



3. Forced Labour

Forced labour is work exacted under the threat of penalty and for which the person has not offered himself or herself voluntarily. Penalties can be extreme, such as beatings, torture, sexual assault or threats of physical violence, but also can include the withholding of identity documents or wages, or threats of deportation. Other penalties may involve imposing debt on workers (e.g., through large pay advances or transportation fees) that is difficult or impossible to repay on low wages. Forced labour violates the basic human right to work in freedom and to freely choose one's work, and usually is unlawful under national law.

3.1 Coercion

Both the vulnerability of the worker and the actions of the employer are key factors in understanding coercive behaviour that can lead to forced labour.

Coercion by the employer. Coercion is action taken to manipulate, deceive, and/or override a person's will. Coercion on the part of the employer indicates that workers may not have freely consented to perform the work. Examples of coercion include restrictions on movement, threats of violence or deportation, delayed wages, and denied access to personal documents.

Worker vulnerability. Workers who are migrants, pregnant or from ethnic minorities often are more susceptible to forced labour. Vulnerable workers may only need to be subjected to a relatively small amount of coercion in order to be forced to work against their will. However, while extreme poverty makes workers vulnerable, the lack of economic alternatives to working in a particular job does not in itself mean that there is forced labour.

3.2 Bonded Labour

- Bonded labour arises when an employer “binds” workers to their jobs through a debt owed by the worker to the employer or a third party. Workers can become indebted to a recruitment agency and/or their employer if they are required to pay excessive recruitment fees, or if the employer provides excessive non-cash benefits (e.g., food and housing), salary advances, or other loans. If an employer uses the existence of workers' debt to coerce them to stay on the job, or manipulates the debt to make it more difficult to repay, and workers cannot freely leave their jobs as a result, this indicates bonded labour.
- To protect against bonded labour on the part of private employment agencies, the employer should use only registered and licensed agencies. The ILO recommends that the employer pay recruitment fees, not the workers.

3.3 Forced Labour and Overtime

Coercing workers to work against their will through physical or psychological means would indicate forced labour regardless of whether the tactics are used to force workers to work during regular hours or overtime. In some cases, forced labour also can arise when workers are forced to work overtime through economic coercion. Those circumstances arise when:

- workers have to work overtime in order to earn minimum wage or reach production targets, they have not freely consented to the overtime (or they are so vulnerable that they have no real choice), and they are subject to threat of penalty if they do not work the overtime.
- the employer forces workers to work excessive overtime (beyond legal limits) against their will by threatening dismissal or other action that would reduce their future income (e.g., no future overtime).

3.4 Prison Labour

Prison labour is allowed under international standards if the prisoners freely consent to perform the work, the working conditions resemble those of a free labour arrangement, and the work is carried out under the supervision and control of a public authority.

Types of employer action that can lead to non-compliance

- Preventing workers from leaving the workplace or dormitories.
- Threatening violence against workers to make them work.
- Threatening to deport workers or report them to the authorities in order to force them to stay on the job (particularly migrant workers).
- Withholding wages, or denying workers access to their personal documents in order to keep them on the job.
- Forcing workers to work beyond the term of their contracts, or not allowing workers to terminate their employment with reasonable notice.
- Providing excessive in-kind benefits or salary advances that make workers so indebted that it is difficult for them to freely leave their jobs.
- Using the existence of workers' debt to coerce them to stay on the job, or manipulating their debt to make it more difficult to repay.
- Forcing workers to work overtime under threat of penalty while not paying minimum wage during regular working hours, so workers have no real choice but to work overtime in order to earn minimum wage.
- Forcing workers to work overtime under threat of penalty while setting production targets that require workers to work overtime in order to earn minimum wage, or while requiring workers to work without pay in order to reach production targets.
- Forcing workers to work overtime beyond legal limits by threatening dismissal or no future overtime.
- Using prison labour when prohibited under national law, when prison labourers have not consented to perform the work, when they are not paid or treated similarly to non-prison workers, or when the work is not carried out under the supervision and control of public authorities.

Key action points for employers

- Ensure that all work is carried out voluntarily.
- Do not provide excessive wage advances to workers.
- If fees are charged to workers either directly or by recruitment agencies (including for travel or accommodation), make sure that the fees are appropriate, legally authorized, and do not prevent workers from leaving their jobs even if the fees are not yet repaid.
- If working with private employment agencies, use only registered and licensed agencies, and put procedures in place to check their practices and policies and to ensure that workers do not pay any unauthorized fees.
- If workers' personal documents are held for safe-keeping, ensure that workers have free access to them.
- Ensure that workers are free to leave the worksite and dormitories, subject to appropriate security, logistical or other restrictions.
- Ensure that any non-cash benefits are valued appropriately and do not impose substantial debt on workers.
- Do not use the existence of workers' debt to coerce them to stay on the job, or manipulate their debt to make it more difficult to repay.

- Do not exploit workers' vulnerability in order to force them to work overtime by paying below minimum wage during normal working hours, or by setting production targets that require workers to work overtime in order to earn minimum wage.
- Do not force workers to work overtime without pay in order to reach production targets.
- Ensure that overtime is within legal limits. Do not compel workers to work excessive overtime by threatening them with dismissal or other measures that would reduce their future income.
- Do not use prison labour unless allowed by national law, and the prison labourers have consented to perform the work, they are paid and treated similarly to non-prison workers, and the work is carried out under the supervision and control of public authorities.

Key references

ILO Conventions 29 on Forced Labour and 105 on the Abolition of Forced Labour