments, as well as more standard investigative techniques, most cases tried in court are based on the testimony of victims of trafficking. This is particularly so because proactive operations can be resource-intensive, take time and tend to be expensive. Yet, for reasons that are easy to understand, it is not always easy to obtain the cooperation or testimony of a victim of abusive recruitment practices, trafficking or conditions of forced labour that have developed after migration. This being the case, great efforts need to be made to create a situation in which victims will cooperate.



Can participants brainstorm methods for addressing the vulnerability of trafficking victims so that information can be obtained from them and used to combat the problem?

migrant workers: personal characteristics, employment conditions, recruiters, etc. This database should cover the situation in the country of origin, as well as in the country of employment, so that migrants can be traced.

One way to ensure effective inter-agency cooperation is to draw up a memorandum of understanding. This mutual agreement sets out the rights and responsibilities of the institutions involved, together with the measures that the different parties must take.

Agencies that could profitably cooperate are:

- Law enforcement agencies,
- Prosecution agencies,
- Inter-ministerial departments,
- International organizations,
- Trade unions,
- Employers,
- Civil society organizations.

51 Training Dossier

The Predicament of the Victim

Depending on the stage in the Trafficking Cycle, the victim may be...

- Experiencing severe financial problems;
- Homeless;
- Without ID documents;
- Distrustful of authorities, e.g. because he/she has encountered corrupt officials;
- Fearful of retaliation from the trafficker/recruiter on her/himself or loved ones;

- Afraid of stigmatization, e.g. women who have been forced to work in the sex industry;
- Seeking to migrate.

For these reasons, his/her physical and psychological well-being may be precarious. Because of the permanent fear they live in, potential or actual victims of trafficking and forced labour may be unwilling to testify in order to protect themselves and /or their loved ones.

Also, the ardent desire to migrate may make the migrant reluctant to cooperate with police, as he/she may see this as eliminating the main migration channels.

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As law-enforcer, because of the unique nature of the phenomenon, government has to develop and implement an appropriate

approach to handling victims of modern forms of forced labour practices.

Finally, it might be useful to explore the role played by the **judiciary**, and consider methods for improving the response of this branch of government to the challenges posed by these forms of forced labour. The ultimate objective

is a judiciary sensitive to the nature of crimes inherent in the exaction of forced labour in circumstances involving migration and trafficking, and able to dispense credible justice in response to them.

To ensure their ability to deal with such cases, governments should make timely efforts to acquaint judicial authorities with the way forced labour can result from trafficking and in the context of migration. Judicial authorities specialized in criminal law, as well as those with competence in immigration matters which may also have to deal with cases of trafficking and forced labour, should be trained in these respects.

A crucial basis for the efficient prosecution of traffickers is a credible judicial system. Credibility is enhanced by a number of factors.

- Credibility depends partly on jurisdictional clarity. Courts' jurisdiction to investigate, prosecute and punish needs to be clearly set out for all the actors involved. A lack of clarity in this area can result in no prosecution at all, as courts may refuse to take on a particular case.
- The credibility of the judicial system is also linked to the enforcement of sanctions against traffickers and those who exact forced labour.

52 Training Dossier

The Victim's Role as Witness in Law Enforcement

**Types of victim** of abusive recruitment practices

- A victim who will not cooperate with law enforcement officers and labour inspectors
- A victim who will provide intelligence but not testimony
- A fully cooperative victim who is willing to testify against the recruiter/trafficker

**Dealing with witnesses**

- Potential eye-witnesses must be provided with information about the procedures and risks involved  
*e.g. threats to oneself, to one's loved ones, etc*
- Requires the establishment of trust
- Requires that the victim's genuine needs and fears be addressed
- Witnesses should be treated as victims of abusive recruitment practices

- The safety of the witness and his/her loved ones should be paramount

The **confidentiality of the information given by the victim** should be respected

- Safe ways of giving testimony should be provided  
*e.g. video link, tape recordings*
- The investigators should conduct a continuous risk assessment with regard to the safety of the victim and his/her loved ones.
- The witness should be given information about other migration possibilities.
- If the witness is a victim of trafficking and forced labour (and thus finds him/herself at the end of the Trafficking Cycle), adequate social, psychological, legal and financial support should be provided.

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53 Training Dossier

The Role of Judicial Authorities

- Other factors associated with judicial credibility are corruption and the obstruction of justice. Cases should preferably be prosecuted in a location and by prosecutors and judges not liable to be influenced by attempts to obstruct justice on the part of, for example, criminal networks.

Once judicial credibility has been established, methods for proving cases can be considered. Judicial authorities need to have the appropriate legislative tools to prosecute and pass judgment. While the victim of trafficking provides the most concrete incriminating evidence, five other categories of evidence can be presented in court:

Can participants brainstorm methods for sensitizing judges and judicial authorities? Can they identify local institutions in a position to do such work?

Do participants understand what is meant by the term "appropriate legislative tools" (i.e. laws effective in bringing perpetrators to justice)?





- Advertising: recruitment and business activity;
- Rentals: dwellings, premises, vehicles and so on;
- Transport: all forms;
- Communications: landlines, mobiles, emails, faxes, etc.;
- Financial transactions: all forms.

However, these types of evidence are more likely to supplement the testimony of victims than replace them. Considering the utmost importance of the victim in criminal justice proceedings, care needs to be taken to ensure that adequate protection is provided. Articles 6 to 8 of the Palermo Protocol set out the obligations of States Parties to victims. The first is a right to privacy and non-disclosure of identity: where possible

under domestic law, legal proceedings relating to trafficking should permit the victim to remain anonymous.

Many countries have instituted identity-protection measures in court proceedings, often linked to witness protection. This has helped to obtain the cooperation of victims in court. Measures include allowing disguised testimony via video-link, enabling the victim to testify without being in the same room as the abuser, and putting a screen between them in the courtroom. In some countries, contrary to legislation on witness protection, victims and traffickers may appear in the courtroom together. This can have several results, including an increased risk of reprisals by the trafficker and/or his accomplices, intimidation of the victim to retract a complaint, and secondary victimization.

## Government's role in mobilizing and guiding civil society

One of government's roles in dealing with the forced labour outcomes of migration and human trafficking is to mobilize and guide other sectors in a coordinated offensive by providing the legal and policy frameworks that underpin direct action.

For example, where **children are being trafficked** for sexual or labour exploitation, the Stockholm Declaration and Agenda for Action comes into play, calling on governments to develop and implement national laws, policies and programmes to protect children from being trafficked within or across borders and to penalize the traffickers. See Annex 18: National Plans of Action against Trafficking in Children for details.

Civil society organizations can do much to help combat modern forms of forced labour, in particular where it occurs in domestic work, and in the contexts of voluntary migration and trafficking for labour exploitation. Governments have an interest in

taking the lead in working with civil society organizations, since they can be exceptionally useful in assisting in law enforcement activities. For a start, government can help civil society organizations to understand that their mandates may well extend to aspects of modern forms of forced labour.

The multifaceted aspects of modern forms of forced labour make them especially susceptible to the efforts of civil society organizations with a broad range of interests. Consider just a few of the areas such organizations are involved in:

- protection of women's rights;
- providing shelter and psychological counselling to women and children;
- protecting migrants' rights;
- improving law enforcement and fighting crime;
- protecting minority and indigenous rights;

Can participants familiar with the widely ratified ILO Convention No. 182 on the Worst Forms of Child Labour say how implementation of the Stockholm Declaration would relate to implementation of the Convention?

- removing children from the worst forms of child labour;
- improving border controls;
- promoting the rule of law;
- improving the availability of education.

Organizations with all these interests also have an interest in working toward the elimination of forced labour.

Can participants elaborate on the connection between the usual work of these types of civil society organizations and the work they might undertake in combating forced labour?

## 54 Training Dossier

The approach of this Training Dossier can be used to relate other NGO mandates to working in combating modern forms of forced labour. See Activity 22. NGO's Broadening Understanding of Their Mission on page 197.

### Relating Children's Rights as Set Out in the CRC to Trafficking in Children

Workers' and civil society organizations concerned with the rights of children will be familiar with the UN Convention on the Rights of the Child (CRC). It is used as a benchmark for guiding their activities.

While the basic text of the CRC neither defines trafficking nor addresses it as a specific issue, it does spell out a clear rights-based approach that serves as an invaluable guide for action to combat trafficking and protect vulnerable children. Recognition of this makes it easier for child-rights organizations to relate to the issue of trafficking in children. See also the 2000 Protocol, referred to below.

In its approach to children's rights, the CRC adopts a protection framework built on its overarching call for the child to be considered the subject, not the object, of rights, and of all rights simultaneously.

- Article 32 of the CRC stipulates the "right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's social development".
- Articles 9, 10 and 11 also have provisions against the illicit movement of children.
- Article 34 calls on States Parties "to protect the child from all forms of sexual exploitation and sexual abuse...[including] the inducement or coercion of a child to engage in prostitution or other unlawful sexual practices".
- Article 35 aims to protect children from being treated as chattels.

An Optional Protocol to the CRC, on the Sale of Children, Child Prostitution and Child Pornography (2000), which came into effect in January 2002,



explicitly relates to the prostitution and trafficking of children, although it does not attempt to define trafficking in more detail.

Work against child trafficking is reinforced by the obligations found in the ILO's Worst Forms of Child Labour Convention, 1999 (No. 182) and Recommendation (No. 190). This declares child trafficking to be unacceptable in all countries, regardless of their level of development, and calls for it to be eliminated without further delay. It confirms that child trafficking is a practice similar to slavery, and belongs in the same category as forced labour. Convention 182 urges countries to both prohibit and eliminate trafficking of children (under 18 years of age). It not only targets trafficking that leads to exploitation in more recognizable labour situations (sweatshops, domestic work, agriculture and fishing, for example), but also in illicit or criminal situations (drug trafficking and prostitution). In addition, Convention 182 suggests operational guidelines for eliminating child trafficking, while providing protection for boys and girls who have fallen victim to traffickers or are at risk of doing so. Ratifying States commit themselves to:

- Undertake immediate and effective measures to secure the prohibition and elimination of trafficking of girls and boys under 18 years of age;
- Establish mechanisms to monitor child trafficking: its incidence, development, patterns, and links with organized crime. Monitoring includes developing methods for gathering critical information, identifying and publishing successful strategies, and regularly reviewing the

success with which various actors (e.g., labour inspectors, law enforcement officers, immigration officials, customs officers, judiciary) discharge their responsibilities;

- Draw up a programme of action to eliminate child trafficking as a matter of priority. Measures to combat trafficking must be properly enforced;
- Implement effective and time-bound measures to:
  - prevent children from being trafficked,
  - provide the necessary and appropriate direct assistance for both the removal of children from exploitative situations and for their rehabilitation and social integration; e.g. reporting procedures and help lines, rehabilitation programmes and shelters for child victims of sexual abuse and exploitation, and family reunification,
  - ensure access to free basic education and, wherever possible and appropriate, vocational training for all children rescued from trafficking,
  - identify and reach out to children at special risk of being trafficked; and take account of the situation of girls;
- Designate an authority responsible for coordinating action against child trafficking;
- Seek and impart international assistance to combat child trafficking and assist victims, for example through bilateral or regional agreements for the repatriation of trafficked children.

Once it is clear to the principals that the mandates of their civil society organizations include work on modern forms of forced labour, government can take up with their partners the question of what their organizations can specifically do and how they can go about doing it. Government should also consider whether it is providing the necessary foundational elements in terms of policy and organizational support. To answer these questions, civil society organizations need to balance knowledge of what needs to be done with knowledge of what they do best, starting from the vantage point that seems most straightforward.

**Can participants say whether, in deciding what their organization could do to fight modern forms of forced labour, it would be easiest to begin by considering the strengths of their organization, or by considering what needs to be done?**

# Activity 21. Dos and Don'ts for Investigating Trafficking

## *Introduction*

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Investigating and prosecuting trafficking can be difficult, largely because witnesses and victims are extremely vulnerable and hesitant to cooperate. Yet investigation and prosecution must take place if the phenomenon is to end. This Activity has participants looking broadly at the special context in which trafficking operates, and requests them to take that context into account in procedures for its investigation.

## *Objective*

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- To develop in participants an idea of the sensitivities involved in investigating and prosecuting trafficking;
- To develop a checklist for questioning victims and perpetrators of trafficking.

## *Task and arrangement*

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Participants in training are divided up into small groups. Each group is asked to **formulate a checklist** of “dos and don'ts” for the investigators of trafficking. To cover several points of view, each small group is asked to consider the issue from the point of view of a particular **type of investigator**: labour inspectors looking for violations of laws and regulations governing working conditions; police investigators looking for violations of criminal laws; trade-unionists looking for violations of collective bargaining agreements; sending-country representatives looking to protect the rights of citizens of the sending country in the receiving country; community organizations looking to provide victim assistance. After time working in groups, group spokespersons are asked to present the list to the plenary for consideration and discussion.

## *Approximate time*

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45 minutes for group work, 10 minutes for each group to report to the plenary, 10 minutes for plenary discussion of each group's conclusions.

## *Hints*

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The lists prepared by participants should reflect at least **two broad areas of concern**: first, achieving success in investigation (i.e. determining whether or not forced labour has occurred, in the context of migration or trafficking); and second, ensuring that the context of migration or trafficking is taken into account in the methodology used for investigation (i.e. sources of information threatened by social stigmatization and physical retribution, trafficking occurring in the context of other illegal activities, etc.). The lists may have contexts that are broad (“Find out where migrants for employment come from and what sectors they usually work in”) or narrow (“Reassure witnesses that no harm will come to them as a result of cooperation”) in character.

This Activity may be adapted for use by other target groups, particularly workers’ and non-governmental organizations.

## *Reference documentation*

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Some suggestions for a checklist for questioning victims of abusive recruitment practices is found in Annex 13: Questioning victims of abusive recruitment practices: Suggestions for a checklist.

## Activity 22. Role-Play: Questioning Victims

### *Introduction*

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Since the investigation and prosecution of trafficking can be difficult, largely because witnesses and victims will be hesitant to cooperate, it is useful to develop sensitivity to the issue, and skills for dealing with it, in a training environment. This is the purpose of this role-play Activity.

### *Objective*

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The objectives of this role-play are:

- To develop in participants a sense of the sensitivities involved in investigating trafficking;
- To develop the skills of persons involved in the questioning of victims of trafficking.

### *Task and arrangement*

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#### *General instructions for all group members*

Ask for four volunteers from among the participants. The rest of the participants in the class should be observers. The four volunteers will do an impromptu role-play of officials dealing with victims of abusive recruitment practices. Two of them should act as officials and the other two as two sisters who are victims of trafficking and forced labour. The role of the officials is to interview the girls and find out as much information as possible about their situation. It is hoped that this information will help them to identify and arrest the traffickers, as well as the employers of these girls.

In addition to a **summary of the situation** issued to **all** participants, **two sets of instructions** will be handed out, one for the officers and the other for the two girls. The two groups should not see each other's instructions as this might spoil the role-play. The groups are to be given ten minutes each to discuss their positions, decide on their key speakers and any other issues before they have to do the role-play.

**Summary (for all group members)**

For nearly three months, the police department of Capital City had been working on a project to track down traffickers who were widely believed to be responsible for a boom in the sex industry. After a tip-off from an anonymous caller, the police ambushed a car transporting two girls working as prostitutes to a client.

Unfortunately the driver got away and when the police officers tried to trace the car using the registration number, they discovered that it was stolen and that the original number plates had been changed. Although the girls (attractive identical twins) are clearly relieved to be free, they still seem fearful and suspicious of the officers.

**Instructions for the officers**

You are required to obtain as much information as you can from the girls that might lead to the identification and subsequent arrest of the traffickers and the employers. You have to establish whether trafficking took place and also whether the girls were actually in a situation of forced labour.

Remember you have to be very careful how you approach the subject because the girls, who have clearly been through a lot and have been threatened with reprisals against them and their loved ones should they disclose any information, are unlikely to be open. You therefore need to win their trust by reassuring them that it is ok to tell you the truth, and that nothing will happen to them and their families if they disclose any information. Remember you need to explain what trafficking is, the negative consequences to individuals and societies as a whole, and why you need their help to stop it. As long as they don't trust you and your intentions, they will not open up.

**Instructions for the victims**

Although you were initially pleased to be free, you are now concerned about your future and are beginning to think that perhaps you were better off working as prostitutes in Capital City. The alternative is to go back to your home country. You will be social outcasts once people at home discover that you were working as prostitutes in Capital City, since you left after being promised bright futures as models.

You are also concerned about disclosing any information to the officers that might lead to the arrest of your employer and the people who brought you to Capital City, because you have been threatened. You were told that, should you disclose any information to the authorities, your lives and those of your family back home would be endangered. This threat is real to you because the person who brought you to Capital City is a friend of a friend of your uncle and therefore knows where to find your family and yourselves, should you return home. You were also told that your employer has contacts in the police who will leak any information that you give the police to him. You are willing to describe the bad conditions under which you came and the bad conditions under which you worked (you can make these up) but be wary of providing information about the people who were responsible.

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### *Approximate time*

Minimum: 25 minutes (10 minutes preparation for the Victims/the Officers, 15 minutes for the role-play). If necessary, more time may be given for both preparation and role-play.

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### *Hints*

In appropriate training programmes, the facilitator may have formally introduced this topic and distributed Annex 13, which can be used as a basis for the Officers' preparation. Alternatively, the facilitator may have developed a checklist as part of an earlier Activity.

The facilitator will want to listen carefully to the role-play with a view to highlighting relevant training points after the Activity.

The role-play may be of interest to other target groups where sensitization to the issues dealt with here is an important aspect of the training.

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### *Reference documentation*

Some suggestions for a checklist for questioning victims of abusive recruitment practices can be found in Annex 13: Suggestions for a checklist for questioning victims of abusive recruitment practices. This Activity is taken from *Trafficking and Forced Labour: Monitoring Recruitment, Training Manual for Trainers*, by the Special Action Programme to Combat Forced Labour/ILO Declaration on Fundamental Principles and Rights at Work, which may be used as a further source of reference.

## Meeting the challenge as Employers

What can employers do to help meet the challenge of eradicating trafficking in human beings for exploitation as forced labourers, forced labour in domestic service, and forced labour arising in the context of migration?

Training for employers should at least cover the three following areas:

- Lending **political support** to others' efforts;
- Influencing employers generally by **promoting good corporate citizenship** and social responsibility;
- **Providing technical inputs** and supporting others' efforts.

Can participants independently brainstorm on actions that employers and their organizations can take in meeting the challenge?

Can participants suggest methods in the local context for expressing political support for efforts to eliminate the problem?

## Lending political support

It is important that employers and their organizations have a strong voice in supporting efforts to eradicate modern forms of forced labour. Government and civil society have to rely on positions taken by employers and their organizations; when those positions are vocally and meaningfully expressed, the fight becomes a great deal easier.

How can political support be most usefully expressed? The methods can be as varied as the creativity of the employers or employers' organizations wanting to express a position. In all cases, a first step is **putting a policy in place**. The second is publicizing it.

### 55 Training Dossier

#### Employer Policy on Forced Labour

Can participants contribute their own scenarios? Can they discuss appropriate ways of publicizing these different types of policy decisions?

Whether adopted by an individual employer or an employers' organization, a policy on forced labour in any of its forms, should aim to be clear about the **practices concerned** and the **people to whom it is addressed**, and should ideally say something about **action being taken** or to be taken. Consider the following scenarios. Identify these three elements in each case.

- An individual employer establishes a policy condemning the use by its suppliers of practices that amount to forced labour among migrant workers. The policy is addressed to both the employer and its suppliers. It says that the company and its suppliers will establish procedures to ensure that migrant workers do not become forced labourers.
- An employers' organization announces to the public and local media its policy in favour of a new government initiative to combat trafficking and pledges that it will support the initiative "by all material means".

## Promoting good corporate citizenship

Once a policy is in place and publicized, the third step is to apply it. However, promoting good corporate citizenship can go beyond enforcing “inward-looking” policies (i.e. policies addressed to individual employers or the membership of an employers’ organization). Employers and their organizations can promote good citizenship, as well as good corporate citizenship, among a broader public, including employers who are not members of employers’ organizations. After all, no one challenges the universal condemnation of forced labour practices; abolition of the practices comes down to respecting these condemnations, not least as expressed in local laws.

**There are many materials on corporate social responsibility and employers.**

**See, for example,**

*Corporate Social Responsibility: An IOE Approach by the International Organization of Employers (2003), available at the IOE website.*

- An employers’ organization establishes a policy condemning the use of forced labour in any of its forms by any of its members, and establishes a mechanism for expelling from membership any employer contravening this policy.
- An employer announces a policy condemning state-sponsored forced labour, pledges that it will not use or benefit from such labour, and announces a policy of “constructive engagement” with states using such labour, with a view to persuading them not to engage in such practices.

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## Providing technical inputs

Employers and their organizations are knowledgeable, and their technical inputs are useful for others’ initiatives. For this reason, individual employers and their organizations should consider honing this knowledge and sharing it with others so that actions taken to combat forced labour are well-founded. This can be done – sometimes in a training environment – by:

- Sharpening what employers already know about what constitutes forced labour, so that they can better perceive these practices in their midst;
- Engaging in consultation with the social partners with a view to sharing knowledge and improving responses to forced labour practices;
- Planning how employers’ knowledge of the subject can best be shared

## Activity 23. What are the Challenges in Origin and Destination Countries, and What can Employers Do?

### *Introduction*

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What are the political, legislative, administrative and other obstacles to combating trafficking-related forced labour in origin countries, and in destination countries, and what can employers' organizations do in each case? This Activity focuses on this issue.

### *Objectives*

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- To make participants more aware of the practical implications of the challenge of eliminating trafficking for labour exploitation;
- To get participants to think out and express the different types of challenges faced by receiving and sending countries;
- To get participants to think what actions it is in their power to take to help deal with specific challenges to combating trafficking for labour exploitation.

### *Task and arrangement*

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Participants should be familiar with trafficking for labour exploitation in advance of this Activity.

Conducted in plenary session, this a true brainstorming session, led by the facilitator. The facilitator asks participants:

***“What are the political, legislative, administrative or other challenges to combating trafficking for labour exploitation, first from the sending country’s perspective and then from the receiving country’s perspective?”***

The facilitator should record all the results of this brainstorming session without discussion. A table arrangement might be used to facilitate orderly recording:

	Sending countries	Receiving countries
Political challenges	● ● ● ● ● ● ● ● ● ●	● ● ● ● ● ● ● ●
Legislative challenges	● ● ● ● ● ● ● ●	● ● ● ● ● ● ● ● ● ● ● ●
Administrative challenges	● ● ● ● ● ●	● ● ● ●
Other challenges	● ● ● ● ● ● ● ● ● ● ● ●	● ● ● ● ● ● ● ● ● ●

Once the brainstorming is completed, the facilitator should ask the following question, with reference to each of the brainstormed responses:

***What can employers or their organizations do to help meet this challenge?***

The results of the brainstorming can be further processed in action planning.

### ***Approximate time***

60 minutes maximum.

### ***Hints***

This is a flexible, multi-phased Activity that can be adapted in many ways. For example, cells of the brainstorming table can be deleted, depending on the focus of the training, or the ultimate target/action-taking group can be changed or left unspecified (perhaps depending on the location of the training activity, i.e. sending or receiving country). The type of forced labour may also be varied. In any case, the activity should be done at a rapid pace, without judgment of the ideas put forward by participants.

This Activity can be used by all target groups, with appropriate adaptation of the second question and cells.

### ***Reference documentation***

None needed

## Activity 24. What can Employers with Subcontracting Arrangements Do?

### *Introduction*

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One of the vexing dilemmas faced by employers today, in relation to compulsory or forced labour, has to do with subcontractors. To stay competitive, many employers turn to subcontracting arrangements. Subcontractors sometimes use disreputable employment practices, including forced labour. The dilemma arises when the contracting employer comes to be associated with the practice of the subcontractor. What can the employer with subcontracting arrangements do? This Activity raises this issue for consideration.

### *Objectives*

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- To have participants consider the dilemma posed by subcontracting, and actions that could be taken to eliminate it.

### *Task and arrangement*

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Participants should be familiar with trafficking for labour exploitation in advance of this Activity.

Participants are divided into six small groups. Each group is asked to consider one of six proposals for action that employers with subcontractors could consider taking to avoid the use of forced labour by the subcontractor. The proposals are found in Annex 29: What can employers with subcontracting arrangements do? The groups are to consider the following questions:

***Is the proposal appropriate in our situation? If not, why not?***

***How can the proposal be implemented in our situation?***

Once the groups have completed their small-group discussion of the proposal they are to return to plenary to consider each other's conclusions.

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### *Approximate time*

A minimum of 90, but better 120 minutes, with a minimum of 10 minutes allocated in plenary discussion to each of the groups' conclusions, and 30 minutes for group discussion.

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### *Hints*

This Activity calls for reaction rather than creation, but deals with a difficult problem. Although it is ideally done in small groups, the Activity could be completed in plenary, with participants reading the documentation in advance of the session and considering proposals together in open discussion.

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### *Reference documentation*

Annex 29: What can employers with subcontracting arrangements do?

## Meeting the challenge as Workers

What specific actions can workers and their organizations take to combat modern forms of forced labour resulting from migration and trafficking? And how might participants be trained to understand this phenomenon and prompted to take action? We look at a few possibilities here.

### Forced labour in domestic work

One of the least visible forms of work is domestic service; forced labour practices may easily develop under certain circumstances. For migrant workers doing domestic work the vulnerability is compounded. Trade unions can adopt a **broad approach** toward protecting **all** domestic workers, at the same time fighting the **circumstances** that lead to forced labour. This is a useful entry point in a training environment targeting workers and their organizations.

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- **Organize domestic workers.** Although they are isolated by the nature of their work and may have no awareness of belonging to a specific labour group, domestic workers can be reached by:
  - Working with other civil groups – women’s associations, religious groups, social assistance organizations – to encourage and assist domestic workers to come together to form their own associations;
  - Providing special services for domestic workers, including employment exchanges, telephone support networks, a place to congregate on days off, counseling and advisory services (both legal and general advice);
  - Ensuring that domestic workers can easily contact the union;
  - Conducting publicity and media campaigns to make domestic workers aware of their rights and to sensitize the public to the exploitation of such workers.
- **Lobby for national legislation to cover domestic workers.** Labour legislation in many countries does not apply to domestic workers. Unless domestic workers are officially recognized as employees, they will be excluded from the operation of labour laws and will

Workers and their organizations also need to understand certain aspects of forced labour in domestic work that have an effect on efforts to combat it. First is the **gender aspect**, second the **role of migration**, and third the prevalence of **child domestic workers**. Indeed, these three aspects of forced domestic work often coexist, complicating decision-making on what action should be taken. See Activity 26. Trade Unions’ Action in Disseminating Information to Women and Children Domestic Workers, on page 160.

## Guidelines for Trade Union Campaigns in Support of Domestic Workers

- not be able to use the services of labour administration and industry courts to resolve disputes.
- **Assist domestic workers to lobby for legislation to improve their terms and conditions of work.** This would include legislation on:
    - stipulated hours of work;
    - a minimum wage, adequate to support basic living needs, with extra pay for skilled work such as day care, taking care of the elderly and persons with disabilities, when performed in addition to housework;
    - additional pay for sleep-in domestics;
    - severance benefits;
    - sick leave, vacation pay and public holidays;
    - overtime pay;
    - maternity protection;
    - prevention, prosecution and compensation for sexual harassment and wrongful dismissal;
    - a requirement that employers enter into written contracts with domestic workers;
    - prevention, prohibition and abolition of child labour in domestic work.
  - **Fight for a legal requirement that domestic workers must have written contracts.** This helps ensure their terms and conditions of work.
  - **Raise awareness of the link between unpaid domestic work and the low status of paid domestic work.** Unpaid domestic work should be recognized as work and an accurate measure of the quantity and economic value of this work should be included in a country's gross domestic product using satellite accounts;
  - **Provide training for domestic workers.** Different types of training can be given:
    - to improve their skill levels and standard of work through in-class and practical training and to provide certification as a means of increasing their wages;
    - to help raise their self-confidence and the dignity of their work;
    - to expose them to skills other than those related to domestic work so as to enhance their employment options.

Based on material in Booklet 4: Organizing the Unorganized: Informal Economy and Other Unprotected Workers from Promoting Gender Equality: A Resource Kit for Trade Unions, ILO/Geneva (2002)

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### *Dealing with forced-labour outcomes of irregular migration and human trafficking*

Despite limited public sympathy for the plight of irregular migrant workers, some trade unions have addressed the issue. They have become increasingly active, collecting and

disseminating information, providing services to illegal migrants, and mobilizing their members.

Trade Union Strategies against Trafficking and Irregular Migration

Trade unions pragmatically develop strategies appropriate to particular national needs and environments where trafficking and irregular migration are concerned:

1. Work to **reduce the vulnerability** of the workers concerned;
2. Analyse and look for strategies by considering **both** the **receiving** and the sending countries in terms of **demand** and **supply**;
3. Optimize resources by **sectoral focus**, sharing knowledge **sectorally** and **internationally**, promoting and using **alliances**.

Focus on unprotected labour markets, where exploitation and coercion can give rise to forced labour:

- Construction,
- Agriculture,
- Textiles and garment-making,
- Commercial sex sector,
- Domestic work.

The ultimate objective is to protect workers in these sectors.

- Open trade-union membership to irregular migrants;
- Deliver counter-exploitation services to workers in the sector, i.e. information, legal advice.

Efforts can be made through collective bargaining and consultation at various levels within the industry:

- National collective bargaining agreements;
- Consultation with employers;
- More aggressively enforce existing agreements;
- Seek trans-national agreements with a view to improving conditions in sending countries;
- Promote complementary actions by employers and their organizations.

Efforts can be made in the political domain to change legislation and/or public policy, promote enforcement efforts, etc.:

- Improve enforcement of existing laws;

UNPROTECTED  
LABOUR MARKETS

INDUSTRIAL  
INITIATIVES

POLITICAL  
INITIATIVES

PUBLIC POLICY  
INITIATIVES

- Publicizes cases to sensitize the general public and mobilize public opinion.

Specific efforts can be made in respect of particular institutional frameworks that make for coercive or exploitative conditions leading to forced labour:

- Focus on domestic and international work agencies;
- Adjust/tighten the regulation of work and employment agencies, and enforcement of the rules;
- Promote inter-governmental solutions;
- Assist policing authorities in their efforts to enforce the law.

SOLIDARITY  
INITIATIVES

Particular efforts can be made within the trade union movement to meet the challenge:

- Coordinate efforts with industrial organizations in sending/receiving countries, i.e. sector specific organizations;
- Exchange technical expertise internationally and inter-sectorally;
- Accord union membership international recognition;
- Create and operate issue-based inter-organizational alliances, using them to find and promote solutions.

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## Activity 25. Trade Union Action on Cases of Migration Turned to Forced Labour

### *Introduction*

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National trade unions in a globalized world need to be concerned with both immigration and emigration. Most migrants are not subject to forced labour, but migrants are a vulnerable group that can easily fall prey to it. Yet national trade unions may have mixed or conflicting interests when it comes to developing policies and actions in relation to migrant workers. This Activity uses case studies to pose the question: What would your organization do in a similar case?

### *Objectives*

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- To gain a better understanding of the conflicting interests trade unions and other organizations may face in considering action to “shelter” national workers and yet protect the human rights of (sometimes illegal) migrant workers;
- To gain a better understanding of the range of actions that could be undertaken by trade unions in different circumstances involving migrant workers and forced labour;
- To serve as a point of departure for considering a local migrant-worker/forced-labour situation and planning action to deal with it.

### *Task and arrangement*

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Participants should be familiar with the way in which migrant workers are vulnerable to forced labour, either as a result of trafficking, or from exploitative work conditions that turn voluntary work into forced labour.

Several short, largely European-based case studies are annexed to these Training Materials.

- Annexes 1 to 3 deal with migration in the Construction sector, the Agriculture sector, and the Textile and garment sector.
- Annexes 4 to 7 deal respectively with Migrant workers in Russia, Migrant workers in Romania, Migrant workers in Spain, and Migrant workers in Turkey.
- Annexes 8 to 12 deal respectively with Migrant workers and trade union response in Germany, Migrant workers and trade union response in the United Kingdom, Migrant workers and trade union response in Switzerland, Migrant workers and trade union response in the Netherlands, and Migrant workers and trade union response in France.

With the cases selected by the facilitator in hand, small groups read and discuss one or several cases and answer the questions:

***What could we/our organization do in a similar situation?***

***What would be possible and what would be “acceptable”?***

The groups present their cases, conclusions and rationale to plenary.

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### ***Approximate time***

Depending on cases selected and work assigned.

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### ***Hints***

Each of the annexed cases deals with migrant and forced labour in a slightly different light. Some are sector based; some give examples of the trade union response while others do not; all deal with different factual situations. The facilitator will need to make a selection that is relevant to the training group.

This Activity is intended particularly as a way of conveying ideas for action on migrant and forced labour in a local setting. It can be adapted for use by particular worker organizations, such as those operating in the transport and hotel sectors, as well as for target groups other than workers' organizations.

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### ***Reference documentation***

- Annex 1 Construction sector
- Annex 2 Agriculture sector
- Annex 3 Textile and garment sector
- Annex 4 Migrant workers in Russia
- Annex 5 Migrant workers in Romania
- Annex 6 Migrant workers in Spain
- Annex 7 Migrant workers in Turkey
- Annex 8 Migrant workers and trade union response in Germany
- Annex 9 Migrant workers and trade union response in the United Kingdom
- Annex 10 Migrant workers and trade union response in Switzerland
- Annex 11 Migrant workers and trade union response in the Netherlands
- Annex 12 Migrant workers and trade union response in France

## Activity 26. Trade Union Action in Disseminating Information to Women and Children in Domestic Work

### *Introduction*

In the area of forced domestic work, women and children are particularly vulnerable. The dissemination of information about the risks connected with voluntary international migration, and also with migration in a national context, has proved effective in combating the problem. Trade unions can play an active role in disseminating information to potential victims of forced labour practices. But special efforts need to be made if activities are to be effective among the most vulnerable populations. This Activity focuses on sensitizing participants to this fact.

### *Objectives*

- To give participants the opportunity to consider the role their organization can play in disseminating useful preventative information to groups vulnerable to forced domestic labour;
- To sensitize participants to the special targeting considerations relevant to women and children vulnerable to forced domestic labour;
- To give participants the opportunity to plan appropriate activities for disseminating information.

### *Task and arrangement*

Participants should be familiar with the mechanics of forced labour in domestic work and the vulnerability of women and child workers in this regard.

Four groups, A – D, are created for this Activity, to work with the target groups indicated in the table below.

	<i>Women</i>	<i>Children</i>
<i>In international migration/transit</i>	Group A	Group B
<i>In national context</i>	Group C	Group D

The **task of each training group** is to outline an information dissemination programme for their target group designed to prevent its members from falling victim to forced labour practices in domestic work.

As a **first step**, each group should simply outline the mechanism(s) by which they assume their target group to be vulnerable. For example,

Women in voluntary international migration fall prey to unscrupulous recruiters who facilitate their movement to a job in another country, only to find on arrival that their return is made impossible because passports are retained, wages are not paid, etc.

Children in a national context are delivered by their parents into domestic service where, because of their youth, they are simply unable to figure out a way of removing themselves from the situation.

As a **second step**, each group should outline a programme with an indication of, at least, **what information** is to be communicated, **how** it is to be communicated, any **prerequisites** required for the success of the programme, the **particular considerations given to the character** of the vulnerable group concerned, and the **relationship of their organization to the programme** (i.e. as part of a larger campaign, solely through the financing of information disseminating organizations, etc.).

Participants then share their results in plenary discussion.

### *Approximate time*

A minimum of 45 minutes for group discussion, and a minimum of 10 minutes for plenary presentation by each group. Substantially more time may be allocated, depending on the objectives of the training.

### *Hints*

This Activity is about sensitivity to the needs of vulnerable groups, as well as about designing an information programme.

The Activity is best staged in a training environment where this type of forced labour is a current issue.

The Activity can be used with other training target groups and in mixed target group environments.

### *Reference documentation*

For facilitator:

Training Dossier 37: The Mechanism Of Forced Labour In Domestic Work, on page 116

Training Dossier 46: Providing Information To Potential/Future Migrants, on page 128



The image features three overlapping square frames, each with a thin grey border. The frames are centered on the page and overlap each other, with the innermost frame being the most prominent. The word "Annexes" is centered within the innermost frame.

# Annexes



# 1 Annex:

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## *Construction sector*

At the global level, approximately two-dozen large international contractors are dominant in the construction industry, along with some small and medium sized companies. Local construction enterprises still exist, but generally the sector has developed into a complex system of international contractors and sub-contractors employing an increasingly global workforce. Employment relationships have become increasingly informal due to the project-based and highly flexible nature of the construction industry. This has made both the recruitment of workers by unions, and the prosecution for labour rights violations, very difficult.

Work in the construction sector is still characterized by the dirty, dangerous and degrading (3D) nature of the jobs. According to the International Federation of Building and Wood Workers (IFBWW), technological developments do not result in better pay or status for construction workers. Therefore, local workers with more choices are not interested in this work. So migrants are replacing the local workforce, thereby increasing the pressure on wages and decreasing labour standards.

In developing countries, around two-thirds of the sector is organized along informal lines. Within the European Union, the freedom of movement of goods and services since 1992, together with a range of bilateral agreements to eliminate visa requirements, has fundamentally altered the system of employment. It has encouraged the employment of flexible migrant workers, many of them undocumented. Migration between Eastern European countries is causing even more concern, as it is largely unregulated. The General Agreement on Trade and Services, as well as the enlargement of the European Union, will further increase the mobility of services and people. Trade unions are apprehensive that this will undermine their attempts to organize migrant labour and to fight bad labour practices.

# 2 Annex

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## *Agriculture sector*

In developing countries, around two-thirds of the agriculture sector is organized along informal lines. Within the European Union, the freedom of movement of goods and services since 1992, together with a range of bilateral agreements to eliminate visa requirements, has fundamentally altered the system of employment. It has encouraged the employment of flexible migrant workers, many of them undocumented. Migration between Eastern European countries is causing even more concern, as it is largely unregulated. The General Agreement on Trade and Services, as well as the enlargement of the European Union, will further increase the mobility of services and people. Trade unions are apprehensive that this will undermine their attempts to organize migrant labour and to fight bad labour practices.

Farmers have always been dependent on seasonal workers hired mainly for the harvest. Many European countries have bilateral agreements to regulate seasonal work. But even under these legal arrangements, migrant workers are exploited through very low pay, unreasonable wage deductions and unacceptable living conditions. Furthermore, farmers are increasingly relying on seasonal workers through chain contracts. Undocumented migrants are clearly the most vulnerable members of this flexible labour force. New migrant workers, especially from Eastern Europe and North Africa, are continuously brought in to replenish the pool. Female workers are often paid less than men and are exposed to sexual harassment.

### 3 Annex

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#### *Textile and garment sector*

The textile sector was one of the first to globalize. Some 130 countries are in competition for 30 or 35 national markets worldwide. Most of the industry is small or medium sized. The US-based company NIKE is an example of the current structure of the sector: whereas research and development, as well as marketing, are still located in the USA, production is organized on a global scale. Under these circumstances, working conditions have steadily worsened in the sector. In Bangladesh, for example, salaries have gone down 30% from the previous standard. After the collapse of communism, cheap labour also became available in Eastern Europe.

According to the International Textile Garment Leather Worker's Federation (ITGLWF), over 500,000 subcontractors and 150,000 undocumented workers (about 25% of the total work force) are employed in the garments and textile sector in Europe. 15,000 of them are working in the Benelux countries alone. In France, an average-sized textile company can make up to half a million USD profit per year, provided that the salaries they pay their workers are only about one third of official wage levels. The textile sector is one of the lowest paid in Europe. Forms of bonded Chinese migrant labour have been found in the textile sector of Southern Italy. In Paris, textile workshops and places of prostitution are located in the same district of Sentiers, where police reports have indicated that 40% of undocumented foreign workers are employed.

### 4 Annex

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#### *Migrant workers in Russia*

It is estimated that Russia has several million migrant workers, most of them working in the construction sector. Moscow alone attracts about half a million migrants. They are either employed by big construction firms over longer periods of time, or wander around in search of work on smaller construction sites. These workers are dismissed as soon as the project is finished. Corruption in the sector is a major problem, and employers find it easy to cover up illegal practices. Migrants from the Ukraine, Belarus or Moldavia are more often recruited by regular recruiting agencies. They are more qualified, better paid and enjoy more rights than migrants from Central Asian countries such as Tajikistan or Uzbekistan. The latter are hired as a group, stay together on the construction site and are controlled by somebody who remains unknown. It is possible that they are controlled by a gang-master system, but information on these structures is difficult to obtain. They are very often irregular migrants and therefore dependent on their employer or recruiter. Their transportation and housing conditions are very bad.

In contrast, migrants from the first group of countries are mainly employed in the formal sector. They are normally recruited in the first instance by an agency. Employers record the details of qualified migrant workers in a database and call upon them when they are needed again. After the first period of working abroad, these migrants make their own travel arrangements. Their salaries can be 50% lower than those of local workers, but at least their wages are paid on a regular basis. Tax evasion is widespread, since workers reportedly accept wage slips declaring less money than they actually receive. Health and safety standards are generally less rigidly enforced for migrant workers. There is no compensation scheme in the event of an accident since migrant workers do not receive an official contract (in some cases, they merely sign an empty sheet of paper). Association with a trade union would mean immediate deportation.

## 5 Annex

### *Migrant workers in Romania*

The economic situation in the country has been difficult since the collapse of communism. Unemployment, which has mainly affected women, unskilled labour and young people, is one of the leading causes of emigration. At the same time, in recent years Romania has become a country of destination, as well as transit, for migrants from Asia. It is also a country where mafia networks from Russia and other countries operate. There are three broad categories of emigration: (1) Migration by deceit (e.g. women into prostitution), (2) illegal migration through smuggling networks into the construction and agriculture sector (e.g. to Israel or Spain), and (3) legal migration by placement agencies that nevertheless involves badly paid and strenuous work.

According to Kav LaOved\*, an Israeli NGO, an estimated 50,000 Romanian migrants are working in construction (90%) or domestic service (10%) in Israel. They are recruited through local agents and the Romanian National Office for Recruitment and Employment Abroad. In February 2002, this office signed a contract with the Israeli Association of Builders and Contractors that violates several workers' rights.

For example, workers are required to mortgage their homes as collateral security in case they do not fulfil their contract. They are charged mediation fees of up to USD 3,500, as well as inflated fees for medical tests. Many of these migrant workers experience infringements on their freedom of movement, as their passports are confiscated and their work permit is tied to one specific employer. The employer has to request the renewal of a work permit from the Israeli Labour Ministry. Hence, he or she has the power to terminate a contract in the event of illness, injury or complaint, or for other reasons. Migrants who have become illegal face deportation, and many are imprisoned until they are deported.

Notes: \* Vagner, Roy (10/2002): Workers Trafficking from Romania to Israel, Kav LaOved

## 6 Annex

### *Migrant workers in Spain*

The production of fruit and vegetables for export is concentrated in the regions of Almeria and Andulucia. The Almeria region produces annually around 2.8 million tonnes of fruit and vegetables, of which half are exported to North European countries, principally Germany. More than 90 % of the workers are immigrants, coming mainly from Morocco and Eastern Europe. A road accident near Murcia in January 2001, in which 12 illegal labourers from Ecuador were killed, led to the discovery that there were some 150,000 clandestine immigrants from Ecuador in Spain.

It has been estimated that half the young people of Morocco want to leave their country under any circumstances. They know about the appalling working conditions in Western European countries, but despite this they are ready to work there. Once they have crossed the border they can find a job quickly, even if it means enduring heat of up to 50°C in the glasshouses and contact with huge amounts of pesticides. An inquiry by the European Civic Forum in the municipality of El Ejido found migrant workers living in deplorable conditions: they live in old shacks abandoned by the rural population, 55 % of them have no drinking water, 57% no washing or toilet facilities, and 31 % no electricity.

The municipality of El Ejido made headlines when riots with racist undertones broke out in February 2000. According to the European Civic Forum, the riots were the consequence of a deliberate policy of segregation between the local population and immigrants. Cases are also known where local authorities and employers play one immigrant group off against another. For example, some 10,000, mostly undocumented, immigrants from Morocco worked on the strawberry harvest in the Andalusian province of Huelva. Following a regularization campaign, 5,000 undocumented Moroccan migrants were

granted work permits restricted to the 2002 strawberry harvest. But before they had even started work, they were replaced by thousands of young Polish and Romanian women who were perceived to be more docile.

Source: Based on Bell, Nicolas (2002): Contribution to the Conference on "Borders and Migration", organized by the Austrian League for Human Rights, 29-30 October 2002, Vienna, and a study by the European Civic Forum

## 7 Annex

### *Migrant workers in Turkey*

In recent years, Turkey has developed into a sending, receiving and transit country. Every year, between 250,000 and 500,000 people are trafficked through the country. Turkey's role as a sending country is linked to the guest-worker schemes of the 1960s. Following restrictions on immigration in Western European countries, migration has become irregular and often goes hand in hand with the asylum-seeking process. After their cases have been rejected, asylum seekers remain in the country and enter the labour market. Families, friends and trans-national networks foster this form of migration. It is estimated that around 25% of the people who moved from Turkey to Europe over the last ten years simply overstayed their visa. Turkey is the main transit route for asylum seekers from countries such as Afghanistan and Iraq, and for Kurdish people from Turkey and Northern Iraq. Turkey is also a receiving country for migrants from CIS countries. Domestic servants in Turkey are mostly Moldavian women who overstay their visa. These movements are organized through agents or by private arrangement. Female migrants can also be found in the entertainment and sex industry. Romanian and Moldavian men work in the construction sector. The police have documented between 90,000 and 100,000 cases of irregular migration to Turkey.

Source: Icduygu, Ahmet (1/2003): Notes on irregular migration in Turkey, Paper submitted to the ILO/SAP-FL consultation meeting

## 8 Annex

### *Migrant workers and trade union response in Germany*

The construction sector employs around 800,000 workers with formal contracts (including contract workers from abroad), and between 300,000 and 400,000 undocumented migrant workers. Nearly half of Berlin's workforce is undocumented or working under precarious conditions. The first effect of the availability of undocumented migrant workers has been to cause unemployment among migrants with a legal status. Their unemployment rate has increased from 12.3% before 1992 to 15.3% in 1993, and currently stands at 20.2%. German workers are also affected by unemployment, yet foreign workers with a legal status are the first to be replaced by a rotating work force. There are five or six general contractors in Germany. The head contractor purchases one labour-hour from his sub-contractor for €40-60 (of this, up to €25 are social contributions). Of the amount paid to the sub-contractor who actually hires the migrant worker, the worker receives just €1-4. The various sub-contractors in the employment chain take the rest as profit. When the contractors are making such high profits, a fine of €20,000 does not constitute a major deterrent.

Migrant workers with a work permit limited to a single company are extremely dependent on their employer. Employers and recruiters have even included clauses in the contracts of legal migrant workers that prevent them from claiming their rights. Sometimes workers have to pay a deposit that is retained in case they cause trouble to their employer; sometimes they are fined

by the company after claiming their rights, then sent back to their home country. During a strike in 2002, migrant workers were sent back after exercising their right of freedom of association. Polish migrant workers' contracts signed by the employer or a recruiting agency have to pass governmental authorities. Despite this regulation, clauses in contracts that violate labour law are still common practice. Unions have heard of cases where the contractor called in the police when the job was nearly finished in order to have his undocumented migrant workers deported. Since they had no legal rights, they could not collect their wages.

The agriculture sector employs around 200,000 seasonal workers who come mainly from Poland and stay for a period of three months. Permits for this kind of work cannot be extended for the individual worker, but a company is permitted to employ seasonal workers over a period of seven months per year. Companies that work in vegetable, fruit, wine, hop or tobacco growing can employ seasonal workers for up to one year. Some farmers exploit the system by splitting regular work into "seasonal" work. Seasonal workers are not integrated into the labour market system and depend very much on their employer. They are not informed about their labour rights, nor are they professionally trained. Health and safety coverage is not usually guaranteed.

The German trade union, IG BAU, estimates the number of illegal seasonal workers at 150,000. Unannounced visits by IG BAU inspection teams revealed appalling working conditions in some of the plantations or fields: salaries 50% below the minimum wage and paid by piece rate, as well as high wage deductions for poor housing. Some migrants work (often illegally) as day labourers and are called upon only when retailers request additional supplies.

#### ***Trade union response to migration in Germany***

German unions have developed close relationships with Polish unions in the construction and agriculture sectors. They have opened an office in Warsaw through which information on working conditions and labour rights is disseminated. Polish workers are invited to join the union before going to Germany. Unions have also supported bilateral and trilateral agreements between sending and receiving countries in which common union membership is acknowledged. This has made it possible for German unions to legally assist migrant workers without demanding an immediate change of membership. Umbrella organizations of trade unions, such as the International Federation of Building and Wood Workers, have supported such cooperation and network-building. In line with the practice of Dutch unions, German unions give legal assistance to migrants (including undocumented migrants) and organize the transfer of payments to the country of origin. This works well with German employers, but the globalization of certain sectors has made it difficult to sue international employers that have violated labour rights in Germany.

Source: IG BAU (2001): Landwirtschaftliche Saisonarbeit. Eine Aktion des Bundesarbeitskreises Senioren der IG BAU und den Bezirksverbänden Mark-Brandenburg, Rheinhessen-Vorderpfalz und Köln-Bonn, Dokumente und Materialien.

## 9 Annex

### ***Migrant workers and trade union response in the United Kingdom***

The labour market of the United Kingdom is highly attractive for migrants due to its deregulated nature. Jobs are easily available in the shadow economy and a number of languages are spoken. Despite the fact that the British government has never passed an amnesty law (unlike Italy, France or Portugal), the market is attractive for traffickers and migrants alike.

So-called gangmasters hire workers in the agriculture sector.\* The gangmaster system originated in the 19th century. Over the last twenty years, the practice has developed into big

business, with estimated profits of £50 million per year. However, the undeclared turnover may be much higher. Farmers or packing houses recruit workers through the gangmaster company, yet the latter is the official employer. The enforcement of labour standards is thus made more difficult. The pressure to produce at low costs is passed on to the gangmaster, who will pay workers very low salaries.

It is estimated that one-third of the British food industry relies on gangmasters. Hence, gang labour has become essential for the survival of the food industry. Around 50% of the workers are migrants, some of them undocumented or with forged documents. Some gangmasters have close links to Eastern European mafia networks. But gang labour is also recruited among the Asian population within the United Kingdom. The use of migrant labour seems to be increasing in the Midlands, as well as along the south and east coasts of the United Kingdom, as unemployment is low in these areas and the concentration of 3D industries very high.

Abuses affect all gang labour but are more severe in the case of migrants. Workers are generally paid below the national minimum wage and the agricultural-salaries scale. Wage deductions are common practice. For example, workers have to pay for their transport, equipment or housing, whether they make use of these facilities or not. Often an arbitrary administration fee is imposed. Almost none of the workers receive wage slips. Those who are employed “off the books” receive lower wages but have no deductions. Health and safety regulations are also neglected, and employers never pay the proper taxes. All of this is possible because migrants are deceived by recruiters or media advertisements in their country of origin, and because many of them come without valid documents. Unions have had only limited success in organizing people employed by gang masters, especially if they are not from the EU.

#### ***Trade union response to migration in the United Kingdom***

British unions are lobbying for more regulation of the gang master system. In 1998, the Labour government introduced “operation gangmaster”, which has brought together several government departments, unions, major retailers and NGOs to eliminate abuses within the system. The unions have also supported the government’s Ethical Trading Initiative and distributed leaflets about the social responsibility of employers, as well as about labour rights.

Notes: \* Pollard, Don (2000): Gangmaster System in Sussex, Paper submitted to the ILO/SAP-FL consultation meeting

## 10 Annex

### ***Migrant workers and trade union response in Switzerland***

The Swiss agriculture sector employs around 40,000 people. Since July 2002, temporary restrictions on workers from EU and EFTA countries have been abolished. With the abolition of the seasonal contract scheme, non-EU workers have been deprived of any possibility of entering the Swiss labour market legally (with a few exceptions). It is however estimated that there are 8,000 “sans papiers” working in agriculture alone. Most of them come from Eastern Europe and the former Yugoslavia. Exploitation, primarily of clandestine migrants, became public knowledge through various scandals over recent years, which revealed inhuman housing conditions and very low wages. Some of these cases were dealt with in the courts.

The Swiss parliament is currently discussing a new aliens law that will open the labour market to seasonal workers from the ten EU accession countries. This will be restricted to agriculture, hotels and restaurants and does not entail full freedom of movement, despite the accession of these countries in 2004.

#### ***Trade union response to migration in Switzerland***

Swiss unions have cooperated closely with the *sans papiers* movement and in some cases have managed to have undocumented migrant workers legalized. Legal assistance is also provided to migrant workers, but very often unions succeed in negotiating and settling cases with employers out of court.

## 11 Annex

### *Migrant workers and trade union response in the Netherlands*

There are about 200,000 people working in the agriculture sector and paying social contributions. At peak times, between 100,000 and 150,000 additional workers are hired, especially by greenhouse farmers. Most of them are undocumented migrants. Recruitment is organized by temporary agencies, which can be set up without a licence. Things were different fifteen years ago, when licences (including a criminal-record check) were obligatory. These agencies are very small and almost always owned by Moroccan or Turkish immigrants, who work in strict isolation from one another. In addition, day labourers are hired at certain locations early in the morning. Abuses are widespread, although trade unions have no evidence regarding the incidence of forced labour.

#### ***Trade union response to migration in the Netherlands***

Dutch unions have put pressure on their government to focus on the issue of irregular migrant labour and indecent working conditions. In response, the government has authorized raids over recent years that have exposed employers and their bad practices to public scrutiny. The exposure of these practices has caused public outrage and damage to the agriculture sector. Unions are continuing to lobby for tighter regulation of temporary work agencies and demanding more transparency in financial record-keeping. They have also supported a campaign for "ethical labelling" (i.e. for companies who pay their social contributions). At first, companies did not want to cooperate, but public pressure has convinced them to change their position on the issue.

Dutch unions have also opened their membership to undocumented migrant workers and have helped in obtaining the necessary papers to legalize their status. They have set up drop-in centres for members from the lowest employment strata. Unions have also successfully lobbied for a new law that regulates the payment of undocumented migrant workers: if the police arrest an undocumented migrant, then the law automatically assumes that he/she has worked for that employer for a minimum of six months and should receive remuneration accordingly. Although the union cannot prevent the deportation of undocumented migrants, it will nevertheless sue the employer if necessary and send the recovered money to the migrant's home country.

In a special attempt to attract migrants as new members, the union employed somebody from their own community to facilitate communication. This was unfortunately only a temporary project due to a lack of financial resources.

## 12 Annex

### *Migrant workers and trade union response in France*

In France there are two different types of labour contract: an unlimited part-time contract for nationals only, and a simplified work permit, valid for a maximum of 20 days, for agricultural workers who come only for the harvest. Migrants usually remain in the country once the contract has expired. There are about 910,000 seasonal workers, of whom 1% are migrants. A social registration number is obligatory before a worker can start work. Migrant workers from Poland and North African countries have replaced Portuguese workers. There are a variety of ways in which they can be exploited through legal means. For many years, thousands of migrant workers came to France through the OMI (Office des Migrations Internationales – a French public institution), yet they have no accumulated rights in France. For example,

pensions rights are calculated according to a Moroccan standard, if this is the country of permanent residence. Between 50% and 70% of the seasonal workers pay bribes of about €1,500 to get their contract renewed. There is no way they can bring over their family, or sue their employer, because of their limited entitlement to stay. It is very difficult to organize OMI workers as there is a blacklist for the renewal of contracts. The legal situation is very similar to that of bonded labour.

#### ***Trade union response to migration in France***

French unions distribute information on labour rights to seasonal workers. Instead of establishing a permanent office, they have arranged for a caravan to go to the workers. The services offered by this caravan will be extended to address the needs of migrant workers in general. Offices have also been set up in sending countries, especially where trade unions are not very effective.

Source: Guillaud, Yann (forthcoming): Le travail forcé en France: Une étude préliminaire, ILO, Geneva

## 13 Annex

### ***Suggestions for a checklist for questioning victims of abusive recruitment practices***

Questioning victims of abusive recruitment practices: Some suggestions for a checklist

- a. Was the initial contact between victim and recruiter/trafficker voluntary; if so, who initiated it?
- b. Where and when was the first contact made?
- c. What was the method of contact? Was it by advertisement, by direct personal contact with a recruiter/trafficker, or through a third party?
- d. What was the means of communication?
- e. What were the arrangements and what did the person understand the arrangements to mean? Did the victim know what he/she was going to be involved in?
- f. Where was he/she told she was going to live in the country of employment, and with whom?
- g. What were the financial arrangements? Did he/she pay any money in advance or was a debt-bondage agreement made?
- h. How were payments to be made? Directly to the recruiter/trafficker, to another person in the country of destination, or by bank or money-exchange transfer to the country of origin or to a third country?
- i. Was he/she told that additional infrastructure costs might be incurred?
- j. Did the recruiter/trafficker know the home address of the potential victim or of his/her loved ones? Did the recruiter/trafficker claim to know any of these details?
- k. Was any sum of money or goods of value exchanged for the victim with a member of his/her family, or another individual having some control over him/her?
- l. What travel documents had he/she obtained?
- m. In relation to the above, were there any other witnesses?

## 14 Annex

### *Good Practice: Special Mobile Inspection Unit in Brazil*

In Brazil, thousands of men live in slavery-like conditions on *fazendas* (extensive ranches) in the Amazon. Migrant labourers, they move within the country from contract to contract in a never-ending cycle of debt bondage that often ends in death. Leaving their homes to make their fortunes, they fall prey to labour contractors, or *gatos*, who deceive them about the nature of the work they are being hired for. Conditions in labour camps are grueling, malaria is prevalent, and all expenses are deducted from wages. The migrant worker is lucky to get any money at all for his labour. However, since the money earned is so little, it will not be long before the migrant worker signs up for a new contract with a *gato*. Thus the cycle of forced labour continues.

One of the measures to combat forced labour implemented by the State of Brazil has been the creation of a Special Mobile Inspection Unit: a flying squad of labour inspectors and federal police officers. All are drawn from body a of volunteers, none of which operate in their state of residence for reasons of personal safety and independence from local pressures. Their job is to investigate allegations of slave labour on *fazendas*. Sometimes judges are also part of the unit so that prosecutions can be carried out swiftly and on the spot.

Regular evaluations of the operations of this Unit have pointed to two main criteria for effectiveness: centralized organization and absolute secrecy in planning. Any attempts to decentralize activities have proved unsuccessful, in that news of inspection raids has invariably reached landowners in advance, enabling them to disperse workers or to cover up the situation.

The low-budget inter-agency team has proved crucial in the fight against forced labour. Consequently, the investigative work of the federal Special Mobile Inspection Unit has been imitated at the local and state level. For example, the municipality of Vila Rica, in the State of Mato Grosso do Sul, has set up a commission with the participation of the mayor's office and municipal council, and the agricultural producers' and rural workers' organizations. On receiving allegations of forced labour, the commission negotiates with local landowners and intermediaries. The very threat of calling in the Mobile Unit, and the prospect of fines, tends to facilitate negotiations. The Mobile Unit is only brought in if such negotiations have broken down.

Sources: Le Breton, Binka (2002) *Trapped: Modern Day Slavery in the Brazilian Amazon*. London: Latin American Bureau

Global Report on the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2001: Stopping Forced Labour.

## 15 Annex

### *Abductions and Slavery in Liberia, Mauritania and Sudan*

In **Mauritania**, it was traditional for members of Arab or Berber tribes to capture black slaves in the south, bringing them north to carry out heavy agricultural and domestic work. While some were released during the colonial period, and others escaped or purchased their freedom, it is estimated that hundreds of thousands of Mauritians were still enslaved at the time of independence in 1961. The new Constitution then abolished slavery. It's abolition was again proclaimed in a Declaration of July 1980. However, there is no specific unit of government designated to coordinate the struggle against slavery and no adequate monitoring of the situation of freed slaves; hence suggestions that slavery and slavery-like practices persisted were still being made in 1997.

The Government has referred to a policy for the integration of descendants of former slaves, as well as to measures to combat illiteracy and promote school attendance, access to land and integration into the political hierarchy and state administration.

**Recently, under an ILO Declaration technical-cooperation project funded by France, a legal and economic assessment of the country's situation in relation to the four categories of fundamental principles and rights at work was launched to provide the Government and the social partners with a clear picture of how matters now stand and what action may need to be taken.**

In **Sudan** there are some historical parallels with Mauritania, in that traditional forms of slavery can be attributed to old tensions between the peoples of the northern and southern parts of the country. A United Nations Special Rapporteur has referred to an "age-old pattern of rivalry and confrontation" between the different ethnic groups; during fighting, "both sides traditionally captured prisoners whom they reduced to slavery unless or until they were redeemed through ransom". A major concern is that these practices have been revived since the onset of Sudan's present-day civil conflict.

UNICEF estimated in May 2000 that between 5,000 and 10,000 persons had been abducted in Sudan since the start of the conflict in 1983. In the past two years, both the World Confederation of Labour (WCL) and the International Confederation of Free Trade Unions (ICFTU) have sounded the alarm over continuing reports of abductions and slavery.

**The Government of Sudan, following criticism that it had permitted Arab tribesmen to kidnap and enslave civilians in the war-torn southern region, established a Committee for the Eradication of Abduction of Women and Children (CEAWC) in May 1999. The aim of the CEAWC is to stop the abductions and to address the root causes of the problem. Measures have included the compilation of a detailed registry of cases, in order to identify, trace and reunify targeted numbers of women and children over a short period of time. CEAWC has the authority to arrest suspected offenders and bring them to trial, as well as to undertake investigations and searches. However, CEAWC has preferred a participatory process involving representatives of the communities that have carried out the abductions. To facilitate its work, CEAWC has appointed as liaison officers high-ranking officials from the army and police, security and prosecution offices, and local authorities. In its report for the May 1999-June 2000 period, CEAWC stated that it had documented 1,230 cases of abducted women and children, of whom 353 have been reunited with their families. A further 500 persons have been released and moved to transit centres, although there is some debate as to these figures.**

In October 1998, the ICFTU communicated a report by two national organizations, Focus and the Justice and Peace Commission (JPC), concerning forced labour involving children in the south-eastern region of **Liberia**. Forced labour was identified as "a spillover of the gross abuses that characterized the civil war", with ex-combatants and commanders of former warring factions taking advantage of the difficult economic situation in the region. Socially abandoned children were reportedly held hostage by adults and used as a source of forced and captive labour.

**The Government appointed a special committee in May 1998 to investigate the allegations. Though not establishing conclusive evidence of forced labour in the region, it recommended that a national committee be established to trace and reunite the displaced women and children taken captive during the war; and that allegations of forced labour and hostage situations be further investigated in certain districts. And to enhance national reconciliation and reunification programmes, local authorities should be directed to encourage citizens to report any acts of alleged forced labour. In a recent report, the Government stated that the recommendations had been implemented, and that it hoped that draft legislation making forced labour a crime would soon be passed. Noting that the region had now been linked by road to other parts of the country, it reported that commercial activities and farming were booming. Indeed, the creation of such alternatives can reduce the risk of people falling back into forced labour situations.**

Source: Global Report on the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2001: Stopping Forced Labour, edited for training purposes

### ***Creating the Legal Framework for Combating Bonded Labour: The Cases of India and Pakistan***

In **India**, Article 23 of the Constitution prohibits traffic in human beings, *begar*, and other forms of forced labour. The term *begar* was not defined in the Constitution, but the Supreme Court has subsequently observed that *begar* is a “form of forced labour under which a person is compelled to work without receiving any remuneration.”

Following the Constitution’s adoption, laws were initially enacted at the state level to eradicate bonded labour systems. Subsequently, an important federal law, the Bonded Labour System (Abolition) Act, was adopted in February 1976. The Act defines the bonded labour system as the “system of forced, or partly forced, labour under which a debtor enters into, or is presumed to have entered into, an agreement with the creditor” with the effect that the debtor forfeits certain basic rights. Responsibility for the Act’s implementation lies with the individual states. Vigilance committees set up under the Act at both district and sub-divisional levels have played an important role in economic and social rehabilitation, monitoring the number of offences of which cognizance has been taken under the Act, making surveys of the incidence of such offences, and defending any suit against a freed bonded labourer for the recovery of any bonded debt. The vigilance committees have also conducted surveys for the purposes of identification and enumeration of bonded labour systems.

In the early 1980s, there were several judgments of the Indian Supreme Court which further interpreted the concepts of forced labour and bonded labour. A 1982 judgment in the case of *People’s Union for Democratic Rights vs. Union of India*, AIR 1982, S.C. 1473 (known as the *Asiad Workers’ Case*), linked the concept of forced labour to the non-payment of the minimum wage. The court gave its opinion that, where a person provided labour or service to another for remuneration below the minimum wage, the labour or service clearly fell within the scope and ambit of the words “forced labour” under the Constitution. In a 1984 judgment in the case of *Bandhua Mukti Morcha vs. Union of India*, AIR 1984, S.C. 802, in a response to a petition concerning bonded labour in stone quarries, the court ruled that, “Whenever it is shown that a labourer is made to provide forced labour, the court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and is therefore a bonded labourer”. Such a presumption could be rebutted by the employer or state government but, failing the production of satisfactory evidence for such rebuttal, the court would proceed on the basis that the labourer was a bonded labourer entitled to the benefit of the provisions of the Act. And, in a further judgment the same year, the Supreme Court ruled in the case of *Neeraja Choudary vs. State of Madhya Pradesh*, AIR 1984, S.C. 1099, that whenever a person was forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he or she was a bonded labourer unless the employer or state government was in a position to prove otherwise.

Overall, the logic of these rulings appears to be that no person would work for less than the legal minimum wage unless an element of coercion was involved. They therefore prepare the ground for a considerable increase in the number of persons who might be considered as bonded labourers for the purposes of the Bonded Labour System (Abolition) Act. They may also have inspired other decisions involving forced child labour.

In **Pakistan**, the Constitution similarly prohibits all forms of forced labour and traffic in human beings. Bonded labour was abolished by specific legislation, when the Bonded Labour System (Abolition) Act was adopted by the federal legislative body in 1992, and came into force immediately. The Bonded Labour System (Abolition) Rules were subsequently issued by the federal Government in 1995. The Act contains many provisions similar to those of the Indian law. It also provides for penalties for the enforcement or exaction of bonded labour under the bonded labour system, for the omission or failure to restore possession of property to a bonded labourer, and for abetting an offence.

Vigilance committees set up under the Act at the district level consist of elected representatives from the area, and representatives of the district administration, law associations, press, recognized social services and labour departments, who work without receiving any remuneration.

Source: Global Report on the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work 2001: Stopping Forced Labour, edited for training purposes

## 17 Annex

### *Eradicating Bonded Labour: Practical Experience in India and Pakistan*

The movement to eradicate bonded labour in **India** appears to have gone through different phases over the past quarter of a century; it has been higher on economic, political and also legal agendas in some periods than in others. Following the adoption of the 1976 Act, the movement against bonded labour clearly received impetus from the public-interest litigation approach adopted by the Supreme Court in the early 1980s. Its landmark judgments provided new insights into the nature and magnitude of the problem. The subsequent creation of a task force through the National Human Rights Commission furthered the process of identification, release and rehabilitation of bonded labourers. In 1997, the Supreme Court directed the National Human Rights Commission to oversee and supervise the implementation of the 1976 Act, and the progress made by the state governments in this regard.

In the 1980s, an important awareness-building role was also played by the Commissioner for Scheduled Castes and Scheduled Tribes. The Commissioner's reports have tended to contain a special section on bonded labour, particularly as it affects the situation of scheduled castes and tribes, and to formulate recommendations to both the Government and society at large. Between 1987 and 1991, the National Commission on Rural Labour also constituted study groups on bonded labour and rural labour indebtedness. These studies did much to establish the extent and nature of rural debt, its purpose and sources, as well as its particular incidence among scheduled castes and scheduled tribes. The elimination of bonded labour has been seen very much as an issue requiring attention.

The Government of **India** has at length described its extensive efforts to eradicate bonded labour in statements to the International Labour Conference. These have involved: conducting fresh surveys to identify bonded labour; making appropriate arrangements after identification, including the issue of release certificates; repatriating migrant workers; initiating action against employers guilty of breaking the law; and rehabilitating bonded labourers. During 1998-99 for example, 5,960 bonded labourers were rehabilitated under a centrally sponsored scheme in the States of Bihar, Orissa, Tamil Nadu and Uttar Pradesh. Senior officials were designated in the course of 1998 and 1999 to visit certain areas, and to review and monitor progress being made by the state governments in the implementation of the Bonded Labour System (Abolition) Act, 1976, and the Bonded Labour Rehabilitation Scheme, 1978.

As regards rehabilitation, the scale of per capita assistance for the rehabilitation of freed bonded labourers was doubled in the late 1990s. Resources from different programmes (including anti-poverty, rural employment, and rural youth training programmes) have been pooled, to achieve an integrated approach with a view to effective and permanent rehabilitation. Moreover, the central Government has initiated a centrally sponsored scheme for assisting bonded labourers, and has established a division within the Ministry of Labour to monitor, coordinate and supervise implementation of the programme. It has also simplified the procedures for approving grants and subsidies, and delegating authority to the provincial level.

Despite these achievements, the Government of India has recognized the difficulties in tackling the problems of bonded labour, and the need to intensify efforts. The reasons it has cited include a lack of sensitivity and will to deal with the problem — particularly at the lower

levels of public administration — and a shortage of resources at all levels for the total eradication of bonded labour.

The Study Group on Bonded Labour of the National Commission on Rural Labour pointed out certain deficiencies in the rehabilitation schemes that had previously been implemented. Bonded labourers had been wrongly identified by persons wanting to gain access to rehabilitation funds. Furthermore, rehabilitation schemes had not improved the conditions of bonded labourers, in that many former bonded labourers were still paying off outstanding debts to their former masters, which according to law stood extinguished.

The vigilance committees, though a potent mechanism for eradicating bonded labour, had not — according to the study group's findings — been able to function effectively. They generally lapsed after a couple of years, and were not reconstituted for a long time. The states with a high incidence of bonded labour had failed to set up vigilance committees. Fresh identification of bonded labourers had, moreover, almost stopped in recent years.

The study group also found that, although over 240,000 bonded labourers had been officially identified in the country, only the very modest number of 773 keepers of bonded labour had been arrested. Even fewer had been convicted and punished.

The study group pointed out that rehabilitation schemes that did not go beyond temporary relief, provided as cash or at best as temporary assets, merely attracted undesirable elements, who skimmed off the benefits. Only employment guarantees and land for peasants could provide lasting protections for released bonded labourers. The State Government of Andhra Pradesh had started a novel scheme of purchasing cultivable land, developing it with irrigation facilities, and granting it to released bonded labourers. These measures were supplemented by benefits under other anti-poverty programmes.

Concerning more recent trends in bonded labour, there are suggestions that the incidence of new bonded labour practices may be particularly serious in the small and informal industrial sector, for instance in brick-making.

Official information on efforts to eradicate bonded labour over the past decade in **Pakistan** has emphasized the serious problems of child bonded labour in that country, where some major research and action programmes have been undertaken with the assistance of the ILO. An example is the agreement between the European Union and the ILO signed in May 1997 to fund technical cooperation projects aimed at:

- raising awareness of exploitative and hazardous child bonded labour practices;
- increasing capacity to withdraw children from bondage and prevent them from entering into bondage; and
- targeting child bonded labourers and their families in the context of overall rehabilitation programmes.

Legal texts on child and bonded labour have also been translated into the Urdu and Sindhi languages.

As regards the practical implementation of the Bonded Labour System (Abolition) Act, 1992, and the 1995 Rules on the subject, the Government has reported that the vigilance committees have been enlarged and strengthened. As observed at the 82nd Session of the International Labour Conference (1995), however, some of these committees might need to be further reinforced. The All-Pakistan Federation of United Trade Unions (APFUTU) has requested that trade unions be involved directly in the vigilance committees, which are supervised by the home departments of the provinces.

In the absence of systematic surveys by either the federal or provincial governments to establish the magnitude and intensity of bonded labour, most of the information available comes from academic research institutes, which in turn often consult NGOs. There is general agreement that the most serious problems of bonded labour exist among sharecroppers in the province of Sind, and among brick-makers in the Punjab. Analysts are also concerned that bonded labour is increasing in other sectors such as fisheries and carpet-making. There are

fears that the rapid growth of the informal manufacturing sector, particularly in rural areas, may, while reducing the number of the unemployed, lead to the creation of more bonded labour.

The most severe conditions of bondage have been detected among landless tenants (known as *haris*) in lower Sind. A survey of seven *hari* camps in Sind, conducted in mid-2000, confirmed the severity of the conditions encountered by bonded agricultural workers in this region. Shocking practices have been documented by the Human Rights Commission of Pakistan (HRCP), which reported in 1999 that 2,300 persons had been released from private jails during that year alone.

Rural Sind would therefore appear to be a classic example of a feudal system, where landowners have even gone on the offensive to defend the bonded labour system as integral to the culture of Sind as an agrarian society. They have reportedly disagreed that relations with their tenants are covered by the bonded labour legislation, insisting that disputes over debt should be handled through tenancy tribunals under the Tenancy Act. A factor contributing to this stance may have been the adverse economic pressures recently faced by landowners, including rising input prices as subsidies have been reduced.

Under government initiatives, released *haris* have been permitted to set up shelters on state land. Such camps have a temporary status, dependent for their security on the goodwill of the local administration and neighbouring inhabitants. Development planning efforts like the country poverty strategy have not yet targeted bonded labour as a special category. While vigilance committees have been established (though in some cases for the first time in 1999, and only in a few districts), they have tended to act only after receiving complaints. The Government has publicly announced its intention to finance specific programmes addressing bonded and child labour.

In the meantime, human rights organizations, trade unions and other activist groups have expressed concern or taken initiatives by providing legal assistance for the release of bonded labourers; but the absence of collective bargaining for workers in the rural sector is an obstacle to trade union action.

To provide a safe haven for *haris* fleeing bondage, the Human Rights Commission of Pakistan (HRCP) has purchased a small piece of land in Sind province. Nearly 200 families — consisting of over 1,000 persons — had taken refuge at the camp by mid-2000. While the *haris* have put up their own traditional shelters, HRCP has contributed by installing hand pumps for drinking water. Religious groups in Sind have also helped provide land for a *hari* camp, together with financial assistance for immediate relief.

Source: Global Report on the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2001: Stopping Forced Labour, edited for training purposes

## 18 Annex

### *National Plans of Action against Trafficking in Children*

In addition to the international instruments that call upon governments to act, the ***Stockholm Declaration and Agenda for Action***, adopted at the first World Congress against Commercial Sexual Exploitation of Children in 1996, provides a brief résumé of the action that governments can take (in this instance against CSEC, but of course more widely against both sexual and labour exploitation). Paragraph (e) calls upon governments:

...in the case of trafficking of children, [to] develop and implement national laws, policies and programmes to protect children from being trafficked within or across borders and penalize the traffickers; in cross-border situations, treat these children humanely under national immigration laws, and establish re-admission agreements to ensure their safe return to their countries of origin accompanied by supportive services; and share relevant data.

This undertaking, agreed by 122 governments in Stockholm in 1996, was renewed and extended to 134 governments at the second World Congress, held in Yokohama in December 2001.

There has been a growing commitment on the part of governments to combat child trafficking at national level, and a number of ***national plans of action*** have been drawn up. Within the framework of ILO Convention No. 182, for example, countries are committing themselves to implementing measures to bring an end to the worst forms of child labour within a specific time-frame. ILO-IPEC has been supporting the governments of the United Republic of Tanzania, Nepal and El Salvador in designing and implementing national Time-Bound Programmes that target trafficking of children (Nepal) and children in prostitution (United Republic of Tanzania and El Salvador).

Other countries, such as Bangladesh and Sri Lanka, are in the process of adopting ***national frameworks of action to combat child trafficking***. Cambodia developed a five-year plan against the trafficking and sexual exploitation of children (2000-2004), while Thailand is preparing its ten-year plan to end the trafficking of women and children. Lithuania launched a National Programme on Control and Prevention of Prostitution and Trafficking, and Colombia has an Inter-Institutional Committee for Action to Combat Trafficking in Women and Children. The Government of Haiti has devoted its entire social welfare budget to combating the trafficking of restavek children.

Also at government level, a number of ***bilateral agreements*** have been introduced to combat cross-border trafficking, for example between the governments of Mali and Côte d'Ivoire, and between Thailand and Cambodia. These may cover various arrangements relating to border policing, the return and support of trafficking victims, extraterritorial jurisdiction, extradition and police cooperation.

Some countries' national plans also recognize the ***transnational nature of trafficking*** and thus include technical cooperation in other countries. The Australian National Plan of Action against CSEC, for example, includes input to the Mekong subregional initiative led by the United Nations Development Programme (UNDP), and overseas information campaigns to prevent the smuggling of people, with information tailored to meet the different requirements of source and transit countries.

The US has an inter-agency working group to address the ***international crime implications*** of trafficking. A government directive has also established a US Government-wide anti-trafficking strategy of prevention, protection and support for victims, and prosecution of traffickers. It includes a Worker's Exploitation Task Force charged with investigating and prosecuting cases of exploitation and trafficking, and promotes international cooperation and responsibility for cross-border trafficking.

Source: Unbearable to the human heart: Child trafficking and action to eliminate it, ILO/IPEC (2002)

## 19 Annex

### ***U.S. Monitoring Minimum Standards for the Elimination of Trafficking***

The United States Congress passed the Victims of Trafficking and Violence Protection Act in 2000, which inter alia "enhances pre-existing criminal penalties, affords new protections to trafficking victims, and makes available certain benefits and services to victims of trafficking". Under this Act, a pilot federal programme to provide services to victims of trafficking was also initiated.

Importantly, the Act defines "minimum standards for the elimination of trafficking", which cover the need for governments to prohibit and punish acts of trafficking, to prescribe punishment commensurate with that for grave crimes and sufficiently stringent to deter, and to

make “serious and sustained efforts to eliminate trafficking”. The Act lists criteria to be used to measure whether such efforts are, indeed, “serious and sustained”. On the basis of this measurement, the US State Department in July 2001 issued a report in which countries were put into three categories, or ‘tiers’. Countries are to be assessed and re-tiered annually. Beginning with the 2003 report, countries in the Tier-3 list will be “subject to sanctions, principally termination of non-humanitarian, non-trade-related assistance”. Such countries would also face US opposition to assistance (except for humanitarian, trade-related and certain development-related assistance) from international financial institutions, specifically the International Monetary Fund and multilateral development banks such as the World Bank.

Source: Unbearable to the human heart: Child trafficking and action to eliminate it, ILO/IPEC (2002)

## 20 Annex

### *International and Regional Initiatives to Combat Trafficking*

Strategic action frameworks, networking and information-sharing are at the heart of a number of bilateral and subregional actions that have been taken to combat child trafficking.

Within the *international community* there are now some overarching, global programmes that aim to contribute to efforts against trafficking.

- The United Nations Interregional Crime Prevention Institute (UNICRI) and the Centre for International Crime Prevention (CRIC) have jointly developed a **Global Programme against Trafficking in Human Beings**, which includes data-collection and analysis, the training of criminal justice practitioners, and advisory services on legislative reform and on developing victim assistance and witness-protection procedures.
- The **United Nations Special Rapporteurs on Violence against Women, and on Prostitution, Pornography and the Sale of Children** keep the international community and governments informed of issues and trends. This is an important monitoring and advocacy function at the international level.
- The **Office of the High Commissioner for Human Rights** (UNHCHR) monitors the human-rights elements of initiatives against trafficking at national and international levels. All new laws, proposed framework declarations and national, regional and international instruments are studied to ensure that they are consistent with human rights and children’s rights, and input is provided so that the instrument in question answers the needs of children who might be particularly vulnerable. UNHCHR also provides emergency funds for short-term assistance and repatriation, and small grants to human rights and women’s organizations.
- **ILO-IPEC** is building a global network of subregional programmes to combat the trafficking of children for labour and sexual exploitation. Between 2000 and 2001, four such programmes were operational in South and South-East Asia, Central and West Africa and Latin America. Through these programmes, IPEC is providing direct technical support to more than 30 countries.
- In South-East Europe, starting in 2000 and running until 30 October 2004, the **Task Force on Trafficking in Human Beings** of the Stability Pact for South Eastern Europe worked in the area of government awareness of the human-rights and law-enforcement aspects of trafficking and in direct action programmes. The Task Force was established under the auspices of the Organization for Security and Co-operation in Europe (OSCE) and worked closely in cooperation with the Organization. It also worked in cooperation with IOM, UNICEF, the International Catholic Migration Committee and local NGOs, in coordinating a multi-year action plan that brought together projects in prevention, response and reintegration. In May 2004, the former Chair of the Task Force, Dr. Helga Konrad, was

named OSCE's **Special Representative on Combating Trafficking in Human Beings**. The Special Representative will work in consultation with the OSCE's Anti-Trafficking Assistance Unit and the Anti-Trafficking Unit of the Office for Democratic Institutions and Human Rights to support anti-trafficking work in line with OSCE Decisions and its Action Plan on Trafficking in Human Beings in the 55 OSCE participating States.

Clearly, the challenge is to find mechanisms that ensure that these many and diverse networks and frameworks do not work as "closed circles", but that they **come together in as many ways as possible to share information and exchange experiences** not only on regional trends and responses to trafficking, but also on ways of cooperating and administering frameworks. Such networks of diverse experience are also potentially important points at which impacts can be evaluated, lessons learned and realistic assessment of progress made and shared.

In many regions, various bodies have developed regional or subregional groupings that bring together **different players**. These include, for example, government ventures such as the South Asian Association for Regional Cooperation (SAARC) or the ASEM 'Action for Children' initiative, which loosely links the 15 EU Member States and the governments of South-East Asia, and aims to "provide a forum for government, international organizations and non-governmental organizations to exchange experience on best practice in the fields of child welfare and commercial sexual exploitation with the focus on [prevention, protection, recovery and reintegration, and coordination and cooperation]".

In 1999, SAARC adopted its **Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia**, which included the formation of a technical committee on, among other things, measures to prevent inter-country abuse and exploitation, including trafficking. The 1999 Convention requires States Parties to ensure that their national laws protect children from trafficking; and Article 6 requires them to encourage and support bilateral and multilateral agreements and cooperation.

In 2002, SAARC adopted a **Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution**, and created a Regional Task Force to monitor its implementation. The Task Force subsequently recommended, among other initiatives, the creation of a voluntary fund with contributions from Member States, individuals and donor countries and agencies for the rehabilitation and reintegration of victims of trafficking.

In 2000, the 15 Member States of the **European Union**, represented in the Council of Ministers and European Parliament, considered a **Communication from the European Commission on Combating Trafficking in Human Beings and the Sexual Exploitation of Children** that included two proposals for framework decisions binding on the Member States. Despite its title, the Communication is intended to cover trafficking not only for sexual exploitation, but also for labour exploitation. The framework decision on combating trafficking obliges Member States to ensure that trafficking or abetting and attempting it is punishable, and that penalties are "proportionate and dissuasive". It requires procedural provisions on jurisdiction and extradition – important in cases of cross-border trafficking – and is time-bound, with Member States bound to comply by 31 December 2002. This kind of harmonization of legislative procedures and bilateral cooperation arrangements is extremely important in a region where national borders have largely been dismantled.

In Africa, the **Economic Community of West African States (ECOWAS)** issued a Declaration on The Fight against Trafficking in Persons in December 2001 and prepared an Initial Plan of Action against Trafficking in Persons in that same year. Under the plan, member States are called upon to ratify and implement numerous international obligations relating to trafficking, to adopt or amend relevant national legal provisions touching on trafficking matters, to engage in actions for the protection and support of victims of trafficking in persons, and to undertake prevention- and awareness-raising activities, the collection, exchange and analysis of information, and related activities.

In November 2004, the **Association of Southeast Asian Nations (ASEAN)** adopted its Declaration Against Trafficking in Persons, Particularly Women and Children. It committed itself to a series of measures aimed at tackling the emerging regional problem.

The **Bali Process on People Smuggling, Trafficking in Persons and related Transnational Crime** is a multilateral initiative, launched in 2002 under the leadership of Australia and Indonesia, aimed at combating people smuggling, trafficking and related transnational crime in the Middle East, Asia, and Pacific regions. It now involves the relevant national ministries and law enforcement agencies of 42 countries. The process is based on the convening of Ministerial Conferences of the countries involved, with the objectives of developing more effective sharing of information and intelligence, improving cooperation among regional law enforcement agencies, enhancing cooperation on border and visa systems to detect and prevent illegal movements of persons, and increasing public awareness in order to discourage illegal activities and warn those susceptible to them.

In relation to international, regional and subregional, multi-sector and multi-disciplinary cooperation, an **important lesson** emerged from the European regional consultation to the second World Congress against CSEC, which took place in Budapest in November 2001. There, a working group looking at effective models of cooperation underlined the importance of not “over-cooperating”, but rather of deciding what levels of cooperation are necessary in order to maximize relative strengths without wasting scarce resources on mechanisms that add nothing to the impact or efficiency of programming. It was noted, for example, that sometimes it is sufficient simply to share information with others working in the same area, whereas in other circumstances it might be necessary to include not only regular meetings and consultation (often having budgetary implications) but also closely coordinated planning and policy formulation. The importance of including young people’s groupings and initiatives was also noted, since often young people’s work is noted and appreciated but not included in ‘adult’ networks or plans.

Based on Unbearable to the human heart: *Child trafficking and action to eliminate it*, ILO/IPEC (2002), pages 38-43; Statement of Dr. Helga Konrad, 13 May 2004, OSCE Special Representative on Trafficking in Human Beings to the OSCE; Paper: “Bali Process” – *Building Regional Cooperation to Combat People Smuggling and Trafficking in Persons* by Caroline Millar, Australian Ambassador for People Smuggling Issues, given on 29 July 2004 at the Institute for the Study of Global Movements, Monash University; ASEAN Declaration Against Trafficking in Persons, Particularly Women and Children, [www.aseansec.org/16793.htm](http://www.aseansec.org/16793.htm).

## 21 Annex

### *A Thought on Estimating the Incidence of Forced Labour*

“When groups and individuals who are concerned with a particular problem construct messages about that problem, they often want to make the problem seem large so others will pay attention to it. Yet lower estimates of the size of a real problem do not reduce the importance of the problem. Stretching the truth by inflating the numbers simply lowers the credibility of the entire communication campaign. Even a single individual forced to engage in activities against his or her will should be of concern to us all. Inflated estimates of the number of trafficked persons serve largely as propaganda tools to inflame the passions of concerned persons around the world. Once inflamed, these passions can be used to justify the imposition of policies by large nations and international coalitions, and to raise donations. When policy is imposed from without and based on false assumptions of the size of the problem, a just solution is unlikely, and harm to the nation affected is more likely to occur from policies imposed in this fashion.”

Source: Steinfatt, et. al., *Measuring the Number of Trafficked Women in Cambodia: 2002*, paper presented at The Human Rights Challenge of Globalization in Asia-Pacific-US: The Trafficking in Persons, Especially Women and Children

### *Attempts to Eradicate Forced Labour in Brazil by Government and Civil Society in the Face of Impunity*

“Sir, do you think someone like me has any rights?” Worker freed from forced labour, to inspector.

#### ***A solid legal framework***

Brazil is a signatory to every United Nations resolution on slavery and has ratified every ILO Convention on forced labour. By doing so, it has committed itself to ending forced labour. But the gap between good intentions and practical results has remained wide, as Brazilians continue to be enslaved in defiance of the laws.

As a founder member of the United Nations, Brazil subscribes to the 1948 Universal Declaration of Human Rights which proclaims that “No one shall be maintained in slavery or servitude; slavery and the traffic of slaves will be banned in all their forms.... Every person has the right to work, to freely choose their job, to fair and favourable working conditions.”

Brazil was a signatory to the 1926 United Nations Convention on Slavery. In 1957, Brazil ratified ILO Convention 29 on Forced Labour (1930). Eight years later, in 1965, it ratified ILO Convention 105 (1957), which supplemented the earlier one. Both of these conventions committed member countries to the immediate abolition of forced labour. In 1998, Brazil subscribed to the ILO Declaration on Labour Rights and Principles, which included a prohibition of any type of forced labour.

The ILO’s 2001 Report “No to Forced Labour” recognized Brazil’s efforts and the difficulties involved in eradicating the practice.

Besides being bound by international conventions, Brazil’s own laws have emphatically outlawed forced labour. The Constitution of 1988, Article 5, lays down that “no one shall be submitted to torture, inhuman or degrading treatment”. Brazil’s Penal Code includes Article 149, which punishes “reducing someone to a condition analogous to slavery” with a prison sentence of two to eight years, and Article 197, which punishes the use of violence or serious threats to constrain someone to work with a sentence of one month. Article 207 declares that “the enticement of workers with the purpose of taking them from one area of national territory to another” is a federal crime punishable with a sentence of between one and three years and a fine.

#### ***Impunity***

The laws therefore exist. Yet there is general agreement among those involved in fighting forced labour in Brazil that one of the major causes for the persistence of the practice is impunity, the failure to suffer punishment for a crime committed. The ILO noted in its 2001 Global Report that very few people who use forced labour have been punished in Brazil. “The impunity enjoyed by those responsible, the slowness of the judicial processes and the lack of coordination between government departments end up favouring offenders in Brazil and in other places”. (ILO Global Report 2001, p.31)

For labour judge Hugo Melo, the failure to apply the law lies with the state. “It’s no use having the law if behind it you don’t have a strong state. Slavery only exists because the Brazilian state permits it.”

In 1997, a survey by the Federal Justice Department in Marabá, south of Pará, revealed that the delay in bringing landowners who had enslaved workers to court usually resulted in acquittal... . When the first landowner was finally charged and found guilty in February 1998, his sentence was commuted to community service, a mere slap on the wrist. But the case did introduce an important innovation: the reports of the labour inspectors who had gone to the ranch and found the forced labour were admitted as evidence for the prosecution and the inspectors were called as witnesses.

Between 1996 and 2002, a total of 49 persons were accused of the practice of forced labour. Twenty-four were found guilty. Only one was given a prison sentence, and he disappeared to avoid arrest. In 2003 the situation began to change. On 2nd January 2003, a landowner and a gato were arrested for the crime of forced labour. Their appeal against detention was turned down by the Supreme Labour Tribunal. In the first six months of 2003, as the number of inspections increased, a much greater number of offenders were arrested and charged, although the general slowness of the Brazilian justice system still means that rapid sentences are unlikely.

Without the certainty of punishment, offenders offend again and again. One of the coordinators of the Special Mobile Inspection Teams (specially charged with enforcing forced labour prohibitions) described the effect of impunity: "The landowners repeat the crime simply because of the lack of punishment. Without punishment, there's no respect, no intimidation, no type of limit to make them stop. They are the sort who, when we arrive at their ranches, are already being received in the offices of government ministers. It's very discouraging when we see, we personally prove, we photograph, film, write a report on all this degrading situation of the workers, and when we return to the property the landowner doesn't have the least respect for us, because nothing has happened to him."

The result has been recidivism, a recurrence of the use of forced labour.

[Table of violations omitted]

In 2002, of the 117 landowners charged with violations in the state of Pará, 27 had been charged before. They found it cheaper to pay the fines, when these were actually collected. Some have been charged ten times in 15 years. Inspectors sometimes found themselves rescuing the same workers from forced labour. One said, "Inspector, this is the third time you've freed me".

And until recently some authorities bent over backwards to avoid using the law, and tried to find alternative solutions. In April 2001, "Terms of Commitment" were negotiated between three big landowners in the south of Pará State, who between them owned 23 ranches, and the local labour delegacy (DRT), the federal inspectorate (SIT), and the state labour prosecution service (MPT). In return for promising to improve conditions for their workers, the value of the fines they had been given for employing workers irregularly was reduced, and they were guaranteed that the federal police would no longer accompany labour inspectors on their trips to investigate denunciations in the region.

In October 1999, representatives of the seven steel companies in Maranhão signed "Terms of Adjustment of Conditions" with the Ministry of Labour Inspectorate, the state labour prosecution service (MPT) and the local labour delegacy to improve working and living conditions in the charcoal camps, whether they were directly or indirectly connected with them. However, labour inspectors continue to receive allegations of forced labour, and to find unacceptable and degrading conditions in some of these camps.

Such agreements depend on goodwill, rather than punishment. In the words of one inspector, "They represent the triumph of hope over experience". And experience shows that, unless they are made to pay for breaking the law, employers simply ignore it, because they know they can get away with it and they do not of their own volition see any reason to respect workers' rights.

Even some of the measures designed as sanctions, like the compulsory purchase of ranches deemed to be unproductive or not to be fulfilling their social function, can become rewards. In November 1998, after being found with 222 slaves, the Flor da Mata ranch in São Félix do Xingu, was subject to such an order. The land reform agency, INCRA, then paid R\$ 2.5 million for the 11,700-hectare ranch, although it was claimed it had cost less than R\$100,000 when it was bought. INCRA defended the decision, saying the owner had made improvements, transforming "pure forest" into a farm, overlooking the fact that he had used forced labour to do so.

Another factor contributing towards impunity has been the unfortunate example of some of Brazil's politicians. At local, state and federal levels, several elected representatives have been found employing forced labour themselves on their properties, while others have lobbied to prevent offenders known to them from being punished. Instead of condemning the practice, they have upheld it.

Source: Report on the Magnitude of Forced Labour in Brazil, ILO Office, Brasilia (August, 2003)

### *The UN Global Compact*

This paper is divided into three parts. The first makes some observations on the changes in the ways in which multinational enterprises operate. The second summarizes different ways in which the International Labour Organization and its Secretariat, the International Labour Office, deal with core labour standards. The last briefly points out aspects of the ILO approaches which might be particularly useful for the National Contact Points.

#### **1. Changed conditions over a quarter Century**

The current discussion and activities relating to multinational enterprises can be seen as a second round in the debate which, in 1976, led to the adoption of the **OECD Guidelines on Multinational Enterprises**. There are some significant differences between the first and the second rounds, the second being characterized by the new parameters of globalization following the end of the Cold War.

The political catalyser of the first round was the action of multinational enterprises in connection with the coup d'état in Chile, in 1973. The OECD Guidelines were a (successful) attempt to establish the position of the main home countries of multinationals in advance of the then-planned United Nations Code of Conduct. As things turned out, the international momentum was sufficient to encourage the ILO to adopt the **Declaration on Multinational Enterprises and Social Policy** in November 1977. However, despite prolonged discussions, the United Nations Code of Conduct failed to materialize. In addition, the ILO instrument was adopted by the Governing Body, but there was no consensus for action in the form of a Convention or a Recommendation by the International Labour Conference. Very soon, even those parties (particularly, but not exclusively, trade unions) which had been calling for binding instruments acquiesced with the fact that there was no political will to go further and that attention had to be concentrated on voluntary Guidelines as a follow-up.

In the 1980s, little real effort was made to implement or strengthen the observance of the principles of the OECD and ILO instruments concerned. Most countries were far more interested in obtaining multinational investment than in controlling it. The United Nations initiative which started as a programme to strengthen the bargaining capacity of home countries vis-à-vis multinationals became a success in terms of investment promotion, starting with the development of special economic areas in China. The further opening of borders after the end of the Cold War also served to increase the hunger for foreign investment.

In the 1970s, the desire for a regulatory framework was based on certain premises. The multinationals were seen as potential agents of their home countries, acting against the interests of the host countries in which they established or took over subsidiaries. They were assumed to exercise a high degree of control over the activities of these subsidiaries.

The picture changes when we come to the 1990s. Technological and structural developments, combined with changes in the way in which global sourcing and distribution is done, have weakened and, in some cases, eliminated the identification of the management of a global enterprise with a given home country. The global company is not a suitable tool for aspirations arising in a world which is no longer based on confrontation and power struggles between socio-economic and political blocks. Neither is it the monolith it was seen to be in the 1970s. In many cases, it functions more as a conglomerate of small and medium-sized enterprises. Furthermore, it makes use of a vast array of subcontractors and partners, without exercising any formal control over their commercial or, indeed, social and labour practices.

In the 1970s model, there were "controlling heights" (to borrow Lenin's notion) of the international economy which, in turn, could be regulated. Since the early 1990s, these have been more difficult to identify, and central corporate control is not as all-pervasive as it was at the time when the "global reach" of multinationals first became a hot international topic. The enforcement of any given principle has to be compatible with the way in which today's market is structured and functions.

This also explains why the original OECD Guidelines – or, indeed, the ILO Declaration on Multinational Enterprises and Social Policy – did **not** specifically refer to core labour standards (known as “fundamental principles and rights at work” in the ILO context). The Guidelines were drafted as a set of good management practices, as seen by industrialized countries. No-one who drafted or adopted them thought that the world’s leading companies would condone forced labour or child labour, or crude forms of discrimination in employment. The ILO instrument was closely modelled on the OECD Guidelines and, in extending the scope to the developing countries, it also assumed that headquarters exercised a considerable degree of control over subsidiaries.

The fact that child labour emerged in the first half of the 1990s as a major issue for global companies illustrates the change that has taken place. The opening up of the world economy has intensified global competition, and strong reactions by consumers and public opinion against unethical methods of production have become an important economic factor. At the same time, working and living conditions in countries where global companies do their sourcing have become increasingly transparent. On the other hand, short of refusing to purchase when in doubt, multinational and national producers do not control their suppliers. Compulsory primary education is not enforced, labour inspection is weak, and the vicious circle of poverty and child labour is difficult to break.

Public opinion, the concerns of both national and international business, trade union pressure and the threat of retaliatory trade measures have all contributed to an unprecedented emphasis on the elimination of child labour. On the regulatory side, this led in 1999 to the unanimous adoption by the International Labour Conference of Convention No. 182 on the Worst Forms of Child Labour (78 registered ratifications to date, and a number of decisions taken by Parliaments have not yet officially been transmitted to the ILO). At the same time, the ILO’s International Programme for the Elimination of Child Labour (IPEC) has expanded to become the Organization’s biggest single technical cooperation programme.

## 2. *The ILO and core labour standards*

The debate on trade and labour standards in the first part of the 1990s crystallized the notion of **core labour standards**. When the OECD started its work on trade and labour standards, there was still no consensus on the contents of these standards. The early drafts of the study, which was eventually published in 1996, looked at a very wide set of standards. The consensus around four sets of standards (freedom of association and the right to collective bargaining; the abolition of forced labour; the elimination of child labour; and non-discrimination in employment and occupation) was first established by the World Summit for Social Development in Copenhagen, in March 1995. It was consolidated by the ***ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up***, in June 1998.

These four categories are essential for much of ILO action. Depending on the actors involved (countries, enterprises, trade unions, others), their enforcement, supervision and promotion takes different forms.

***Through the regular standards supervisory system***, countries which have ratified the eight fundamental Labour Conventions have the constitutional obligation not only to ensure their implementation but also to report every second year. Employers’ and workers’ organizations can make their own observations. Within the framework of the regular standards supervisory system, a Committee of independent experts and the International Labour Conference carry out an annual examination.

Representations can be made by trade unions or employers’ organizations if they consider that a member State is in violation of a ratified Convention. Extreme cases – such as forced labour in Myanmar (Burma) – can lead to conclusions and recommendations by a Commission of Inquiry and subsequent action by the International Labour Conference.

Complaints can be made on alleged violations of freedom of association and the right to collective bargaining to the Committee on Freedom of Association. This tripartite Committee, now 50 years old, reports three times a year to the Governing Body of the ILO. As freedom of association is considered to be a constitutional obligation, complaints can be made even if the relevant Conventions have not been ratified by the country concerned.

**The Declaration on Fundamental Principles and Rights at Work and its Follow-up** were adopted by the International Labour Conference in June 1998. It is a promotional instrument, which does not duplicate, but rather complements, the regular standards supervisory mechanism. Its approach is based on the agreement reached at the March 1995 World Summit for Social Development, which defined the four categories of core labour standards and furnished a *mode d'emploi* – those countries which have ratified the core Conventions continue to have a strong obligation to implement them, and the countries which have not ratified them should make efforts to live up to the principles they contain.

For this second reason, the Declaration establishes an annual reporting system for all non-ratifying countries on the efforts they have made to live up to the principles. In this way, the core labour standards situation of all ILO member States is examined in one way or another. The focus is increasingly on trying to find solutions through advice and technical cooperation. If a country has not ratified a Convention, it naturally does not have legal obligations, but the Declaration furnishes a strong moral obligation, particularly as respect for the four categories of core labour standards is deemed to arise from acceptance by a member State of the ILO Constitution.

As part of the follow-up to the Declaration, the International Labour Conference has discussed two Global Reports, which give a picture of the overall situation in all countries. In June 2000, the theme was freedom of association and the right to collective bargaining. As recently as last Friday, the Conference discussed a report on all forms of forced labour, including modern forms such as those associated with trafficking. Next year, the Global Report will be on child labour, and the year after on discrimination in employment and occupation.

...

**The Declaration on Multinational Enterprises and Social Policy**, adopted by the ILO Governing Body in 1977, is separate from the above-mentioned processes in that it does not focus on member States' systems for supervising and promoting standards. Individual companies may be mentioned in representations, or complaints, in the regular system, but the conclusions and recommendations are always addressed to governments. The MNE Declaration is similar to the OECD Guidelines in addressing itself to corporate behaviour, as well as to governments and workers' organizations. Its nature, like that of the Guidelines, is voluntary, but it makes cross-references to Conventions, which are of course binding if they have been ratified.

The parallelism of the Guidelines and the MNE Declaration has been recognized by the OECD since the first Review of the Guidelines. The ILO instrument can be relevant for the OECD process where it brings in more specific detail. In particular, in negotiating the MNE Declaration of the ILO, the employers' and workers' groups agreed to base the text largely on the Employment and Industrial Relations chapter of the already existing OECD Guidelines.

When there was still a possibility of the United Nations Code of Conduct becoming a reality (in the late 1970s), there was a high degree of consensus that the MNE Declaration of the ILO should become the "social chapter" of such a UN code. This was reflected in later drafts of the UN code which, however, had one additional feature: a reference to information and consultation arrangements for workers' representatives.

**The Global Compact** comprises nine principles in the areas of human rights, labour rights and environmental principles. The four labour principles of the Global Compact are the same as those of the ILO Declaration on Fundamental Principles and Rights at Work. ....

Research undertaken by the Management and Corporate Citizenship programme examines, among other things, the positive contributions made by international labour standards to productivity and competitiveness at the enterprise level. One project studies how companies manage labour issues in their supply chains in certain sectors, a draft report having already been completed for the global footwear industry. Another project looks at socially sensitive restructuring. In addition, the ILO has developed the only existing database which focuses exclusively on employment and labour issues in the area of corporate social responsibility.

A set of Training Materials for company managers on the labour principles in the Global Compact (which should be ready for testing in early 2002) will seek to convince managers that respecting the principles of the Global Compact is in their interest, as well as demonstrating how this can be done. This responds to an increased appetite on the part of the corporate world for information on core labour standards and their application. ...

Interestingly, a survey commissioned by the ILO on voluntary corporate codes of conduct noted that there is some variety in the actual issues covered by such codes. They deal with issues other than the core labour standards, which is by no means surprising. After all, the OECD Guidelines go beyond the core labour standards. In addition, codes and other policy statements reflect the specific features of any given industry. On the other hand, not all such codes recognize freedom of association and the right to collective bargaining. This tends to be the case where codes and other similar documents are negotiated with the trade unions, but unilateral statements are more likely to leave this category out.

### 3. *What conclusions for the National Contact Points?*

The fact that the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprises and Social Policy are roughly parallel also means that the ILO instrument can continue to be used in the OECD context in cases where it is more specific. The follow-up procedures of these two voluntary instruments have not produced contradictory conclusions over the years, and thus the danger of “forum-shopping” (or trying to get a more favourable second opinion) has been avoided.

One conclusion is that knowledge of this ILO instrument and the way it functions is necessary for the National Contact Points. In the late 1970s, suggestions were made to the effect that the NCPs should merge in one way or another with the national tripartite ILO Committees. It seems that in practice, where there have been links at the national level between the OECD and ILO processes, they have been ensured by the participation of labour ministries and, where the social partners are concerned, by persons who have been involved in both organizations.

The following observations would seem to be relevant in assessing how interaction between the different processes could function:

1. The ***ILO standards supervisory system does not address enterprises directly***, but it has produced a considerable amount of jurisprudence on how standards should be interpreted and enforced. This covers the expectations that national standards systems, in line with international standards, place on corporate conduct.
2. The ***global consensus on the contents of the core labour standards*** is summarized in the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. These standards are further elaborated in the eight core Conventions of the ILO. (In addition to Conventions No. 29 and 105 on forced labour, 87 and 98 on freedom of association and the right to collective bargaining, 100 and 111 on discrimination, and 138 on the minimum age of employment, Convention No. 182 on the worst forms of child labour was added to this group when it came into force in November 2000.)
3. ***Technical cooperation*** is increasingly made available to countries which agree to make efforts to promote and realize of these principles and rights at work. Business organizations and trade unions are in many cases direct participants and beneficiaries of such cooperation.
4. As part of its input to the Global Compact, the ILO is developing data and Training Materials for companies which wish to respect the labour principles of the Global Compact; these labour principles are the four categories of the 1998 Declaration, i.e. the core labour standards.

The new element in all this is that the ILO is in a better position than ever before to assist governments, the business sector and trade unions in identifying problems related to the observance of core labour standards. The means of action are not limited to supervision and often conflictual procedures; nor do they only address the legal and practice issues of labour legislation. An aim of the 1998 Declaration has been to build bridges between the identification of problems and their solution through assistance and technical cooperation.

The Global Compact points to the need to assist the corporate sector in better understanding and realizing these principles and rights at work.

The knowledge generated by these different processes is, naturally, at the disposal of national authorities which have the mandate to deal with the social aspects of international investment. The core labour standards debate has concluded that the standards concerned are those identified by the Copenhagen Social Summit in 1995 and the 1998 ILO Declaration. These four categories of fundamental principles and rights at work should continue to be the benchmark for international organizations. The supervision and promotion of these standards remains one of the strategic objectives of the ILO. When looking at concrete situations involving these standards, other bodies should be able to rely on the knowledge and different kinds of assistance the ILO can provide.

Source: Paper entitled UN Global Compact and other ILO instruments, presented by Kari Tapiola, ILO Executive Director, to the OECD Roundtable on Global Instruments for Corporate Responsibility, held on 19 June 2001 at OECD Headquarters, Paris

## 24 Annex

### *The Importance of Standards and Corporate Responsibilities – The Role of Voluntary Corporate Codes of Conduct*

**The notion of codes of conduct** applying to multinational enterprises has undergone a thorough transformation since the OECD instruments on international investment and multinational enterprises were adopted in 1976. The idea of a code of conduct as an answer to perceived problems emerged from the debate in the United Nations after the coup d'état in Chile in 1973, in the light of the involvement of a multinational enterprise in activities leading to the military takeover. The United Nations' response was to set up a Commission and a Centre on Transnational Corporations, with a code of conduct as their top priority.

This work started in 1976 – the same year the OECD instruments, including the **Guidelines on Multinational Enterprises**, were approved. The OECD decision had strongly influenced the debate in the United Nations, as it represented the position of countries which overwhelmingly were home countries of the multinationals. It could be argued that this effectively prevented a United Nations code from ever being approved. However that may be, changes in priorities, and above all structural changes, rendered the United Nations code of conduct exercise obsolete by the late 1980s. Well before that, the OECD Guidelines had a decisive influence on the ILO, whose Governing Body adopted a **Tripartite Declaration on Multinational Enterprises and Social Policy** in November 1977.

This ILO Declaration not only paralleled the OECD Guidelines. It was also to have been the social and employment chapter of the United Nations code, if such a code had emerged. In this respect, the OECD countries successfully made what could be called a "pre-emptive strike" in the process of international regulation of multinational enterprises.

**The approach of the 1970s** was based on a number of hypotheses which seemed both obvious and simple at the time but may no longer be entirely valid. There was a perceived conflict of interest between home and host countries. Multinational enterprises were seen as potential tools of home country policies against host countries. A case in point was Chile in 1973, which triggered the international action. Multinationals seemed to be octopus-like structures, with their head in home countries, reaching out to a multitude of host countries, which had insufficient capacity to cope with them.

Due to this perception, another element in the United Nations programme of action was the strengthening of the bargaining position of host countries vis-à-vis multinational enterprises. From today's perspective, it is intriguing that this part of the programme proved far more

successful than the code of conduct approach, although possibly not in the way its proponents intended. By the early 1980s, the desire to secure multinational investment had clearly outweighed the wish to control it. The aim of strengthening the bargaining position of host countries blended with investment promotion. One remarkable success story is that of the special economic regions in China.

It became clear early on that binding international codes addressed directly to multinational enterprises were neither politically nor legally feasible. Not one of the OECD countries would entertain this approach. Business was adamantly against it and, by the beginning of the 1980s, the trade unions had in practice shifted their focus from the legal nature of the OECD Guidelines to their follow-up. The ILO Declaration on Multinational Enterprises and Social Policy became a special voluntary instrument, not a Convention. As to the United Nations code negotiations, the task of reconciling possible binding obligations on multinational enterprises with binding obligations on governments proved impossible.

The result was a blend of normative and voluntary approaches, with the stress on **follow-up mechanisms**. In the OECD, the follow-up involved not only regular reviews but also a discussion of specific situations with clarifications provided, although the Committee on International Investment and Multinational Enterprises did not specifically name the enterprises concerned. The trade unions were not inhibited from naming the enterprises in their presentations. Due to a fear of “multinational collective bargaining”, the business side did not want to enter into a discussion of specific situations with the participation of the trade unions.

In the ILO, the follow-up mechanism of the 1977 Declaration was tripartite, due to the nature of the Organization. However, this mechanism has yielded limited results. Freedom of association, which is one of the trade unions’ main concerns, remained in a separate system. In addition, the tripartite structure has virtually ensured that in specific contentious situations it is very difficult, if not impossible, to reach consensus. Instead, the process has veered towards highly polarized votes.

**A key contribution of the process** which started in the mid-Seventies was the general approach of a voluntary instrument with a follow-up mechanism. This approach is more promotional than normative. For instance, it is a significant feature of the **ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up**, adopted by the International Labour Conference in June 1998.

\* \* \*

**The world of the late 1990s** is different from that of the Seventies. The multinationals of a quarter of a century ago were more monolithic, more hierarchical structures than those of today. They functioned in a world which was divided by the Cold War with all its consequences for emerging countries. Since the 1980s, internationalization has spread with the help of new production and management technologies and made closed and command economies increasingly impossible, or at least hopelessly inefficient, thus contributing to the collapse of Communism.

This collapse has led to a new situation in which, for the first time since 1914, there is no real alternative to the market economy. But this market economy functions differently from its predecessors, whose “controlling heights” the disciples of Marx wanted to conquer. Those controlling heights have turned out to be information systems which the managers of multinational conglomerates – entities with different kinds of links with one another – can plug into virtually, irrespective of where in the world they are.

When corporate structures move from hierarchies to networks, the relative importance of a concept such as “home countries” fades away, and the earlier real or potential home- and host-country policy conflict goes with it. Structures are no longer octopus-like. The modern multinational encompasses hundreds of entities worldwide, with different cultures and different formal and actual linkages. There is something akin to just-in-time production on a worldwide scale.

**Today's discussion on voluntary corporate codes** focuses on the performance requirements of entities within such systems. They arise out of the desire of enterprises in this new global market economy to set out minimum standards of behaviour for their subcontractors and others whose products they are marketing. Consumers want to know that the products they buy are not made by children, by forced labour, in sweatshops, in conditions of miserable pay, or through otherwise ethically questionable means. Pressures for social regulation arise out of the market, not out of concerns over sovereignty felt by the political leaders of countries in which the work of a multinational enterprise is performed.

This has produced a significant change in the parameters. The debate of the Seventies was spurred by the concerns of host countries. The tone of the current one is set more by the former home countries, which are the major markets. The perceived problem is not "exporting" a headquarters/home-country policy which would be subversive or exploitative. Rather, the issue is to require a decent minimum level of standards from subcontractors and other links in the corporate supply chain. The former "host" countries see themselves more on the defensive now, as they fear that socially motivated market pressures can be used against them for protectionist purposes.

The **emphasis on self-regulation** reflects yet another change of approach since the end of the Cold War. The codes of conduct addressed to multinational enterprises were drafted in a period where the United Nations was grappling with the concept of a New International Economic Order (NIEO). There were profound divergencies over the NIEO, which was seen by many (including OECD countries) as a state-controlled approach to economic development. This, incidentally, was the reason why the international trade union movement had serious difficulties with the NIEO, although it strongly supported measures to control multinational enterprises. The concept of a New International Economic Order was undermined by the same forces which ended the Cold War and brought about the current process of globalization.

The discussion on regulation has also taken on a different emphasis. With globalization, there has been a growing recognition of a need to establish an international minimum level of social and labour standards. This debate on "core labour standards" has been taken forward in steps by discussions in the ILO, the OECD (the 1976 report on trade and labour standards), and the WTO (Declaration of the Ministerial Meeting in Singapore in December 1996).

Two important milestones have been the **World Summit on Social Development**, held in Copenhagen in March 1995, and the negotiations for and general adoption of the **ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up**. The contents of the core labour standards were determined in Copenhagen, as was the *modus operandi*. Countries that have ratified the ILO Conventions on freedom of association and the right to collective bargaining, forced and child labour, and non-discrimination must fully comply with them. Countries which have not ratified them must in any case respect the principles. The 1998 ILO Declaration sets out the framework in which this is done, with the emphasis on developing promotional measures to assist countries in reaching this objective.

**It is to be underlined that this Declaration** is concerned with policies put in place by countries – not with corporate policies. It leaves intact the 1977 Tripartite Declaration on Multinational Enterprises and Social Policy, together with its follow-up arrangements. Because the Declaration and the OECD Guidelines for Multinational Enterprises are parallel, any significant changes in the Guidelines would probably have to be reflected in the ILO instrument in one way or another.

Even though the 1998 Declaration does not directly apply to multinational enterprises, it is liable to have consequences to the extent that the promotion of fundamental principles and rights at work leads to government policy changes. A relevant comparison could be with the work of the Committee on Freedom of Association of the ILO Governing Body. A complaint presented to this Committee on alleged violations of the principles of freedom of association and the right to collective bargaining may be based on specific situations involving an enterprise. The conclusions and recommendations of the Governing Body, however, are addressed to the governments, as it is their task to ensure compliance with these principles.

In the long run, the ILO Declaration on Fundamental Principles and Rights at Work and corporate policies should be expected to converge. This does not, however, imply that the follow-up to the Declaration, now being put into place, will directly address enterprise policy practices.

**Another relevant question** is: What new do the core labour standards add to the instruments which originated in the Seventies? Freedom of association and non-discrimination are specifically covered by the Guidelines. The fact that there is no strong emphasis on forced and child labour is due to the fact that the Guidelines were drafted by industrialized countries. And, in any case, the consensus on worldwide action against child labour (and particularly its worst forms) is only a couple of years old. On the other hand, this consensus against child labour has been decisive in motivating many enterprises take socially motivated action within their sphere of influence.

Somewhat problematic is the fact that, despite the strengthened consensus on core labour standards, only a third of existing voluntary corporate codes refer to international standards generally, including international labour or human-rights standards. And there is considerable diversity in the way these standards are treated. In many cases, only some of the standards are addressed, and some codes explicitly discourage union organization. When codes have been drafted with a degree of labour-management cooperation, they are more likely to refer to core labour standards.

Unilateral corporate codes are both statements of intent and, when monitored and followed up with subcontractors and other economic partners, rules of the game for gaining the benefits of participation in a global enterprise. As such, they can complement internationally recognized labour standards. They can serve as catalysts to advance compliance with minimum labour standards which, in any event, should be a guiding principle for law and practice.

However, the very fact that such codes are deemed necessary bears witness to the fact that core labour standards are not yet universally observed. In some cases, they result in monitoring which should really be the responsibility of national labour inspectorates or other authorities, if they existed and were sufficiently effective.

Without agreed supervision and monitoring, individual codes of conduct are no more than statements of corporate policy. Such mission statements are sometimes better known in the enterprise's import markets (comparable with the earlier notion of home countries) than where production takes place. There is no uniform system for monitoring such codes; the competence and independence of the external monitoring that goes on varies greatly, and the costs of such services are not insignificant. As the consumer goods sector in particular (sporting goods, clothing, household goods etc.) is under competitive pressure to demonstrate that the goods it markets are not produced in a sub-standard manner, there is a proliferation of monitoring services, which in fact constitutes a new growth area.

**An alternative is the establishment of joint implementation structures** involving the enterprises and trade unions. This, of course, assumes a degree of acceptance of trade unions as partners, which is not always the case. Subcontractors and other links in the chain may be small and medium-sized enterprises, where arrangements for workers' representation are either lacking or not very developed. There is still a wide gap between accepting the rights of workers to organize and actively involving their organizations in a process of improving working conditions.

Voluntary private sector initiatives will no doubt continue to play an important role, particularly as the diversification of economic activities, privatization, and deregulation continue, and there are more market pressures for self-regulation. However, universally applicable solutions (which also promote the "level playing field" called for by many representatives of business) will not be produced by the market alone. It is equally clear that a dirigiste approach, reminiscent of the times of the New International Economic Order, will not produce the desired framework.

A more complex approach is needed, together with a better understanding of the interaction between private entities and public policy. In January 1999, at the Davos World Economic Forum, the Secretary-General of the United Nations called on multinational investors, producers and employers to uphold human rights, decent labour and environmental standards

in the conduct of their businesses. Referring explicitly to the 1998 ILO Declaration on Fundamental Principles and Rights at Work, he suggested that business leaders should not wait for legislation to ensure that core labour standards are respected in their own spheres. [ed.: The result was the United National Global Compact.]

**Promotional measures by the ILO** as a follow-up to the 1998 Declaration will have a positive impact on the framework, as the implementation of an overall policy corresponds with the desire to ensure a level playing field. Where corporate policies are concerned, it might be useful to consider a three-tier approach, whereby:

- (a) compliance with core labour standards by all countries is promoted through the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work, thus creating a recognized and decent global social minimum level;
- (b) there is continued agreement that expectations set for the corporate sector should be contained in existing instruments, particularly the OECD Guidelines for Multinational Enterprises and the Tripartite ILO Declaration on Multinational Enterprises and Social Policy, with whatever amendments the current focus on core labour standards might necessitate; and
- (c) relevant international organizations, such as the ILO, are ready to offer their knowledge, advice and support to the corporate sector, upon request, for initiatives aimed at specifically promoting core labour standards and decent conditions of work.

This might also provide impetus for reviewing the way in which national contact points in the OECD countries function, in order to enhance their potential for offering advice and other services to the corporate sector. Enterprises which decide to undertake action in this field – on their own, or in consultation with the workers' representatives, and/or following approaches by NGOs – should be able to benefit from information and advice on what is the "state of the art" regarding the principles to be respected.

The idea has sometimes been mooted of having a "model code" for the corporate sector. However, consensus on the importance of the core labour standards and continued support for the contents of the OECD Guidelines and the 1977 Tripartite ILO Declaration beg the question: What new benefits would such a model code bring? The basic elements exist. The challenge rather is to adapt the way they are promoted to the new global situation.

Source: Paper entitled *The Importance of Standards and Corporate Responsibilities – The Role of Voluntary Corporate Codes of Conduct* presented by Kari Tapiola, ILO Executive Director to the OECD Conference on the Role of International Investment in Development, Corporate Responsibilities and the OECD Guidelines for Multinational Enterprises, 20-21 September 1999. The author of this paper wishes to underline that it does not represent an official ILO position. Some of its observations are based on the author's experiences as a staff member of the U.N. Centre on Transnational Corporations 1976-1977; General Secretary of the Trade Union Advisory Committee to the OECD (TUAC) 1996-1985; and chairperson of TUAC working parties on globalization, trade, and labour standards (1990 – 1996).

## 25 Annex

### ***Extracts from the Bonded Labour System (Abolition) Act, 1976 (India)***

....

#### **4. ABOLITION OF BONDED LABOUR SYSTEM.**

(1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour. (2) After the commencement of this Act, no person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or (b) compel any person to render any bonded labour or other form of forced labour.

**5. AGREEMENT, CUSTOM ETC., TO BE VOID.**

On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

**6. LIABILITY TO REPAY BONDED DEBT TO STAND EXTINGUISHED.**

(1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceedings shall lie in any civil or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

Provided that the bonded labourer, or an agent authorized by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decreeholder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

### **7. PROPERTY OF BONDED LABOURER TO BE FREED FROM MORTGAGE, ETC.**

(1) All property vested in a bonded labourer which was immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charges), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

### **8. FREED BONDED LABOURER NOT TO BE EVICTED FROM HOMESTEAD, ETC.**

(1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in subsection (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

### **9. CREDITOR NOT TO ACCEPT PAYMENT AGAINST EXTINGUISHED DEBT.**

(1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with a fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

## 26 Annex

### ***Recommendations to Retailers, Suppliers, and National and International Consumers***

- Retailers and wholesalers should pressure suppliers not to use bonded child labor in the manufacture of their goods and to support a bona fide programme to phase children out of bondage, offering them financial assistance and access to formal education. Consumers in the country and abroad who purchase from industries known to employ large numbers of children in bonded labor should require retailers to exert such pressure and to guarantee that they and their suppliers offer independent monitors full access to all facilities, including supplier facilities, to check on the incidence of bonded child labor.

- Corporations should incorporate a monitoring process for bonded child labor into their quality control procedures and in setting standards for selecting suppliers and products.
- Consumers inside the country should appeal to their elected representatives, local magistrates, and other officials to demand that enforcement mechanisms be established and strengthened, and should demand that the government identify, release, and rehabilitate all bonded laborers (including children) as required under the current law, and the accompanying rehabilitation scheme.
- International consumers should appeal to their own governments to press the Government to abide by its own law by administering it and accompanying procedures for the identification, release, and rehabilitation of bonded laborers in good faith.

Based on Small Changes: Bonded Child Labour in India's Silk Industry, Human Rights Watch, January 2003, page 15

## 27 Annex

### *On the relationship between identification of bonded or debt-related forced labourers and law enforcement*

In October 2004, the Government of India reported **4,859 prosecutions** to date under the Bonded Labour System (Abolition) Act, a total that probably far exceeds that of any other single country in relation to a forced labour offence. How many of these prosecutions resulted in convictions is not known. [Data are available only for the state of Uttar Pradesh where a total of 2,421 prosecutions resulted in 1,228 convictions (51%) and 1,193 acquittals (49%).] Yet the **number is still low** compared to the Government's own official statistics, which indicate that 285,379 bonded labourers had been identified as at 31 March, 2004, of whom 265,417 (93%) had received rehabilitation assistance. The remaining 19,962 persons were not available for rehabilitation as they had either died or could not be traced. State governments report that 527 District Vigilance Committees have been constituted to monitor the situation on the ground. However, the federal Government acknowledges that there is **some confusion over what constitutes bonded labour**. For example, when workers receive short-term advances from their employers, in the absence of formal financial services to cater to their credit needs, they are considered to be working under their own volition and not under coercion.

This points towards the continued **problem of identification, which keeps the number of prosecutions low**. India was the first country to acknowledge the pervasive problem of bonded labour, and hence has the longest track record in understanding, documenting and tackling it. Though the 1976 Bonded Labour System (Abolition) Act (BLSA) defined the Bonded Labour System, it did not lay down any precise method of identifying bonded labourers. A methodology to this effect has not as yet been clearly established and agreed upon by the various stakeholders concerned. It remains crucial to determine whether workers are somehow forced to work by virtue of the bond or debt to their employer, or are merely poorly paid or otherwise exploited but nevertheless free to leave their employment. (In many cases, the bonded labourer receives a payment that is well below the market rate for casual labour. In such cases, the labourer might voluntarily accept her/his servile status in return for steady employment with the landlord in the face of an uncertain labour market. The difference between the market rate (i.e. the opportunity cost of labour) and actual wage payment can be viewed as an "insurance premium" to guard against unemployment. Thus, while the labourer's situation may exhibit several features of debt bondage, he or she is not in reality unfree.) Bonded labour has also been expansively interpreted by the Indian Supreme Court in 1982 as non-payment of the minimum wage.

Source: Selection from *A Global Alliance Against Forced Labour*, paragraphs 84 & 85. Citations omitted.

## *On the release and rehabilitation of bonded labourers*

### *[The problem]*

...[T]he passage of the Bonded Labour (Abolition) Act in Pakistan is only the first step in providing legal relief to bonded labour. But this initiative has not gone far because it has not been accompanied by active enforcement of the law.

Thousands of bonded families have escaped detention primarily because of human rights organizations. Placing the blame on uncaring provincial governments is unacceptable because the country has been increasingly [centrally] administered ... . In any case, legal experts believe that the **federal government** can constitutionally direct provincial governments to take specific actions in enforcing federal law and the constitution. The conduct of federal government suggests that it does not consider such powers as a concurrent obligation to promote and protect labour rights.

Virtually all court orders to free workers and families in illegal detention stop at just that point. One presumes that the court awaits further action by the administration in filing a case under the Bonded Labour Act. Oddly enough, even when the landlord or employer claims large debts as the reason for preventing workers from leaving, the court does not prosecute the offender under the Act. **Courts** do not seem to consider illegal detention as a punishable offence under other laws. We are also puzzled that neither administration nor courts take cognisance of admitted trafficking when landlords defend their conduct by reference to purchase of tenant families from other landlords.

The Bonded Labour Act envisaged a proactive **local administration** working through district Vigilance Committees largely consisting of officials. These were apparently set up for the first time in 1999 (despite passage of the Bonded Labour System Rules in 1995), and then only in a few districts. The [non-governmental organization Human Rights Commission of Pakistan] HRCP rejected these committees as including the very group of persons against whom action was to be taken.

We have seen only a few committee reports in Sindh [State]. These suggested that the committees act only after receiving specific complaints, and did not find any evidence of private jails – perhaps because they interpret “jail” in a very legalistic fashion. It was not evident from these reports that the committees were adequately conversant with the Bonded Labour Act or with the duties of the committees.

**Human rights organizations** and other activist groups, most notably HRCP and [Bonded Labour Liberation Front of Pakistan] BLLF, are substituting for Vigilance Committees in providing legal assistance to free bonded labour. It still seems to be a rare exception that local officials will act directly upon complaints by bonded labour.

**Local police** stations rarely provide sanctuary to workers fleeing from bondage. At best they will ignore landlords’ and employers’ requests for help to locate and return such workers. At worst, and perhaps typically, they will help landlords. However, they do seem to act promptly when ordered by the court to recover and release workers and families. Camp *haris* [landless sharecroppers living in temporary settlements] complain that the police and others in the local administration usually make court orders known in advance to landlords, who then shift the detained *haris* around to other locations. We very much doubt whether senior police officials are even conversant with the Bonded Labour Act. Even if they were, it is doubtful whether police would sympathize with low-caste, migrant bonded labour in the absence of clear signals from the highest levels of government.

...

### **Relief and rehabilitation**

We have no evidence to suggest that government, at any level, has prepared substantive relief and rehabilitation plans for bonded labour. Relief by government appears to be limited to allowing freed *haris* to set up makeshift shelters on State land. The current military regime has publicly announced its intentions to take specific initiatives, and the federal Ministry for Labour is keen to develop comprehensive action plans. There have been no indications yet that the country poverty strategy – being prepared at the behest of the World Bank and the Asian Development Bank – will seriously target bonded labour as a special category. Building roads to freedom from servitude does not seem to qualify for inclusion in the infrastructure bias of current poverty alleviation schemes.

The **HRCF** has purchased a small piece of land (near Husri) as a safe haven for *haris* fleeing bondage. Nearly 200 families consisting of over 1,000 persons have taken refuge at the camp and, as elsewhere, put up their own traditional, *katcha* shelters. HRCF has helped by installing hand pumps for drinking water. A separate piece of land has been set aside for rehabilitation projects. A building has been partially constructed and is used as an informal school.

The **BLLF** claims to be running a chain of almost 250 primary schools with more than 12,000 children enrolled across Pakistan. We could not visit any school, nor have we obtained any report on the effectiveness of the school programme. The group has also set up sewing centres, and runs awareness programmes among bonded workers. BLLF also has programmes to provide urgent food relief to freed workers.

In past years, Church-related groups in Sindh have also helped in providing land for a *hari* camp and financial assistance for immediate relief. Most *haris* have now moved to other camps. Those who received financial assistance – of Rs 2,000 per household – are generally unable to repay even their meagre loans, since the assistance was used up for food and other basic necessities. We do not have information on other efforts in Sindh or elsewhere.

### **Future initiatives**

Much needs to be done at every level of the problem. Given our very short involvement, any suggestions from us are necessarily no more than pointers for action. Future plans must also be based upon discussions with camp *haris* and activists working with them. ...

### **Relief in camps**

Most *haris* arrive in camps with **few resources**. They are helped by other *haris* in building a shelter and in procuring food. But the very meagre resources of other *haris* naturally limit such help. These efforts need to be supplemented by external support.

Most camps need better **sanitation arrangements**. Some also require better access to potable water. Health facilities are non-existent in camps, and those outside the camps are expensive to access. Low use of nearby facilities also reflects a predominant fear among *haris* of being taken captive by landlords. A similar reason is given for not sending children to nearby government schools, in addition to *hari* children being mocked and taunted by other students and by teachers. Unaffordability of school materials is another deterrent.

Except for the HRCF camp, all other camps have a **temporary status** that is dependent on the goodwill of the local administration and neighbours. The use of armed force in September 2000 to close down a camp (at Sikandarabad) was a menacing reminder of the fragile existence of bonded *hari* camps. Interventions by the federal government, among others, have probably given only a temporary respite. We therefore feel that security of tenure for the camps would be a positive step in allaying the fears of residents that they could be put at the mercy of marauding landlords and collaborating officials at any time. Reserved land for camps would also be helpful in installing infrastructure. In this regard we are puzzled why *haris* in the Kotri camp have not been settled in nearby Khuda ki Basti – an innovative settlement specifically developed for the poor.

**Split families**, with women and children still in bondage, are a special problem, which requires urgent attention by government. When *haris* are freed, family members may be left behind because the landlord has shifted them elsewhere. Or family members may have been working in distant fields or in the landlord's home at the time of release. In our camp survey, over 15 per

cent of the households reported split families, with nearly a thousand persons – of whom more than 200 were women and over 300 were children – still held captive by landlords.

### **Rehabilitation of freed workers**

Most *hari* camps appear unable to provide **regular employment** in the vicinity. In some instances, surrounding farmers refuse to hire camp *haris*, even as casual labour, because they are labelled as problem *haris*. Urban jobs are not readily available in the prevailing conditions of high unemployment. The unfamiliar discipline of urban jobs may also be a problem. Also, fear of kidnapping by landlords restrains *haris* from venturing far from their camps. We were also told that the traditional Thari attire was sometimes a constraint in obtaining employment. With literacy limited to fewer than 10 per cent of households, and to around 5 per cent in the case of adult males, work options are dismal.

The serious problem of underemployment and low incomes for camp *haris* can be summarized in the following findings from the camp survey. During the previous seven days, fewer than 10 per cent of households had been unable to engage in remunerated work. But of those who did find work, 90 per cent earned Rs 500 or less per household. Even with a conservative household poverty line of Rs 500 per week, the vast majority of camp *haris* qualify as among the desperately poor. Over 40 per cent had earned no more than Rs 200 during the entire past week: at this rate, a household would earn around half the basic minimum monthly non-farm wage of Rs 1,500 per worker. An unskilled construction worker could earn at least Rs 80 per day.

The re-employment problem of freed brick-kiln workers may be less severe than that of *haris*. But they too definitely need help in adjusting to other occupations, rather than having to return to the occupation that imposed bondage.

Most observers believe that **skills-development centres** are needed to enable both men and women freed from bonded labour to take up alternative occupations. Locating them near *hari* camps is probably going to be easier than finding suitable locations for re-training freed brick-kiln workers. If children are to be helped out of the trap they need to be helped with schooling initially and alternative skills subsequently.

Camps should be considered as a transitional arrangement for **housing** also. Sites need to be provided for permanent resettlement of freed *haris*. This would also apply to freed workers from brick-kilns and any other form of bonded labour.

Since *haris* are very skilled farmers, the best economic rehabilitation for them would be to gain **access to land** without the burdens of bondage. Grants or leases of state land at affordable instalments should be feasible for all bonded *haris*, specially if land parcels can be kept small – say 4-6 acres per family – and cooperative farming is encouraged in a package of assistance. Credit for rehabilitated *haris* could be specifically allocated in general micro-finance programmes for the poor. At the very least, the exclusion of very small farmers should be discouraged in mainstream credit programmes. To provide decent incomes, a skills development programme of some kind would be needed, especially for women.

Many camp *haris* were insistent that **national identity cards** should be supplied to them on an urgent basis. This makes sense because the card now establishes legal existence, and more practically, is necessary for all official dealings. In view of the temporary nature of camps, some special arrangements will have to be made for issuing cards. The best approach would be to send in mobile teams and invite both camp residents and other locals to take advantage of this special facility.

Selection from Bonded labour in Pakistan: An overview, by Aly Ercelawn and Muhammad Naunan, Pakistan Institute of Labour Education and Research (June 2001), a background report for the first ILO Global Report under the Declaration Follow-up on the subject of Forced Labour. The opinions expressed in this selection are those of the authors. Footnotes omitted and emphasis added by the editor of this Material for pedagogical purposes.

## 29 Annex

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### *What can employers with subcontracting arrangements do?*

#### ***Evaluate existing company policy***

Evaluate and address the impacts of your own sourcing and purchasing practices on the way that producers hire and treat their workers. Instead of resorting to undocumented workers, who may well be victims of trafficking, and laying off regular workers, flexible work arrangements based on market demand can be made with existing staff. In this way, it is possible to retain the services of staff with satisfactory standards of performance and skill levels, without necessarily providing job security, employment guarantees and inflexible compensation options.

#### ***Strive to strike a balance***

The challenge of surviving in a globally competitive environment through cost-cutting measures needs to be balanced with the recognition that productivity cannot be increased to the desired extent with a poorly trained, de-motivated and rapidly changing workforce. This is the caliber of employees normally employed in the subcontracting chain.

#### ***Know your subcontracting chain***

Who are the middlemen (contractors and agents)? Did you get them from a reputable source? What is their reputation on their market? To what extent are they familiar with national and international labour legislation? Are they aware that trafficking for labour exploitation occurs in this sector? Have they read and understood your company mission statement, code of conduct or staff handbook to get an understanding of the ideals that your company upholds?

Know your subcontractors. What countries do they operate in? What are the labour laws in those countries? Do they differ significantly from international labour legislation? In what ways? Do they have anti-trafficking legislation in their countries? How effectively is it implemented? Streamline contractual and administrative requirements across the sector as far as possible.

#### ***Know the relevant legislation***

Be warned that, depending on the circumstances and national law, the employer (subcontractor) and the user (the contractor) may bear joint and several liability. This means that the worker can claim damages against both or either of them without distinction. In other situations, the contractor bears subsidiary liability. This means that a claim can only be brought against the enterprise if for some reason it cannot be brought against the subcontractor. A situation of this kind tends to arise when the subcontractor becomes insolvent and disappears.

It is important to note that some national law contains very specific provisions on outsourcing arrangements. These specifically refer to work that is performed for contractors and employment agencies, equality of working conditions between subcontracted workers and the contractor's own workers, and the contractor's obligations and liabilities.

#### ***Educate your 'middlemen'***

If your company already has well-established relationships with contractors and agents, one way of ensuring that they know the values that the company upholds, (particularly with regards to the treatment of all workers in the supply chain) is to organize a seminar. It should incorporate lessons on national labour law (where company operations are limited to one country) and, most relevant to this discussion, the Palermo Protocol and relevant ILO Conventions. Your company code of practice should ideally extend to subcontractors. It should be explained to the middlemen, who should in turn distribute and explain it to subcontractors. It must be made clear in no uncertain terms that the company will not tolerate abusive employment practices. The consequences of non-compliance should also be spelt out.

### **Conduct your own random checks**

The cost to the company reputation and profit margins (of being exposed as a company whose supply chain is engaged in trafficking for labour exploitation) far outweighs any investment you may make in conducting random checks on conditions of service on your own initiative. Visit the sites. Talk to the workers. Check their working conditions and look out for health and safety hazards. Where conditions are found wanting, take the necessary steps to remedy the situation. Pay particular attention to migrant workers and women, as there are relatively more female victims of trafficking for forced labour.

Source: Selection from draft *Employer Handbook on Self-Regulation to Combat Trafficking for Forced Labour*, ILO/Geneva, September, 2004

## 30 Annex

### ***Voluntariness and conditions for the private employment of prisoners***

#### **1. *Freely given consent***

128. A primary concern is whether prisoners can ever be in a situation in which it could be said that their labour is truly voluntary because of their captive circumstances. ... [P]rison labour may not always be compulsory:

The Convention does not of course prevent work from being made available to such prisoners at their own request, to be performed on a purely voluntary basis. (Footnote omitted)

129. If in privately run prisons the prisoners were given a genuine option to either perform or not perform work with no penalty or loss of rights or privileges if they refused, then there is no need to consider the exemption. This voluntariness however is not easy to achieve as the option to perform work must be a true option and not one in which the alternative to the provision of work is a detriment, for example remaining confined in their cells for unreasonably long periods, having no alternative to boredom, or being disadvantaged in any early release programme because of failure to undertake work.

130. With regard to the last example, the Committee has previously considered the case where the law makes prison labour voluntary but also provides that employment activities are taken into account in assessing a convict's good behaviour, which is a criterion for reduction of sentence. The Committee requested that the government concerned indicate the measures taken to ensure that the prisoner's consent cannot be vitiated by the fact that a favourable assessment implies assiduousness at work. The Committee observed that in private prisons there are two inter-related forms of constraint: first, the private enterprise operating a prison includes prison labour in its profit calculations and, second, the private enterprise is not only a user of prison labour, but also exercises, in law or in practice, an important part of the authority which belongs to the prison administration. Furthermore, prison labour is captive labour in the full sense of the term, namely, it has no access in law and in practice to employment other than under the conditions set unilaterally by the prison administration. The Committee therefore concluded that in the absence of an employment contract and outside the scope of the labour law, it seems difficult or even impossible, particularly in the prison context, to reconstitute the conditions of a free working relationship. (Footnote omitted)

***131. If the system under which private prisons are run offers prisoners true options so that they can consent to perform work or reject it without penalty as described; if there are assurances that there is no penalty as described for refusal to work at all levels, such as by the public authority, the private entity, any parole board and also within the prison itself; and if the prisoners formally consent to the performance of labour, then one vital aspect of the indicia of voluntariness would be satisfied.***

132. *In assessing whether prison labour in a privatized prison is voluntary, a number of indicia may be considered. They include the formal consent of the prisoner and its terms in the circumstances referred to above. However, the most reliable and overt indicator of voluntariness can be gleaned from the circumstances and conditions under which the labour is performed and whether those conditions approximate a free employment relationship.*

## 2. Conditions approximating a free employment relationship

133. In ... the context of discussing prisoner pre-release schemes, the Committee [has] noted that prisoners sometimes accepted employment with private employers subject to guarantees as to payment of normal wages and social security. The Committee also added:

The Committee has considered that, provided the necessary safeguards exist to ensure that the persons concerned offer themselves voluntarily without being subjected to pressure or the menace of any penalty, such employment does not fall within the scope of the Convention. (Footnote omitted)

134. A similar sentiment was expressed by the Committee in respect of work performed in workshops operated by private undertakings inside prisons. The Committee stated:

Accordingly, the use of the labour of convicted persons in such workshops would be compatible with the Convention only if it were subject to the consent of the prisoners concerned and to safeguards of the kind mentioned above. (Footnote omitted)

135. These issues of voluntariness and conditions approximating a free employment relationship only become relevant when private entities are involved with the performance of prison labour. The safeguards are apposite and essential because private entities necessarily have business goals and/or profit margins to attain which may not necessarily be compatible with the purpose of performance of prison labour. ...

136. ... [A]t the Conference Committee in 2000, an Employer member considered that there was no need for a prisoner to have a normal employment relationship with the private company to ensure that the prisoner had given true and genuine consent. Article 2(1) only required the person to have offered himself voluntarily and without threat of a penalty. She pointed out that while there might be many reasons to volunteer, this did not detract from the fact of voluntary consent. The objectives of a voluntary relationship could be achieved by introducing a condition preventing a private company from requiring prisoners to do the work and from imposing a penalty if they did not work. This, in the member's view, would remove any work done within private prisons from the definition of forced labour.

137. For the reasons set out in paragraphs 129 to 134 here, and in view of the particular constraints to which the free will of prisoners remains subjected, the Committee has always emphasized the close connection between "conditions approximating a free employment relationship" and the requirement of consent founded on Article 2(2)(c) of the Convention. (Footnote omitted) The Committee also recalls the statements made by the Employer members in the general discussion in the Conference Committee in 1998 (Footnote omitted) that development and training provided the best long-term results when tied to "real work situations", that prison labour only made sense when it involved productive labour in a market context, and that in such cases normal labour law would apply.

138. Also as referred to above, (Footnote omitted) in 1998 the Employer members at the Conference Committee expressed the view that work performed by prisoners for private firms could be considered in compliance with the Convention if carried out with the agreement of the prisoner, that in such cases "normal" labour law would apply, and that prison labour made sense only when it involved productive work in a market context. In 2000, they disagreed with the view that prisoners working for private companies should be subject to the employment conditions prevailing on the free labour market, stating that the Convention was silent on this point "with regard to outside prison labour".

139. In considering these views, in addition to the matters referred to in paragraphs 129 to 137 above, this Committee notes that the Convention contains a series of provisions requiring that persons subjected to forced labour that could be tolerated under Article 1(2) during a transitional period after its coming into force, shall benefit from the conditions prevailing on

the free labour market with regard to conditions of employment such as remuneration and accident and sickness insurance. (Footnote omitted) This Committee has previously considered that these requirements laid down for the use of compulsory labour that could be tolerated during a transitional period, should apply no less with regard to the compensation for compulsory labour falling within the absolute prohibitions contained in the Convention.

140. ***The difficult question which arises is how closely conditions are required to approximate a free labour relationship.*** If "normal" labour law were to apply, this might imply that all conditions of work, including wages, social security, safety and health and labour inspection comparable to those prevailing on the free labour market would be required. This leaves aside those principles which the ILO considers to be fundamental to all workers – protection from discrimination and child labour as well as freedom of association and collective bargaining. In practice prisoners have usually been excluded from all the attributes of normal labour protections which operate in the free labour market, whether working exclusively for the public authority or engaged in productive work with private entities in one of the various schemes now in force around the world. These schemes range from agriculture and stock-breeding through textile manufacture to high-tech sectors such as the production of computer parts and qualified services such as the operation of airline booking systems.

141. Exclusions from attributes of free employment are sometimes said to be justified on the basis that there is lower productivity of prison labour; or that because they do not in fact receive wages and benefits like other workers, they carry out work at much lower cost which would otherwise not be economically feasible. It cannot be simply taken for granted, however, that the productivity of a captive labour force is always significantly lower than that of free labour, or even so low as to justify conditions of work, wages and other protections at a far lower level than those available to free workers, such that they could be considered to be exploitative.

142. In considering how closely the conditions should resemble a free labour relationship, it needs to be remembered that in the free labour market, wages may, in the words of Articles 8 and 10 of the Protection of Wages Convention, 1949 (No. 95), be subject to deductions and "be attached or assigned" under conditions and within limits prescribed by national laws or regulations; in conformity with Article 10, paragraph 2, of that Convention, they are in many countries "protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family". For prisoners employed by private enterprises, or who are assigned to work for them, this implies that their wages also may "be attached or assigned", so as to satisfy compensation claims of victims as well as alimony or other obligations of the prisoners, both of which would be illusory if exploitative wage rates prevailed. Deductions may also be made from prisoners' remuneration for the board and lodging provided or their remuneration lowered to take account of these expenses.

143. In summary on this aspect, ***the Committee affirms its earlier conclusion that conditions approximating a free labour relationship are the most reliable indicator of the voluntariness of labour. Such conditions would not have to emulate all of the conditions which are applicable to a free market but in the areas of wages, social security, safety and health and labour inspection, the circumstances in which the prison labour is performed should not be so disproportionately lower than the free market that it could be characterized as exploitative.*** These factors will need to be weighed together with the circumstances under which formal consent has been given in order to ascertain whether the Convention is being respected when private entities are involved with prison labour.

Source: *Report of the Committee of Experts on the Application of Conventions and Recommendations*, 89th Session 2001, International Labour Conference, General Report, paragraphs 128-143

## 31 Annex

### *Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar*

The General Conference of the International Labour Organization,  
Meeting at its 88th Session in Geneva from 30 May to 15 June 2000,

Considering the proposals by the Governing Body which are before it, under the eighth item of its agenda (Provisional Record No. 4), with a view to the adoption, under article 33 of the ILO Constitution, of action to secure compliance with the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of its obligations in respect of the Forced Labour Convention, 1930 (No. 29),

...

#### **1. Approves in principle, ... the actions recommended by the Governing Body, namely:**

- (a) to decide that the question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations;
- (b) to recommend to the Organization's constituents as a whole – **governments, employers and workers** – that they: (i) review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take **appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced labour** referred to by the Commission of Inquiry, and to **contribute as far as possible to the implementation of its recommendations**; and (ii) report back in due course and at appropriate intervals to the Governing Body;
- (c) as regards international organizations, to invite the Director-General: (i) to inform the international organizations referred to in article 12, paragraph 1, of the Constitution of the Member's failure to comply; (ii) to call on the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the Member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced labour;
- (d) regarding the United Nations specifically, to invite the Director-General to request the Economic and Social Council (ECOSOC) to place an item on the agenda of its July 2001 session concerning the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and seeking the adoption of recommendations directed by ECOSOC or by the General Assembly, or by both, to governments and to other specialized agencies and including requests similar to those proposed in paragraphs (b) and (c) above;

...

## 32 Annex

### *The Exploitation of Prison Labour*

The combination of a growing prison population and the interest of many employers in finding new sources of low-wage labour has raised important issues about the use of incarcerated workers and the sale of goods and services made by prison industries.

Organized labour has consistently supported efforts to provide training opportunities for prisoners to help in their rehabilitation and to reduce recidivism, but always with the caution that prisoners should never be used in competition with free labour or to replace free labour.

Increasingly, however, prison labour is being used to perform work in the private sector ordinarily done by free workers. Many jurisdictions have statutes that compel prisoners to work, and others enforce policies that penalize inmates who refuse to work. Prison labourers are generally denied coverage under minimum wage, unemployment compensation, workers' compensation, collective bargaining and other worker protection laws.

The national trade union movement opposes the widespread use of prison labour throughout the private sector, in unfair competition with free labour. We call on the government to end any promotional programmes to encourage employers to set up shop in prisons as an alternative to creating jobs and hiring workers in the general population and in direct, intentional competition with private-sector employers. We further call upon the government to vigorously enforce laws and regulations designed to prevent prison work programs that unfairly compete with free labour.

Based on Resolution of the Executive Council of the AFL-CIO (American Federation of Labor – Congress of Industrial Organizations), May 7, 1997

## 33 Annex

### *Civil Society and the Politics of Pressure in a Globalizing Economy*

The increasing size, notoriety and apparent uncontrollability of transnational corporations (TNCs) coupled with the spread of information technology are leading to a new **NGO-driven politics of pressure**. In recent years NGOs, in both the North and South, have focused increasingly on the activities of TNCs and the sensitivities of consumers to ethical concerns. This development is the result of a number of factors, which we describe below.

The **first dynamic** is the emergence of the global economy and the perceived decline in the role of the nation state. The 1990s have seen the rapid development of global money markets. Private investment in the developing world spiralled from 44 billion dollars in 1990 to over 167 billion dollars in 1995 (World Bank, 1996). During the same period, official development assistance (ODA) fell slightly, to a total of 59 billion by 1995 (OECD-DAC, 1996). Today private money is influencing the levels of environmental protection in the South as much as, if not more than, ODA.

From an environmental perspective, how the hundreds of billions of private capital are spent matters far more than how the few billion dollars of official assistance devoted to environmental investments gets dispensed (Esty and Gentry, 1997:2).

The globalization of trade and finance may be proceeding apace, but the globalization of governance is not. As capital and industry become increasingly large and mobile, the power of many national governments to set their own policy agenda has weakened (Korten, 1995; Camilleri and Falk, 1992). In a global market, if a TNC does not favour the policies of a particular government it may choose to locate elsewhere, particularly if the country in question has a relatively small internal market. These types of investment decisions by TNCs are increasingly important, as they control 33 per cent of the world's productive assets (UNRISD, 1995). If the international money markets anticipate a withdrawal by a number of TNCs, then confidence in a country's economic performance and therefore its currency may decline, leading to an economic downturn. Consequently governments have been involved in a process of competitive deregulation.

The **second dynamic** relates to the role that some major corporations are beginning to assume in the psyche of people in developed and developing countries. With global expansion, certain brands have become well known throughout the world. A brand image is an aggregate of the thoughts customers or investors associate with a particular company symbol, from a product logo to a stock market listing. Brand image has become so important that changes to it can have significant effects on company profitability or value. Environmental and social issues hold both positive and negative potentials for companies with global brand images. Meanwhile, many NGOs carry public opinion with them on environmental and social issues, which means they have the ability to affect corporate brand image in these areas.

A **third dynamic** is the development in telecommunications and information technology. The types of protests described in part 1 remind us that information dissemination is crucial in allowing the development of NGO pressure politics. Global access to computers, fax machines, modems, satellite communications, solar powered battery packs and hand-held video cameras has provided many civil society groups with greater knowledge, voice and power. Although the vast majority of the world's poor and powerless do not have direct access to information technology, growing numbers of NGOs and activist groups do. The flow of information around the world during political uprisings and following the disappearances or murders of notable campaigners lends added political weight to these events. "Thanks to cyberspace, absolute control over information access is no longer possible" and atrocities can no longer be covered up easily (Johnston, 1997:336). Gramsci (1988) argued that "hegemonic power" is maintained as much by manufacturing consent through the media as it is by coercion or force. Absolute control over information is one of the keys to controlling thought and behaviour, as information influences and shapes cultural belief systems and legitimizes political authority. From this perspective, the communications revolution is fundamental to the power of civil society.

In the North, lack of government capacity and will to effect change, coupled with the iconic nature of major corporations and the communications revolution, are providing NGOs with added reasons to **focus on corporate practice**. This change in strategy is part of "third wave environmentalism" for environmental NGOs and the social market movement for development NGOs (Murphy and Bendell, 1997).

In the South, NGOs have also begun to **focus on the market**. There are similar reasons for this change in focus. First, in many countries progress through lobbying their own governments has been difficult, whether they are democratic or not. The pressures of foreign debt and structural adjustment programmes often limit the scope of governments to act on ethical issues such as environmental protection and fair pay. Second, intergovernmental agencies have been slow to act, disillusioning groups in the South in the same way as is happening in the North. Third, Northern NGOs have begun to reach out to Southern groups and involve them in new market-oriented campaigns. For example, the World Development Movement in the United Kingdom often sponsors and organizes visits by Southern campaigners. These initiatives are facilitated by the communications technologies mentioned above.

Focusing on corporations and the market is also natural to many Southern campaigners. Many are fighting for economic justice as well as environmental justice, and have identified the activities of certain corporations as the problem from the outset. The MOSOP campaign against Shell in Nigeria is one example of a Southern movement that linked environmental degradation, economic hardship and social exclusion as negative outcomes of irresponsible

business behaviour. This presentation allowed the campaign to appeal to activists, as well as Shell's customers and investors, in Europe. The focus on markets is also illustrated by the international campaign of the Tupinikim and Guarani. Fearing that the Brazilian government would be swayed by the financial pressures and opportunities associated with a decision on granting Aracruz Cellulose access to indigenous lands, the Indians have appealed to European markets for support.

Given increasing concern with and ability to affect market behaviour, civil society organizations have developed a number of **tools to change corporate policy**. This is leading to new forms of market-oriented activity by NGOs, activist and community groups. Consequently there is now a wider spectrum of relations between companies and NGOs, from direct action protest to dialogue and partnership.

One of the best known market-oriented NGO tactics is the **corporate boycott**. Boycotts of sports goods companies such as Nike, timber retailers such as B&Q and oil companies such as Shell have prompted companies to take seriously the ethical concerns of the public. Growing NGO support for ethical investment, where investments are screened against social and environmental criteria, is also a form of systematic boycotting of "unethical" company shares. Although these tactics have worldwide implications, they do not appear to be a viable option for NGOs in countries where consumer and investment power is less influential.

A second confrontational tactic of NGOs is **direct action protest**, where groups deliberately sabotage the commercial operations of a company. In the South, the forest peoples of the Oriente in Ecuador have, on numerous occasions, blocked the building of new roads by the oil company ARCO (Collinson, 1996). In the North, activist attendance at annual shareholder meetings to demonstrate or table controversial motions is another form of direct action protest, which has affected companies such as Shell.

A third tactic is **collaboration**, as evidenced in the partnership initiatives described above, in the oil, timber and sports goods industries. Similar partnerships are developing in other industry sectors, relating to other social or environmental problems. In 1996 WWF-International launched a partnership with Unilever Corporation, the world's largest buyer of frozen fish, to create economic incentives within the seafood industry for sustainable fishing throughout the world. The new Marine Stewardship Council (MSC) is the result of their endeavours. The Fairtrade Foundation, a coalition of international development, consumer and fair trade organizations, has launched a pilot project to work with British companies to develop codes of practice to guide relationships with their Southern suppliers. These partnerships differ from previous collaborations based on corporate charity, as the NGOs are helping business with internal operational issues. NGOs are increasingly involved in the development of systems which imply civil regulation; these include multistakeholder agreed and independently verified codes of conduct for ethical business practice, such as the Forest Stewardship Council (FSC) system.

With a variety of campaigning tools at their disposal, NGOs—North and South—are creating a **new politics of pressure to which business must respond**. In her review of the state of the environment and human rights at the end of the millennium, Barbara Rose Johnston concludes that:

Perhaps the strongest evidence of progressive political change is found in the informal "civic organization" sector, where the ability to organize, communicate, create networks, and form coalitions has meant the emergence of a political force whose power and impact cannot be overstated (1997:332).

Source: Selection from *Partners in Time? Business, NGOs and Sustainable Development* by David F. Murphy and Jem Bendell (August, 1999) Discussion Paper No. 109, United National Research Institute For Social Development (UNRISD) (emphasis added, references omitted)

## 34 Annex

### *Examples of Private Prison Labour*

The Malaysian Prisons Department has embarked on a new approach of initiating joint-venture schemes with the private sector aimed at: providing employment to a growing number of inmates; familiarizing inmates with modern technology to ensure more marketable skills; providing more monetary gains for inmates; and creating employment opportunities in the hope of post-release placement. Under the scheme, the Prisons Department in **Malaysia** makes available the labour force and workshop premises, while private companies provide the machinery, raw materials, technical expertise, marketing and sale of products. The participating firms pay for the rental of prison workshops, utilities, insurance coverage and compensation to the inmates. The Government reports that the inmates participate on a voluntary basis, and receive no punishment if they refuse to do so. This situation raises questions about voluntarism and consent in such circumstances.

Many jurisdictions in the **United States** have established private prisons and permitted the contracting out of prison labour — a practice that has increased over the past two decades. According to the Government approximately 77,000 persons (or about 4 per cent of the total inmate population) are incarcerated in state and local facilities owned or managed by private profit-making corporations. Though the federal prison system does not currently permit private prisons or make individuals available to work for private companies, 30 states have legalized the contracting out of prison labour since 1990. Public authorities reportedly retain supervisory control over the operation of the private institutions, either through minimum statutory standards or by a contract between the Government and the private entity. The United States Government reports that it uses the same means of oversight and control of the practice of contracting out prison labour to private enterprise. In the **United States**, prison job fairs have been held in some states, and temporary placement services sometimes recruit within prison walls — practices strongly criticized by workers' organizations. Trade unions point to very low wages and lack of protection for prisoners, who are predominantly from minority groups.

Source: *Stopping Forced Labour, 2001 Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (ILO/Geneva), page 60

## 35 Annex

### *The Employer Groups' Position on Private Prison Labour*

...

#### (b) Privatization of prisons and prison labour

92. The Employer members did not share the views of the Committee of Experts concerning the privatization of prisons and prison labour, which in their view was a marginal aspect of the issue of forced and slave labour. They noted that the small number of responses received had not allowed the Committee of Experts to draw a general picture of the law and practice in member States, rather their report was more in the nature of a theoretical paper. Nevertheless, the Committee of Experts, in paragraph 102, had indicated that "the interest of cohesive international jurisprudence" did not call for a reduction in the protection provided to prisoners under Convention No. 29. They did not agree with the use of the term "jurisprudence", since the Committee of Experts was referring to its own observations.

93. In the view of the Employer members, Convention No. 29 did not address the issue of privatization of prisons and prison labour, and there had been hardly any private prisons in existence when the Convention had been adopted. In their view, neither the consent of the

prisoner nor (almost) normal conditions of work were indispensable prerequisites for allowing the performance of labour by convicted persons for private enterprises. Unfortunately, in the Committee of Experts' General Report (paragraphs 85, 90, 137, 138), the views and alleged views presented by the Employer members in the Conference Committee were reproduced diversely and with a different purpose. Also, a statement made by the Employer members in the general discussion in 1998 had been shortened in the report of the Conference Committee of that year and thus been reproduced in a wrong and misleading manner, since the Employer members had merely been referring to the opinion of the Committee of Experts that the use of the labour of convicted persons would be compatible with the Convention only if it was subject to the consent of the prisoners concerned and could be assimilated to a normal employment relationship covered by labour law. As a consequence, the views attributed to the Employer members in paragraph 90 of the report were incorrect and misleading. The way in which the right to impose penal sanctions and prison work was implemented was within the authority of each State with regard to its structure and organization. Moreover, the State had a legitimate right to limit its activities to its core competences. Contrary to the view held by the Worker members, the Employer members considered that it was inherent in the situation of convicted persons that their rights were curtailed, including their fundamental right of personal freedom. Also, the regulation of the right to impose prison labour at the national level was outside the competence of the ILO. This was also true for the (indirect) effects of prison labour on fair competition, if there were any.

94. Although the point was often made that prisoners worked for lower wages than ordinary workers, the Employer members felt that it should not be overlooked that private employers who hired prisoners faced increased costs and considerable risks, which were normally balanced by the lower wages paid. In practice, it was often difficult to find enterprises willing to employ prisoners. In an open market economy, this was an indication that there were no great advantages which constituted a distortion of competition. Also, the Convention was to protect the individual, not fair competition.

95. The Employer members also challenged the importance given to voluntariness, for example with regard to prisoners being given a genuine option to either perform or not perform work, with no penalties attached if they refused, and the parallel drawn with prisoners being confined to their cells for unreasonably long periods and suffering from boredom. In effect, this amounted to laying the obligation on States of providing either work or entertainment for prisoners. It was within the power of the State to oblige prisoners to work and the legislation on that matter did not lie within the competence of the ILO. The Employer members considered that the Committee of Experts had indulged in over-interpretation in its statement in paragraph 132 that "however, the most reliable and overt indicator of voluntariness can be gleaned from the circumstances and conditions under which the labour is performed and whether those conditions approximate a free employment relationship". It almost seemed that prisoners might need to be protected from their own free will in accepting work. Even work outside prisons in the free market did not come near to this idealized view of voluntary work. The Employer members noted that even workers in the free market suffered severe disadvantages if they chose voluntarily not to work, including loss of income, and failure to develop their skills and careers. The additional requirement adduced by the Committee of Experts that private enterprises should not make a profit out of prison labour had its origin in the period before the universal acceptance of the free market principle. Any prohibition on private enterprises making a profit from the hiring of prison labour ignored the fact that no companies could in the long run operate without profits. These facts could not be disproved merely by referring to the ILO Memorandum published in 1932, which hardly indicated what the Conference had in mind in 1929 and 1930 in adopting Article 2, paragraph 2(c), of the Convention.

96. The Employer members believed that society as a whole was highly interested in prisoners being able to exercise a meaningful activity, which was an almost indispensable prerequisite for their effective rehabilitation and reinsertion. Prisoners should not be given pointless tasks and their work should be meaningful in the sense that the products of their labour could be sold. State institutions had fewer and fewer opportunities for such employment, so that the potential of prison labour could only be realized in close cooperation with the private sector. In that respect, it should always be remembered that it was very difficult to find enterprises willing to hire prison labour, which was not as productive as work performed on the free market, and that the enterprises which hired prison labour ran very high risks. Such work could not

therefore be provided under the same conditions and paid at the same rate as in the free market. If an excessively strict interpretation were to be made of Convention No. 29, the supply of work for prisoners would rapidly decline, which would be to the detriment of the prisoners themselves in terms of their rehabilitation and reintegration.

*Source: Employer Groups' statement at the 2001 International Labour Conference Committee on the Application of Standards, commenting on the General Report section of the Report of the Committee of Experts on the Application of Conventions and Recommendations concerning application of Convention No. 29 and, in particular, private prison labour*

## 36 Annex

### ***Principle Four – Businesses should uphold the elimination of all forms of forced and compulsory labour***

#### ***Forced and Compulsory Labour***

Forced labour is any work or service that is extracted from any person under the menace of any penalty, and for which that person has not offered himself or herself voluntarily. Providing wages or other compensation to a worker does not necessarily indicate that the labour is not forced. By right, labour should be freely given and employees should be free to leave in accordance with established rules.

Forced labour deprives societies of the opportunity to develop human resources for the modern labour market, and to develop skills and educate children for the labour markets of tomorrow. The debilitating consequences of forced labour are felt by the individual, in particular by children, as well as by the economy itself since the degradation of human capital and social stability results in insecure investments.

By retarding the proper development of human resources, forced labour lowers the level of productivity and economic growth for society generally. Loss of income due to disruption of regular jobs or income-generating activities reduces the lifetime earnings of whole families and with it, loss of food, shelter, and health care.

While companies operating legally do not normally employ such practices, forced labour can become associated with enterprises through their use of contractors and suppliers. As a result, all managers should be aware of the forms and causes of forced labour, as well as how it might occur in different industries. Forced and compulsory labour can take a number of forms:

- slavery,
- bonded labour or debt bondage, an ancient practice but still in use in some countries, in which both adults and children are obliged to work in slave-like conditions to repay debts of their own or their parents or relatives,
- child labour in particularly abusive conditions where the child has no choice about whether to work,
- the work or service of prisoners if they are hired to or placed at the disposal of private individuals, companies or associations involuntarily and without the supervision of public authorities,
- labour for development purposes required by the authorities, for instance to assist in construction, agriculture, and other public works,
- work required in order to punish opinion or expression of views ideologically opposed to the established political, social or economic system, and
- exploitative practices such as forced overtime or the lodging of deposits (financial or personal documents) for employment.

### **Strategies for Business**

Organizations need to determine whether forced labour is a problem within their business sector. It is important to mention that, although high profile cases are typically reported as occurring in developing countries, forced labour is also present in developed countries and as such should be viewed as a global issue.

Understanding the causes of forced labour is the first step towards taking action against forced labour, which requires a comprehensive set of interventions to address not only the needs of individual forced labourers but also the needs of their families. Therefore, if forced labour is identified then these individuals should be removed and facilities and services should be provided to enable them to pursue adequate alternatives.

In general, a combination of workplace and community actions is needed to help ensure the eradication of forced labour practices.

#### ***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 workplace 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-sized 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.

Source: Global Compact website:

[www.unglobalcompact.org/content/AboutTheGC/TheNinePrinciples/prin4.htm](http://www.unglobalcompact.org/content/AboutTheGC/TheNinePrinciples/prin4.htm)

## 37 Annex

**Company Information on the Global Compact****Please type or use block capitals**

Please ensure that:

- The letter is signed by the highest executive of your company;
- The letter is on official company letterhead;
- The enclosed information sheet is complete, correct and legible.

**Sample Entry Letter for COMPANIES ONLY*****[Company letterhead]***

[Date]  
 Kofi Annan  
 Secretary-General  
 United Nations  
 New York, NY 10017  
 USA

Dear Mr. Secretary-General,

I am pleased to confirm that \_\_\_\_\_ [name of company] supports the ten principles of the Global Compact in respect to human rights, labour rights, the protection of the environment and anti-corruption. With this communication, we express our intent to support and advance those principles within our sphere of influence. We commit to making the Global Compact and its principles part of the strategy, culture and day-to-day operations of our company and undertake to make a clear statement of this commitment – to our employees, partners, clients and to the public. We support public accountability and transparency and will report on progress made in a public manner.

Please find attached some general information regarding our company as well as the contact person responsible for contacts with the office of the Global Compact.

Sincerely yours,

*[Signature]*  
*[Name Mr./Ms. \_\_\_\_\_]*  
*[Title\* CEO/Managing Director]*

\* The letter must be signed by the highest executive in the company

Name of the organization \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

State/province \_\_\_\_\_ Zip/postal code \_\_\_\_\_ Country \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Website: \_\_\_\_\_

Number of employees \_\_\_\_\_ (direct) \_\_\_\_\_ (indirect) \_\_\_\_\_

Type of activity/s \_\_\_\_\_

Name and title of highest executive

Mr/Ms \_\_\_\_\_ (name) \_\_\_\_\_ (title)

Name and title of contact person

Mr/Ms \_\_\_\_\_ (name) \_\_\_\_\_ (title)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Check if applicable:  Global 500  Subsidiary of \_\_\_\_\_

**Sector (please highlight only one):**

- |  |  |
|--|--|
| <input type="checkbox"/> Aerospace & Aviation            | <input type="checkbox"/> Machinery                                       |
| <input type="checkbox"/> Automobiles & Auto Components   | <input type="checkbox"/> Media & Communications                          |
| <input type="checkbox"/> Agriculture                     | <input type="checkbox"/> Metals & Mining                                 |
| <input type="checkbox"/> Chemicals                       | <input type="checkbox"/> Oil and Gas                                     |
| <input type="checkbox"/> Commercial Services & Supplies  | <input type="checkbox"/> Professional, Scientific and Technical Services |
| <input type="checkbox"/> Commerce & Distribution         | <input type="checkbox"/> Pharmaceuticals & Biotechnology                 |
| <input type="checkbox"/> Construction & Engineering      | <input type="checkbox"/> Paper & Forest Products                         |
| <input type="checkbox"/> Containers & Packaging          | <input type="checkbox"/> Personal Care & Household Products              |
| <input type="checkbox"/> Construction Materials          | <input type="checkbox"/> Real Estate                                     |
| <input type="checkbox"/> Education                       | <input type="checkbox"/> Technology Hardware & Electrical Equipment      |
| <input type="checkbox"/> Finance & Insurance             | <input type="checkbox"/> Textile, Apparel & Luxury Goods                 |
| <input type="checkbox"/> Health Care Services & Supplies | <input type="checkbox"/> Transportation & Storage                        |
| <input type="checkbox"/> Food & Drink                    | <input type="checkbox"/> Telecommunications                              |
| <input type="checkbox"/> Industrial Conglomerates        | <input type="checkbox"/> Tourism and Leisure                             |
| <input type="checkbox"/> Internet & E-commerce           | <input type="checkbox"/> Utilities                                       |
| <input type="checkbox"/> IT Consulting & Software        | <input type="checkbox"/> Other   |
| <input type="checkbox"/> Leisure Equipment & Products    |  |

If 'Other' please specify

Source: Global Compact Website



# What governments need to know

## Forced labour can develop in situations of migration

Migrant workers are vulnerable to forced labour practices. Outside of their home environments, migrant workers who have migrated either internationally or domestically, legally or illegally, are easy targets for unscrupulous exploiters of forced labour. Attracted to “3D” (difficult, dirty, and dangerous) jobs, migrants working in the domestic, agricultural, construction, textile and garment sectors are potential victims of forced labour practices.

## Free migration turned to forced labour

Free and voluntary migrants can become forced labourers through numerous ruses, for example when:

- Employers hold on to their passports, important papers or travel documents, making movement impossible;
- Employers withhold wages, promising future payment;
- Migrants incur debts for transport, food, or lodging that are so large as to make repayment impossible, except by the giving of labour;
- Migrants are obliged to work under conditions of extremely low wages and long working hours, in remote workplaces, or under physical or psychological restraint.

## Forced labour resulting from human trafficking

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

Forced labour of this kind also arises when individuals, sometimes children, are kidnapped, abducted or sold. The enslavement and sexual exploitation that results in such cases is an abhorrent violation of human rights and common decency.

In all these circumstances, poverty and the desire for a better life create the vulnerability that leads to exploitation and forced labour. Nevertheless, these deplorable practices would not occur but for the existence of debased individuals seeking to exploit the vulnerable.



# What governments can do

## Focus on prevention

Governments can do many things to attack forced labour occurring in the context of migration. The best approach is to focus on prevention, particularly where the dynamics of practices are known. Long-term solutions include:

- Establishing a clear and coherent migration policy;
- Improving the functioning of administrative bodies and institutions dealing with migration;
- Preparing bilateral labour agreements providing for approved migration channels;
- Setting up a labour market information system on jobs at home and abroad;
- Promoting the general use of model employment contracts;
- Developing better employment and vocational training policies and opportunities for women.

## Fine-tune aspects of enforcement

Forced labour in the context of migration can be viewed ultimately as an issue of law enforcement. Governments can ensure that the necessary measures are taken to enhance domestic enforcement.

- Laws adequate to meet the problem need to be in place, penalties need to be set high enough to deter, and both the sending and receiving sides of exploitative migration processes need to be accounted for.
- The efforts of law enforcement agencies need to be coordinated, since forced labour in the context of migration implies movement of persons, often in and out of different administrative and policing jurisdictions.
- Victim protection mechanisms are needed to secure the evidence needed for successful prosecution.
- Efforts are needed to change attitudes, policies, and practices so that migratory forced labourers are seen as victims and not lawbreakers.
- Police and labour market institutions need training in ways of monitoring unprotected labour markets more effectively, working closely with the social partners and migrant workers' organizations to prevent exploitation and abuse.

## International cooperation

International cooperation is essential for combating forced labour in the context of migration. Governments can take a number of initiatives.

- Relevant international agreements should be ratified and implemented.
- Cooperation between policing agencies should be strengthened, account being taken of migration patterns and forced labour risks.
- Information and ideas on policy and best practice should be shared between countries wherever possible.

# What governments need to know

## Forced labour comes in many different forms

There are two essential elements that make the exaction of any labour forced. The first is the menace of a penalty and the second is lack of consent on the part of the worker.

According to the authoritative Forced Labour Convention, 1930 (No. 29), the term “forced labour” means 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.



- Forced labour exists where a person is abducted and obliged to work under physical threat and coercion.
- Forced labour exists where the State requisitions the work of free citizens under the threat of a fine or penal sanctions.
- Forced labour exists where workers provide labour in order to repay an exorbitant debt to the employer or landowner. The size of the debt in relation to the earnings of the worker makes it virtually impossible for the worker to move away from the work provided by the creditor.
- Forced labour exists where workers migrate to work and are caught in circumstances that make it impossible for them to leave.

## Forced labour is universally condemned

- More than 93% of the member States of the ILO have ratified the Organization’s Conventions Nos. 29 and 105 concerning forced labour and its abolition.
- The ILO’s Declaration on Fundamental Principles and Rights at Work obliges all ILO member States to work toward the effective elimination of forced labour.
- Various international treaties condemn forced labour, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
- Countries everywhere prohibit slavery and forced labour.

## Forced labour still exists

Despite universal condemnation, forced labour continues to exist around the world. The ILO conservatively estimates that there are 12.3 million persons in situations of forced labour in all regions of the world today. Approximately two-thirds of this forced labour is imposed by private agents, whether persons or firms. About 20% is exacted by the State, including forced labour contrary to international standards imposed on persons who have been deprived of their liberty through imprisonment.

## Handouts for Government Target Groups

# What governments can do

Since the authority of the State resides in the government, it has the leading role and responsibility to act to eliminate forced labour. This applies to forced labour exacted by private persons, as well as forced labour against international standards imposed by the State itself. State action to combat forced labour has four aspects.

## Set national policy

Government must clearly set and publicize its policy against forced labour as it may exist within its territory.

## Enact appropriate and effective legislation

Laws and regulations must be in place to give a legal basis for actions against forced labour as it may exist within the country.

- Forced labour in all its forms needs to be clearly prohibited.
- The exaction of forced labour in any of its forms by private individuals or legal persons must be subject to meaningful criminal sanctions.
- There must be effective laws and regulations authorizing institutions and personnel to enforce the law and prosecute offenders.

## Improve enforcement

Laws need to be effectively enforced.

- Effective inspection systems, within both labour and police enforcement institutions, must be rationally deployed.
- Enforcement personnel must be informed about forced labour, in all its forms, and how it manifests itself.
- Material resources must be used efficiently, in such a way as to target forced labour as it may exist within the country.

## Attack the roots of the problem

Government must take action against the causes of forced labour. Forced labour cannot be effectively and permanently eliminated without getting at the roots of forced labour practices.

- Where state policy leads to the imposition of forced labour, the relevant policies need to be reconsidered and changed.
- Poverty must be tackled if a cycle of forced labour is to be broken. Productive resources, land, capital and credit, education and vocational training must be accessible to all.
- Vulnerability stemming from discriminatory traditions and practices must be attacked. Programmes targeting such traditions and practices must be undertaken.
- Arrangements and conditions for emigration and immigration must be considered, where existing arrangements result in situations of forced labour.

# What governments need to know

The exaction of forced labour by the State is a violation of fundamental human rights

The international community long ago recognized that the State could in certain circumstances require its citizens to work. Within clearly set limits, the State can impose compulsory military service, limited civic obligations, compulsory prison labour, work in cases of real emergency, and truly minor communal services. But some States do not fully respect these limits. The result is state-imposed forced labour. In extreme cases, a few States blatantly impose work obligations that are contrary to its citizens' human rights.

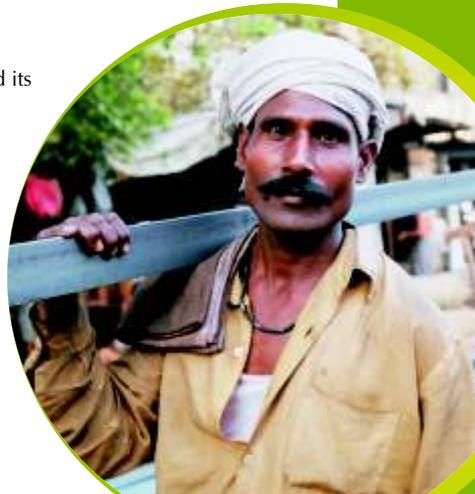
Military service must be military, minor communal services must be minor...

The limits of permitted state-imposed work are clear; anything outside of these limits is forced labour. Some examples:

- Forced labour exists where the State uses its unique powers to oblige free citizens to work.
- Prison labour in the absence of conviction by a court of law operating under natural rules of justice is forced labour as defined by international standards.
- Forced labour exists where military conscripts do non-military work.
- Forced labour exists where emergency work is required even though no real emergency exists.
- Compulsory prison labour put at the disposal of private individuals or companies is against international standards.
- Payment for work that is forced does not diminish the fact that such work is forced labour.

States called to account

With the almost universal ratification of the ILO's Conventions Nos. 29 and 105 on forced labour and its abolition, States are being called to account for imposing forced labour contrary to international norms.



# What governments can do

## Respect international obligations

- States voluntarily ratify international treaties condemning forced labour. States and their governments should respect the obligations they have voluntarily undertaken as both a legal and moral imperative.

## Change practices

Governments wanting to eliminate forced labour practices imposed by the State need to change practices that amount to forced labour. Policies need to be adjusted to give such changes priority in public administration. The institutional machinery needs to be put in motion to make such changes.

- Starting the process of change begins with identifying the problem and understanding how a practice amounts to forced labour.
- Once a problem is identified, acknowledgement is necessary, followed by a policy-level undertaking to change.
- Corrections are then needed in legislation or regulations and, most importantly, practices.
- When changes have been made, there should be follow-up to ensure that the changes have effectively eliminated the forced labour problem.

## Work for change abroad

Governments can work for change in forced labour practices abroad as well as at home. International solidarity is needed to break the chains that bind forced labourers, particularly where the practice is state-sponsored.

- Promote the universal ratification of ILO Conventions Nos. 29 and 105.
- Support public condemnation of state-supported forced labour practices.
- Pursue bilateral initiatives with States and governments needing to be convinced that the elimination of forced labour is in the interest of all nations.
- Support the efforts of employers' and workers' organizations, as well as those of civil society organizations, in bringing abhorrent practices to light and pressuring for change of those practices.
- Call on other countries to join the effort to eliminate all forms of state-sponsored forced labour wherever it may exist.

# What governments need to know

## Poverty, discrimination and forced labour are linked

Poverty is both a cause and an effect of forced labour. The poorest and most vulnerable members of society can be compelled to work, or induced into debt that they find impossible to repay despite long hours of arduous work. Their cycle of poverty remains unbroken in the absence of the freedom to find other work that yields a higher income.

In some cases, the persistence of forced labour today is the result of longstanding patterns of discrimination against ethnic or religious groups, women or social minorities. Vulnerability is again the determining factor, putting those involved in the position of being unable to resist coercion to work.

Private agents, whether individuals or companies, may be the beneficiaries of forced labour arising from vulnerabilities caused by poverty and discrimination. Where this type of forced labour is present, the role of the State as law enforcer has in some cases been undermined by social practices; in others, it arises from an absence of appropriate legislation, or from a lack of material, financial or human resources.

## Property, productive resources, traditions

The way in which poverty and discrimination go hand in hand with forced labour differs from country to country and culture to culture. The roots lie deep in countries' social, economic and ethnic structures.

- The bonding of labour in South Asia has its roots in discrimination against members of Scheduled Castes and Tribes.
- Debt bondage affects indigenous agricultural workers in Latin America.
- The importance of tradition and kinships can be invoked, with sometimes intangible but nevertheless real elements of coercion, to sustain forced labour practices in Africa.
- Women endure bonded labour in South Asia as a result of their low social status, lacking access to information about their rights and possible alternatives.



# What governments can do

## Eliminate poverty, fight discrimination

Eliminating poverty and discrimination are goals of nations worldwide. The conditions in which forced labour can occur are progressively eliminated as these objectives come closer to realization. Yet specific attention needs to be paid to the effects of poverty and discrimination where they tend to perpetuate themselves. This is the case where the cycle of poverty and discrimination continues because of forced labour practices. Governments can pay special attention by:

- Integrating forced labour concerns into poverty reduction programmes so that interventions target situations where forced labour is a result of extreme poverty;
- Applying a rights-based approach to efforts to promote and achieve equality, thus bolstering arguments for action against the harm done by discrimination in contexts where another violation of human rights, i.e. forced labour, is involved;
- Prosecuting private agents who benefit from unlawful practices by enforcing national laws against discrimination and forced labour;
- Intervening where laws and contracts have the effect of binding workers.

## Keep vulnerable groups out of forced labour

Where there have been successes in breaking the cycle of poverty, discrimination and forced labour, government must step in to ensure that the cycle does not start up again.

- Set up sustainable rehabilitation programmes designed to give vulnerable groups the essentials needed to start life again in conditions of real freedom.
- Focus on incomes: Adjust policy and practice to improve vulnerable groups' access to means of production, finance, skills, land and equipment, and access to markets.
- Improve opportunities for vulnerable groups to engage in wage-earning employment.
- Develop relevant educational programmes for children and adults as part of a strategy to keep vulnerable groups out of forced labour.
- Work with employer', workers' and civil society organizations in ways that help ensure ongoing efforts to keep vulnerable groups out of forced labour.
- Help vulnerable groups to organize themselves; such organizations can help to prevent their members from relapsing into forced labour and support income generation efforts.

# What employers need to know

## Forced labour can develop in situations of migration

Migrant workers are vulnerable to forced labour practices. Outside of their home environments, migrant workers who have migrated either internationally or domestically, legally or illegally, are easy targets for unscrupulous exploiters of forced labour. Attracted to “3D” (difficult, dirty, and dangerous) jobs, migrants working in the domestic, agricultural, construction, textile and garment sectors are potential victims of forced labour practices.

## Free migration turned to forced labour

Free and voluntary migrants can become forced labourers through numerous ruses, for example when:

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## Forced labour resulting from human trafficking

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

Forced labour of this kind also arises when individuals, sometimes children, are kidnapped, abducted or sold. The enslavement and sexual exploitation that results in such cases is an abhorrent violation of human rights and common decency.

In all these circumstances, poverty and the desire for a better life create the vulnerability that leads to exploitation and forced labour. Nevertheless, these deplorable practices would not occur but for the existence of debased individuals seeking to exploit the vulnerable.



# What employers and their organizations can do

## Don't traffic in human beings: know your workers

Employers do not want to be traffickers in human beings. Yet the flexibility and speed with which today's labour market operates can put employers at a disadvantage in this regard if they rely on third parties to do recruiting. If you have migrants in your workforce, and particularly if a third party is used to recruit them, make a point of knowing who your workers are and where they come from, and ensure that their recruitment into your workplace has been fully above board, without deception or coercion.

## Review local operations

Nor do employers want to use forced labour. Ensure that practices amounting to forced labour have not crept into operations inadvertently. For example:

- Workers must be free to resign from their work and leave the workplace.
- Terms of employment should be clear when workers are recruited; and they should be applied in practice.
- It is best that employers do not keep workers' important papers, including passports, identity papers, and travel documents. If workers are concerned about their papers being kept safely, try to arrange a secure storage place that gives the individual worker free and immediate access to the documents.
- Any debts owed by workers should be kept to a minimum, to amounts that can be realistically paid off in the foreseeable future.
- If necessary, contact your employers' organization for help in reviewing operations and changing inappropriate practices.

## Support the investigation and prosecution of exploiters of forced labour

Forced labour is against the law in countries worldwide. Its occurrence undermines the rule of law that is so very important for a properly functioning society and for well-regulated employment.

- Call the attention of the authorities to practices you suspect may be forced labour.
- Assist the authorities in their investigation of forced labour practices; give information when asked to do so.
- Join civil society in providing assistance to the victims of forced labour.
- Know the law and ensure that you and your enterprise respect it!

Handouts for Employer Target Groups

# What employers need to know

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# What employers and their organizations can do

Governments clearly have the primary responsibility for combating and eliminating forced labour in all its forms. The help of employers and their organizations is nevertheless essential in the alliance to end forced labour practices.

## Focus on action by employers' organizations, members, and employers at large

Employers are not generally exploiters of forced labour. They and their organizations should call the very few unscrupulous exploiters to task.

- Employers' organizations can disseminate information about forced labour among the employer community, with a view to dissuading the few would-be exploiters.
- Employers' organizations can challenge members of the employer community to do all they can to enforce national prohibitions on forced labour.

## Join in condemnation

Employers, through their organizations, need to join in condemning forced labour practices wherever, and in whatever form, they exist.

- A clear policy should be set and widely publicized.
- The policy should be periodically reviewed, reissued and re-publicized in the light of new developments.

## Promote synergies

Forced labour in all its forms is a deplorable practice. Employers' condemnation counts a lot, but employers joining a broad national and international alliance against forced labour can count even more.

- Employers can work with public authorities at local and national levels to improve their understanding of the problem from the employers' standpoint.
- Appropriate statements condemning forced labour can be issued jointly with other civil society organizations.
- Employers can sign the UN Global Compact, thereby joining forces in a pledge to fight forced labour.

# What employers need to know

The exaction of forced labour by the State is a violation of fundamental human rights

The international community long ago recognized that the State could in certain circumstances require its citizens to work. Within clearly set limits, the State can impose compulsory military service, limited civic obligations, compulsory prison labour, work in cases of real emergency, and truly minor communal services. But some States do not fully respect these limits. The result is state-imposed forced labour. In extreme cases, a few States blatantly impose work obligations that are contrary to its citizens' human rights.

Military service must be military, minor communal services must be minor...

The limits of permitted state-imposed work are clear; anything outside of these limits is forced labour. Some examples:

- Forced labour exists where the State uses its unique powers to oblige free citizens to work.
- Prison labour in the absence of conviction by a court of law operating under natural rules of justice is forced labour as defined by international standards.
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States called to account

With the almost universal ratification of the ILO's Conventions Nos. 29 and 105 on forced labour and its abolition, States are being called to account for imposing forced labour contrary to international norms.



# What employers and their organizations can do

## Rally and condemn

The imposition of forced labour by the State on its own free citizens is a gross violation of individuals' personal freedom and right to a livelihood of their own choice. State-imposed forced labour is a practice calling for vocal employer condemnation, whether it occurs at home or abroad.

- Join other civil society organizations in publicly condemning state-imposed forced labour practices, wherever they exist.
- Support the efforts of employers in other countries, their organizations, and international employers' organizations in condemning state-imposed forced labour practices.
- Review your own business operations to ensure that they do not condone forced labour practices imposed by the State locally or abroad.

## Engage in debate; promote change

- Forced labour imposed by the State is the result of government policy. Where they are in a position to do so, employers should try to exert influence against the use of forced labour.
- Engage in international supervision of international standards concerning forced labour. Contribute to national and international debate on policies and responses to state-imposed forms of forced labour. Contact your local employers' organization for more information.
- Support other civil society organizations that are well placed to promote change in state-imposed forms of forced labour.

# What employers need to know

## Poverty, discrimination and forced labour are linked

Poverty is both a cause and an effect of forced labour. The poorest and most vulnerable members of society can be compelled to work, or induced into debt that they find impossible to repay despite long hours of arduous work. Their cycle of poverty remains unbroken in the absence of the freedom to find other work that yields a higher income.

In some cases, the persistence of forced labour today is the result of longstanding patterns of discrimination against ethnic or religious groups, women or social minorities. Vulnerability is again the determining factor, putting those involved in the position of being unable to resist coercion to work.

Private agents, whether individuals or companies, may be the beneficiaries of forced labour arising from vulnerabilities caused by poverty and discrimination. Where this type of forced labour is present, the role of the State as law enforcer has in some cases been undermined by social practices; in others, it arises from an absence of appropriate legislation, or from a lack of material, financial or human resources.

## Property, productive resources, traditions

The way in which poverty and discrimination go hand in hand with forced labour differs from country to country and culture to culture. The roots lie deep in countries' social, economic and ethnic structures.

- The bonding of labour in South Asia has its roots in discrimination against members of Scheduled Castes and Tribes.
- Debt bondage affects indigenous agricultural workers in Latin America.
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- Women endure bonded labour in South Asia as a result of their low social status, lacking access to information about their rights and possible alternatives.



# What employers and their organizations can do

Forced Labour, Poverty and Discrimination  
Forced Labour Exacted by Private Agents

Employer

## Review local operations

Employers do not want to use forced labour. Ensure that practices amounting to forced labour have not crept into operations inadvertently. For example:

- Workers must be free to resign from their work and leave the workplace.
- Terms of employment should be clear when workers are recruited; and they should be applied in practice.
- It is best that employers do not keep workers' important papers, including passports, identity papers, and travel documents. If workers are concerned about their papers being kept safely, try to arrange a secure storage place that gives the individual worker free and immediate access to the documents.
- Any debts owed by workers should be kept to a minimum, to amounts that can be realistically paid off in the foreseeable future.
- If necessary, contact your employers' organization for help in reviewing operations and changing inappropriate practices.

## Support the investigation and prosecution of exploiters of forced labour

Forced labour is against the law in countries worldwide. Its occurrence undermines the rule of law that is so very important for a properly functioning society and for well-regulated employment.

- Call the attention of the authorities to practices you suspect may be forced labour.
- Assist the authorities in their investigation of forced labour practices; give information when asked to do so.
- Join civil society in providing assistance to the victims of forced labour.
- Know the law and ensure that you and your enterprise respect it!

## Join the UN Global Compact

The international business community has been instrumental in promoting good corporate citizenship, including efforts to eliminate forced labour, through the UN Global Compact. Join! For further information: [www.unglobalcompact.org](http://www.unglobalcompact.org)

# What workers need to know

## Forced labour can develop in situations of migration

Migrant workers are vulnerable to forced labour practices. Outside of their home environments, migrant workers who have migrated either internationally or domestically, legally or illegally, are easy targets for unscrupulous exploiters of forced labour. Attracted to “3D” (difficult, dirty, and dangerous) jobs, migrants working in the domestic, agricultural, construction, textile and garment sectors are potential victims of forced labour practices.

## Free migration turned to forced labour

Free and voluntary migrants can become forced labourers through numerous ruses, for example when:

- Employers hold on to their passports, important papers or travel documents, making movement impossible;
- Employers withhold wages, promising future payment;
- Migrants incur debts for transport, food, or lodging that are so large as to make repayment impossible, except by the giving of labour;
- Migrants are obliged to work under conditions of extremely low wages and long working hours, in remote workplaces, or under physical or psychological restraint.

## Forced labour resulting from human trafficking

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

Forced labour of this kind also arises when individuals, sometimes children, are kidnapped, abducted or sold. The enslavement and sexual exploitation that results in such cases is an abhorrent violation of human rights and common decency.

In all these circumstances, poverty and the desire for a better life create the vulnerability that leads to exploitation and forced labour. Nevertheless, these deplorable practices would not occur but for the existence of debased individuals seeking to exploit the vulnerable.



# What workers and their organizations can do

## Plan international action

Action in sending countries is needed to help prevent migrant workers from falling victim to forced labour practices when they arrive in the receiving country. Workers' organizations from sending and receiving countries can work together to help prevent forced labour in the context of migration.

- Workers' organizations active in the economic sectors most attractive to migrants are natural partners in this cause.
- Objectives should include informing migrants of conditions of work and possible risks, and organizing workers so that they can get the assistance they need once in the receiving country.
- Coordinate action with public officials responsible for migration in both countries, where appropriate.

## Approach irregular migrants and victims of trafficking in forced labour

Workers' organization need to develop good policies and activities in response to the needs of irregular migrant workers and victims of trafficking who are subject to forced labour. When thinking through the most suitable approaches, keep in mind:

- Solidarity: illegal migrants arrive with high hopes and a natural yearning for a better life; they do not expect to be exploited as forced labourers.
- The fact that persons trafficked for sexual or forced labour exploitation are victims.

## Support the investigation and prosecution of exploiters of forced labour

Forced labour is against the law in countries worldwide. Its occurrence undermines the rule of law that is so very important for a society to function.

- Call the attention of the authorities to practices you suspect may be forced labour.
- Assist the authorities in their investigation of forced labour practices; give information when asked to do so.
- Join civil society in providing assistance to the victims of forced labour.

# What workers need to know

## Forced labour comes in many different forms

There are two essential elements that make the exaction of any labour forced. The first is the menace of a penalty and the second is lack of consent on the part of the worker.

According to the authoritative Forced Labour Convention, 1930 (No. 29), the term “forced labour” means 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.

- Forced labour exists where a person is abducted and obliged to work under physical threat and coercion.
- Forced labour exists where the State requisitions the work of free citizens under the threat of a fine or penal sanctions.
- Forced labour exists where workers provide labour in order to repay an exorbitant debt to the employer or landowner. The size of the debt in relation to the earnings of the worker makes it virtually impossible for the worker to move away from the work provided by the creditor.
- Forced labour exists where workers migrate to work and are caught in circumstances that make it impossible for them to leave.



## Forced labour is universally condemned

- More than 93% of the member States of the ILO have ratified the Organization’s Conventions Nos. 29 and 105 concerning forced labour and its abolition.
- The ILO’s Declaration on Fundamental Principles and Rights at Work obliges all ILO member States to work toward the effective elimination of forced labour.
- Various international treaties condemn forced labour, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
- Countries everywhere prohibit slavery and forced labour.

## Forced labour still exists

Despite universal condemnation, forced labour continues to exist around the world. The ILO conservatively estimates that there are 12.3 million persons in situations of forced labour in all regions of the world today. Approximately two-thirds of this forced labour is imposed by private agents, whether persons or firms. About 20% is exacted by the State, including forced labour contrary to international standards imposed on persons who have been deprived of their liberty through imprisonment.

# What workers and their organizations can do

## Be aware of workers' rights and forced labour practices

Workers and their organizations must know where and what kinds of forced labour are prohibited in their own country, and how that prohibition is enforced. Armed with knowledge of how forced labour practices manifest themselves locally, workers are ready to join in the alliance to eliminate forced labour.

- Dialogue with public authorities to gain knowledge of rights and enforcement procedures.
- Study closely and systematically the mechanisms of local forced labour practices.
- Talk to members and other workers to obtain details of local cases of forced labour.

## Condemn forced labour practices wherever they may occur

The workers' movement must clearly and loudly condemn all forced labour practices, wherever they may occur.

- A high-level policy should be framed specifically condemning forced labour in all its forms, wherever it may exist.
- The policy, and its condemnation of forced labour, should be widely publicized.
- Review and update pronouncements made by the workers' movement, keeping abreast of developments in national and international forced labour.

## Prepare to act

Because their resources are limited, workers and their organizations need to have well thought-out plans for combating forced labour.

- Determine where the problem is both acute and susceptible to remedy.
- Consider a range of short, medium and long-term objectives, and the most effective ways of achieving them.
- Plan to gain additional support by relying wherever feasible on public authorities, and community-based and civil society organizations.

# What workers need to know

## The exaction of forced labour by the State is a violation of fundamental human rights

The international community long ago recognized that the State could in certain circumstances require its citizens to work. Within clearly set limits, the State can impose compulsory military service, limited civic obligations, compulsory prison labour, work in cases of real emergency, and truly minor communal services. But some States do not fully respect these limits. The result is state-imposed forced labour. In extreme cases, a few States blatantly impose work obligations that are contrary to its citizens' human rights.

## Military service must be military, minor communal services must be minor...

The limits of permitted state-imposed work are clear; anything outside of these limits is forced labour. Some examples:

- Forced labour exists where the State uses its unique powers to oblige free citizens to work.
- Prison labour in the absence of conviction by a court of law operating under natural rules of justice is forced labour as defined by international standards.
- Forced labour exists where military conscripts do non-military work.
- Forced labour exists where emergency work is required even though no real emergency exists.
- Compulsory prison labour put at the disposal of private individuals or companies is against international standards.
- Payment for work that is forced does not diminish the fact that such work is forced labour.

## States called to account

With the almost universal ratification of the ILO's Conventions Nos. 29 and 105 on forced labour and its abolition, States are being called to account for imposing forced labour contrary to international norms.



# What workers and their organizations can do

## Consider the means to hand

Of all contemporary forms of forced labour, that which is imposed by the State is mostly likely to coexist with an environment hostile to workers' organizations. This can limit the means of action available to local workers and their organizations in joining in combating the problem. At the outset, therefore, workers' organizations should carefully consider the options available for action.

## Engage in debate; promote change

- Forced labour imposed by the State is the result of government policy. Where they are in a position to do so, workers and their organizations should try to exert influence against the use of forced labour.
- Engage in international supervision of international standards concerning forced labour. Contribute to national and international debate on policies and responses to state-imposed forms of forced labour. Contact your local and international workers' organizations for more information.
- Support other civil society organizations that are well placed to promote change in state-imposed forms of forced labour.

## Build alliances

The imposition of forced labour by the State on its own free citizens is a gross violation of individuals' personal freedom and right to a livelihood of their own choice. State-imposed forced labour is a practice calling for vocal worker condemnation, whether it occurs at home or abroad.

- Join other civil society organizations in publicly condemning State-imposed forced labour practices, wherever they exist.
- Support the efforts of workers in other countries, their organizations, and international workers' organizations in condemning state-imposed forced labour practices.

# What workers need to know

Forced Labour, Poverty and Discrimination  
Forced Labour Exacted by Private Agents

Worker

## Poverty, discrimination and forced labour are linked

Poverty is both a cause and an effect of forced labour. The poorest and most vulnerable members of society can be compelled to work, or induced into debt that they find impossible to repay despite long hours of arduous work. Their cycle of poverty remains unbroken in the absence of the freedom to find other work that yields a higher income.

In some cases, the persistence of forced labour today is the result of longstanding patterns of discrimination against ethnic or religious groups, women or social minorities. Vulnerability is again the determining factor, putting those involved in the position of being unable to resist coercion to work.

Private agents, whether individuals or companies, may be the beneficiaries of forced labour arising from vulnerabilities caused by poverty and discrimination. Where this type of forced labour is present, the role of the State as law enforcer has in some cases been undermined by social practices; in others, it arises from an absence of appropriate legislation, or from a lack of material, financial or human resources.

## Property, productive resources, traditions

The way in which poverty and discrimination go hand in hand with forced labour differs from country to country and culture to culture. The roots lie deep in countries' social, economic and ethnic structures.

- The bonding of labour in South Asia has its roots in discrimination against members of Scheduled Castes and Tribes.
- Debt bondage affects indigenous agricultural workers in Latin America.
- The importance of tradition and kinships can be invoked, with sometimes intangible but nevertheless real elements of coercion, to sustain forced labour practices in Africa.
- Women endure bonded labour in South Asia as a result of their low social status, lacking access to information about their rights and possible alternatives.



# What workers and their organizations can do

Forced Labour, Poverty and Discrimination  
Forced Labour Exacted by Private Agents

## Organize!

Organized workers are less vulnerable to forced labour exploitation. Organization is the key to remedying many situations of forced labour.

- Identify worker groups vulnerable to forced labour practices, including ethnic and religious minorities, women and the poor.
- Launch broad-based organization campaigns targeting vulnerable groups.
- Include forced labour issues in organizational activities with a view to devising strategies and methods for defeating forced labour practices.

## Raise awareness

Workers' organizations have an obligation to organize the unorganized and raise awareness of their right to be free from forced labour.

- Tailor awareness-raising campaigns to the relevant forms of forced labour.
- Awareness raising should deal with rights, as well as strategies for freeing workers from and remedying situations of forced labour.
- Awareness raising should deal with longer-term answers to a particular forced labour practice, including alternative livelihoods and access to productive resources.

## Support the investigation and prosecution of exploiters of forced labour

Forced labour is against the law in countries worldwide. Its occurrence undermines the rule of law that is so very important for a society to function. Workers and their organizations benefit from supporting the investigation and prosecution of exploiters of forced labour.

- Call the attention of the authorities to practices you suspect may be forced labour.
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