INTRODUCTION

Forced labour, slavery and trafficking in persons have been issues of concern for the international community since the nineteenth century. While these concepts overlap in practice, they are defined separately in international law. At their core, these crimes are an affront to the rights, liberty, dignity and autonomy of their victims. Continued action at the national and international level is thus warranted.

At the beginning of the twentieth century, international law relating to abolishing slavery began being adopted. The Convention to Suppress the Slave Trade and Slavery, known as the Slavery Convention, was signed on 25 September 1926 and entered into force on 7 March 1927. With the 1926 Slavery Convention, concrete rules and provisions were decided upon, and slavery and the slave trade were banned. The definition of slavery was further refined and extended by the 1956 Supplementary Convention.

However, it is only over the past two decades that a comprehensive legal framework has been developed around the issue of trafficking in persons.

Globally, countries are detecting and reporting more victims of trafficking in persons for forced labour, and are convicting more labour traffickers. However, despite the existence of a comprehensive international legal framework, there continue to be unacceptably high numbers of victims of trafficking for forced labour, many of them unidentified, and low numbers of convictions of perpetrators in all regions and in most countries of the world. Despite significant attention being paid to addressing these issues, their prevalence persists.

This issue brief is focused on the specific issue of trafficking in persons for the purpose of forced labour. Its objective is to increase awareness of the issue and call for enhanced policy adoption, identification and protection of victims, and accountability for perpetrators.

INTERNATIONAL LEGAL FRAMEWORK

Over the past two decades, a comprehensive legal framework has been developed around the issue of trafficking in persons. The adoption of the Protocol to Prevent, Suppress and Punish the Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2000, was a milestone that provided the first internationally agreed definition of trafficking in persons: “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

The “means” are considered irrelevant and are not included in the definition of trafficking in persons when the victim is a child (aged under 18).

The definition of trafficking in persons provides examples of exploitative conduct. Some of these examples are also concepts that are defined in other international law instruments. Notably, forced labour is defined by the International Labour Organization (ILO) Forced Labour Convention, adopted in 1930 (No. 29), 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 “means” are considered irrelevant and are not included in the definition of trafficking in persons when the victim is a child (aged under 18).

The ILO Committee of Experts has explained that “[w]hen adopting the Convention, ILO constituents opted for a broad definition of the term ‘forced labour’ – comprising the three elements examined above – rather than enumerating a list of prohibited practices.”
The second ILO Convention on forced labour, the Abolition of Forced Labour Convention, adopted in 1957 (No. 105), supplements Convention No. 29 by placing a strict prohibition of recourse to any form of forced labour in five specific circumstances. More recently, in 2014, the ILO adopted two new instruments on forced labour: the Protocol to the Forced Labour Convention No. 29, and the Forced Labour (Supplementary Measures) Recommendation, No. 203. The Protocol is also a legally binding instrument that requires States to take measures of prevention, protection and remedy in giving effect to the Convention's obligation to suppress forced labour. The Protocol explicitly reaffirms the definition of forced labour in Convention No. 29 and confirms that it encompasses situations of trafficking in persons for the purpose of forced labour. Recommendation No. 203, which supplements both the Protocol and Convention No. 29, provides non-binding practical guidance concerning the operationalization of these two instruments.

**WHAT IS THE SITUATION OF TRAFFICKING FOR FORCED LABOUR TODAY?**

Victims may be trafficked within a country or across a border for various purposes, including for forced labour in factories, farms and private households, sexual exploitation, forced marriage, exploitation in criminal activities and organ removal. One of the reasons why it is difficult to quantify the phenomenon is its clandestine nature. According to *Global Estimates of Modern Slavery* (2017), 24.9 million people were subjected to forced labour and sexual exploitation in 2016 worldwide. The 2018 United Nations Office on Drugs and Crime (UNODC) Global Report on Trafficking in Persons shows that out of the total number of detected victims of human trafficking, 49 per cent are women, 21 per cent men, 23 per cent girls and 7 per cent boys. Thirty-four per cent of identified victims were exploited for forced labour.

Different forms of trafficking are gendered in different ways: 83 per cent of detected women and 72 per cent of detected girl victims were trafficked for sexual exploitation, while 82 per cent of detected men and 50 per cent of detected boy victims were trafficked for forced labour. *Global Estimates of Modern Slavery* (2017) indicates that half of all those in forced labour are in situations of debt bondage. Agriculture, mining, brick-making, fish-processing, gem-cutting, domestic work and carpet-weaving — all occurring almost exclusively in the informal economy — are among the specific sectors where bonded labour, considered as synonymous with debt bondage, has been identified in research by the ILO and other organizations.

**HOW IS THE CONCEPT OF FORCED LABOUR RELATED TO THAT OF TRAFFICKING IN PERSONS?**

As noted above, trafficking in persons and forced labour are related but not identical. Not all forms of trafficking in persons will meet the definition of forced labour. For instance, trafficking in persons for the purpose of organ removal will not meet the definition of forced labour.
Due to gender-based discrimination in the labour force and the undervaluation of low-skilled occupations, women may have fewer options than men for decent work and regular migration, and are often employed in lower-paid informal sectors that have been feminized, with no labour protection. These conditions make women particularly vulnerable to gender-specific exploitation. For example, migrants in domestic work and cleaning work tend to be particularly vulnerable to labour exploitation, as well as sexual and physical violence, due to fear of deportation, isolation, language difficulties or lack of knowledge about their rights.9

**FORMS OF COERCION**

A full understanding of the factors underpinning trafficking for forced labour requires information on the means of coercion at both the recruitment and employment stages. The threat of, or actual withholding of, wages is the most common means of coercion identified and used to obtain work or service. This is followed by threats of violence, including sexual and gender-based violence, and threats against family.10

For example, the Counter-Trafficking Data Collaborative, launched in 2017 by the International Organization for Migration in partnership with the Polaris Project and Liberty Asia, shows that in trafficking cases, restriction of movement and psychological and sexual abuse are used as means of control over female victims of trafficking more than male victims.21

**THE WAY FORWARD: WHAT ARE THE POLICY PRIORITIES FOR ERADICATING TRAFFICKING IN PERSONS FOR THE PURPOSE OF FORCED LABOUR?**

There has been a steady growth in laws and other policy measures addressing trafficking for forced labour in many priority areas over the last two decades. But the persistence of trafficking for forced labour, at an alarming scale, provides irrefutable evidence that efforts to date have fallen far short of total need. Progress must be faster and more comprehensive if we are to meet our commitments by the ambitious target dates set in the Sustainable Development Goals for ending trafficking in persons and forced labour among children by 2025, and universally by 2030.

**THE FOUR POLICY PILLARS OF A COMPREHENSIVE RESPONSE**

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Global Compact for Migration, and ILO forced labour instruments together send an unambiguous message: trafficking in persons for the purpose of forced labour is a serious crime and needs to be dealt with as such. But the instruments also make clear that trafficking in persons for the purpose of forced labour cannot be eliminated through criminal law enforcement alone. Rather, a broad multidisciplinary approach is needed that is grounded in adherence to human rights, encompassing the need for effective gender- and age-responsive measures. Such measures, along with criminal justice responses, must focus on preventing and addressing the root causes of forced labour and on ensuring protection and remedies for the people already affected by it. Thus, ICAT advocates for a comprehensive response to trafficking for forced labour — prevention, protection and remedies and enforcement — underpinned by strengthened international cooperation and social dialogue.

While the international norms are clear, gaps still exist in the implementation. These gaps can arise when there are failures to approach trafficking in persons comprehensively, as articulated, for example, in the Trafficking in Persons Protocol and other relevant international instruments. It is also important to ensure that anti-trafficking measures adopt a human rights-based and victim-centred, decent work and cross-sectoral approach to enhance coherence and coordination. A victim-centred approach requires collaboration between legislators, prosecutors, law enforcement agencies, service providers and other victim advocates.22

**PREVENTION: ADDRESSING VULNERABILITIES AND DEMAND**

Achieving the goal of eradicating trafficking for the purpose of forced labour rests, first and foremost, on prevention. To be successful, responses must address the wide assortment of factors — sociocultural, economic, legal and political — that push people into forced labour. Remedial measures will never be sufficient if the flow of people into forced labour is not prevented. The strengthening and effective implementation of international labour standards, for all workers and across all sectors, can go a long way in addressing vulnerabilities and demand aspects of trafficking in persons. Countering trafficking in persons for the purpose of labour exploitation requires stronger action against employers found to be in breach of laws and standards. It also requires measures to ensure that the rights of workers, including migrant and refugee workers, are protected, respected and fulfilled, regardless of their migration status. Safe, regular
and orderly migration pathways and eliminating gender-specific discrimination in laws and policies will reduce the vulnerability of women, men, girls and boys to trafficking. Specific steps in this area might include:

- **Ensuring that the fundamental principles and rights at work** are reflected and applied in national laws and extended to all workers regardless of their migration status, gender or any other factors, and that mechanisms exist to enforce them.

- **Ensuring that all forms of work, specifically including domestic work, are covered by labour laws, and that these laws apply equally to all workers including refugees as well as all migrant workers irrespective of their status and sector of work.**

- **Encouraging the establishment of workers’ organizations that include migrant and refugee workers, even those with an irregular migration status.**

- **Ensuring that exploited workers, including migrant and refugee workers, have access to redress for infringement of their rights,** as well as comprehensive and long-term services that are age- and gender-responsive to support their rehabilitation and reintegration.

- **Ensuring decent work and social protection for all women, men, girls and boys.**

- **Awareness-raising.** Heightened awareness and improved knowledge and understanding are critical to changing behaviour and practices that can lead to trafficking in persons, forced labour and related abuses. Sensitizing the general public can help people identify situations in which trafficking in persons for the purpose of forced labour might be likely to occur or spot potential victims of forced labour. This should also help improve the public’s understanding of what needs to change in order for forced labour to be prevented, including making changes in consumption and purchasing choices, in contracting services and employing people, especially in private households. Certain groups of workers, particularly migrant workers, in a vulnerable situation, including in informal sectors such as domestic work, have a higher risk of being targeted by trafficking for forced labour.

- **Information-sharing.** Informing employers about how to prevent trafficking in persons in supply chains and procurement practices can help prevent them from getting involved in forced labour practices. Special attention needs to be placed on effectively informing children and adolescents/youth about the risks of trafficking for forced labour and sexual exploitation, and ensure they have a full understanding of their rights, in a manner and language that is appropriate for their age.

- **Fair recruitment.** An estimated 260,000 private employment agencies operate worldwide. They play an important role in helping to match labour supply with labour demand. However, gaps in regulation and enforcement have led to a disturbing number of reports about the exploitation and abuse of workers, especially migrant workers, by unscrupulous labour recruiters and fraudulent and abusive employment agencies and employers. This makes it clear that promoting fair recruitment practices, and averting the occurrence or risk of forced labour through the recruitment process, must be a fundamental part of any forced labour prevention strategy. Objective 6 of the Global Compact for Safe, Orderly and Regular Migration calls on Member States to review existing recruitment mechanisms to guarantee that they are fair and ethical, and to protect all migrant workers against all forms of exploitation and abuse in order to guarantee decent work and maximize the socioeconomic contributions of migrants in both their countries of origin and destination.

- **Target 8.8 under Sustainable Development Goal 8 calls on Member States to protect labour rights and promote safe and secure working environments for all workers, including migrant workers, particularly women migrants, and those in precarious employment, while target 10.7 under Sustainable Development Goal 10 emphasizes the need to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.**

- **Decent work in business operations and supply chains.** Global Estimates of Modern Slavery (2017) indicates that forced labour is concentrated in the private economy. Also, in the private economy, women and girls constitute 92 per cent of those in forced labour in the accommodation and food services sector and 61 per cent of those in domestic work. Forced labour – often related to trafficking – is estimated to generate a profit of at least $100 billion each year. These figures underscore the importance of public and private action in high-risk countries and economic sectors in preventing forced labour and related abuses in the operations of businesses and enterprises, and in the products, services or operations to which they may be directly linked through their supply chains. Governments are responsible for adopting, implementing and enforcing national laws and regulations in line with international human rights instruments, while companies have a responsibility to respect human and labour rights in their operations and supply chains and to comply with the national laws wherever they do business. Enterprises should carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address any potential adverse human rights impacts.
• **Addressing root causes.** Trafficking for forced labour committed by private actors occurs overwhelmingly in the informal economy.\(^2\) We know from a wide body of research that workers in the informal economy are among the most vulnerable and at the same time least protected groups. "Formalizing" informal work, including through regularizing immigration status, promoting regular employment contracts, the promotion of freedom of association and collective bargaining, increasing access to gender-responsive social protection and to information in a language that is understood on rights and complaints mechanisms, and skills training, is critical to making sure workers are resilient to forced labour.

PROTECTION AND REMEDIES FOR THOSE TRAFFICKED FOR THE PURPOSE OF FORCED LABOUR

Article 6 of the Trafficking in Persons Protocol outlines the need for States parties to provide assistance and protection to victims of trafficking in persons, taking into account the age, gender and special needs of the victims, in particular the special needs of children, including appropriate housing, education and care. The ILO Forced Labour Protocol also emphasizes the obligations of member States to provide protection to, and remedies for, forced labour victims.

• **Ensuring timely identification and release of people being trafficked for forced labour.** Protection begins with ensuring the timely identification of people in forced labour, as failure to identify them is likely to result in further denial of their rights and expose them to continued forced labour. Of particular importance to strengthening identification is engagement with a wide range of frontline actors – such as labour inspectors, police officers, social workers and immigration officers, among others – who may come into contact with people subjected to trafficking for forced labour, as well as the development of standardized procedural guidelines, common operational indicators, and national and transnational referral mechanisms to help meet the critical need for coordination among these diverse actors.

• **Ensuring immediate assistance and long-term recovery and rehabilitation.** The obligation to protect extends beyond victims’ initial identification and exit from the forced labour situation, encompassing additional measures for immediate assistance and long-term recovery and rehabilitation, with special consideration for the needs of women, girls, boys, refugees and migrant workers. Critical immediate assistance should be age-sensitive and gender-responsive as well as culturally appropriate, and include at a minimum: temporary sex-segregated shelter; medical care, including sexual and reproductive health services; child protection services; psychosocial support; and legal assistance. Social and economic assistance should include access to educational and training opportunities and access to decent work. Such measures are designed to ensure the long-term reintegration of persons trafficked for the purpose of forced labour and to prevent their revictimization.

• **Access to justice and remedies.** Every victim of trafficking for forced labour has the right to and requires access to appropriate and effective remedies, starting with access to justice, and including the ability to seek compensation for injury, loss or harm. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, whether for material damages (such as medical costs, unpaid wages, legal fees, and loss of earnings and earning potential) or for moral damages (such as pain, trauma and emotional distress), can provide critical support to this recovery and, in so doing, help prevent their revictimization. Rehabilitation can similarly help in recovery and reintegration after removal from forced labour. Obliging perpetrators to pay compensation to those they have harmed can also serve a punitive function and may act as a deterrent for would-be offenders; however, victims’ access to compensation should not be dependent on direct payments from perpetrators.

STRENGTHENING THE ADMINISTRATION OF CRIMINAL AND LABOUR JUSTICE

A robust enforcement capacity is necessary both to protect the human rights of victims trafficked for the purpose of forced labour and to report and punish the perpetrators, as well as to deter other would-be offenders from committing crimes in the future. Yet despite the enactment of criminal laws addressing forced labour and trafficking in persons in many countries, international statistics and research indicate that the number of investigations, prosecutions and convictions is very low relative to the scale of the overall problem. It is, therefore, critical that States continue to take legal, policy, operational and enforcement measures to improve the ability of their officials to investigate and prosecute these crimes.

In addition, States should ensure that there is a clear separation between access to justice (and other services) and immigration enforcement activities. While legal remedies exist providing protection for victims of trafficking for forced labour, many people who do not have documentation will not report for fear of arrest and/or deportation and,
as a result, perpetrators will not be brought to justice. This is why there is a need for firewalls between those who receive reports from and provide assistance to victims of forced labour and labour trafficking, and immigration enforcement authorities.

There are steps that can be taken to better and more consistently align criminal justice responses with the objective of making trafficking an unprofitable economic undertaking. In particular, measurements of progress in this area are currently strongly focused on prosecution numbers rather than, for example, quality of prosecutions and the extent to which trafficking networks have been disrupted. Further, globally, financial investigations and penalties proportionate to the seriousness of the crime are exceptional rather than commonplace in criminal justice responses to trafficking in persons. Specific steps in this area might include:

(a) Stronger action against entire trafficking networks rather than just individual perpetrators. Enhanced action is needed against networks or, in other words, the full breadth of criminal actors involved in a trafficking case. This, in turn, would be better enabled by establishing, as a common practice, reporting on and analysis of the proportion of criminal cases in which more than one link in the trafficking chain was targeted. In particular, the proportion of cases in which charges were laid not only against those involved in the exploitative practices at the destination should also be considered. The use of special investigative techniques and targeted disruption tactics would facilitate this goal. An adequate legal architecture is a critical precondition for effective enforcement, access to justice, investigation, prosecution and punishment, as well as for enabling victims to seek compensation.

(b) Greater focus on targeting the economics of the demand for trafficking in persons through standard application of financial investigations and penalties such as fines and loss of licences. Holding companies and individuals responsible for trafficking and forced labour directly and in supply chains.

(c) Building capacity for ensuring enforcement. Laws require effective implementation. There has been huge investment worldwide in training various enforcement actors, yet the continued low numbers of prosecutions and convictions suggest that much remains to be done in terms of strengthening enforcement capacity.

(d) Increased emphasis should be placed by criminal justice actors on measures to influence the profitability of the trafficking business, including:

- The widespread and regular application of basic financial investigation practices in law enforcement responses to trafficking in persons, such as the identification of exploitative labour practices through review of data contained in the enterprise resource planning systems that companies routinely use as a management tool
- Implementation of dissuasive sanctions against exploitative employers
- Greater pursuit and awarding of orders for confiscation of assets and proceeds, as well as pecuniary damages
- Cooperation of criminal justice actors with the financial sector, including financial sector coalitions (banks, money transfer companies, etc.) aimed at identifying specific customers and suspicious financial transactions that could be connected to trafficking in persons for forced labour

Criminal laws and their enforcement are a vital part of any national response to forced labour, but it is also important to strengthen the administration of labour justice. Labour inspectorates are uniquely equipped to detect and act on violations before they degenerate further into forced labour. Labour inspectorates by virtue of their mandate in many jurisdictions have easier access than police and prosecutors to workplaces, enabling them to undertake initial investigations and information-gathering, many times via surprise visits to workplaces, on the basis of which criminal charges can later be brought. Due to their combination of law enforcement and conciliatory roles, labour inspectorates can contribute to preventing trafficking for forced labour, and to raising awareness on the risks of trafficking for forced labour. National labour administrations and labour inspectorates should have the necessary legal mandate, accompanied by the required training and resources, to play an important role in preventing trafficking for forced labour and in enforcing labour laws against all forms of abuse that can perpetuate coercion.
INTERNATIONAL COOPERATION AND PARTNERSHIP

The complex, global and multidimensional nature of trafficking in persons for the purpose of forced labour means that many of its forms cannot be resolved by national governments and national actors alone. Bilateral, regional and international cooperation is needed in an integrated, coordinated effort to address root causes, consequences and impact. In addition, more public-private partnerships are welcome and serve as solutions in areas where private and public sectors complement each other. ICAT, therefore, has an important role to play in bringing the United Nations community together in coordinated responses to trafficking in persons, including for forced labour. ICAT works in close coordination with other multi-stakeholder partnerships including the United Nations Migration Network and Alliance 8.7, which seeks to support the achievement of target 8.7,24 under Sustainable Development Goal 8, through encouraging the alignment of global, regional and national efforts, and through sharing knowledge, driving innovation, leveraging resources and garnering support for accelerated action.

WHAT IS ICAT?

The Inter-Agency Coordination Group against Trafficking of Persons (ICAT) is a policy forum mandated by the General Assembly to improve coordination among United Nations agencies and other relevant international organizations to facilitate a holistic and comprehensive approach to preventing and combating the trafficking of persons. ICAT was formally established in March 2007, pursuant to General Assembly resolution 61/180. ICAT consists of 25 organizations and entities.
Slavery: 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.


4 The Abolition of Forced Labour Convention, 1957 (No. 105) supplements Convention No. 29 by placing a strict prohibition of recourse to any form of forced labour in five specific circumstances: (1) as a means of political coercion or education, or as a punishment for holding or expressing views ideologically opposed to the established political, social, or economic system; (2) as a method of mobilizing and using labour for purposes of economic development; (3) as a means of labour discipline; (4) as a punishment for having participated in a strike; and (5) as a means of racial, social, national or religious discrimination.

ENDNOTES


2 In accordance with article 2.2 of the Convention, there are five exceptions 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; (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.


4 The Abolition of Forced Labour Convention, 1957 (No. 105) supplements Convention No. 29 by placing a strict prohibition of recourse to any form of forced labour in five specific circumstances: (1) as a means of political coercion or education, or as a punishment for holding or expressing views ideologically opposed to the established political, social, or economic system; (2) as a method of mobilizing and using labour for purposes of economic development; (3) as a means of labour discipline; (4) as a punishment for having participated in a strike; and (5) as a means of racial, social, national or religious discrimination.


7 Ibid., p. 28.

8 Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to