



anti-slavery

today's fight for tomorrow's freedom



ICFTU

forced labour

in the 21st century

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forced labour in the 21st century

Introduction

It is not widely known that, even as we enter the 21st century, millions of people around the world are subject to forced labour.

Forced labour itself is such a serious human rights violation that it is recognised as an international criminal offence irrespective of whether a government has ratified the relevant conventions prohibiting it. Furthermore, where forced labour is used, a range of associated human rights abuses frequently take place, including slavery, rape, torture and murder.

The aim of this booklet is to raise awareness of these facts and to seek to encourage trade unions, non-governmental organisations, policy makers and members of the public to contribute in whatever way is most appropriate to eliminating this practice.

The booklet highlights some of the main ways in which forced labour manifests itself internationally, including through slavery, bonded labour, trafficking and child labour. References are made to some of the most relevant human rights standards in order to explain in what conditions exploitative labour practices can be described as forced labour.

Case studies are provided throughout the booklet. These illustrate the circumstances in which forced labour occurs in various countries and give examples of failures by governments to take effective action as well as indicating what measures could be taken to stop the use of forced labour.

We hope that this book will assist individuals and organisations in identifying cases of forced labour and utilising international standards and monitoring mechanisms which can increase pressure on governments to take the decisive action which is needed to bring about the total elimination of forced labour.

Forced labour and slavery

The link between forced labour and slavery was clearly established in the League of Nations' Slavery Convention of 1926. Article 1(1) of the Convention sets out the definition of 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."** Article 2(b) requires signatories **"To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms"**.

The references to **"any or all of the powers of ownership"** and the **"abolition of slavery in all its forms"** in these articles ensures that the definition of slavery includes not only the chattel slavery involved in the Transatlantic Slave Trade, but also practices which are similar in nature and effect, like forced labour.

When an individual is forced to work against his or her will, under the threat of violence or some other form of punishment, their freedom is restricted and a degree of ownership is exerted over them. In such circumstances forced labour can clearly be seen to be a form of slavery which the 1926 Convention calls on governments to abolish.

However, the 1926 Convention does not prohibit forced labour outright. Article 5 of the Convention outlines the conditions in which forced labour may be considered acceptable and requires governments **"to prevent compulsory or forced labour from developing into conditions analogous to slavery"**. In particular the Convention specifies that **"forced labour may only be exacted for public purposes"** and that **"as long as forced or compulsory labour exists" it "shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence"**.

The fact that the Slavery Convention did not define the concept of forced labour and permitted its use **"for public purposes"** may be explained by the fact that forced labour practices were not uncommon in the 1920s. However, the League of Nations did recognise that these issues needed to be addressed and requested the International Labour Organisation (ILO) to consider the matter and draft a Convention relating specifically to forced labour.

The ILO and the forced labour Conventions

The International Labour Organisation (ILO) was established in 1919 and became the first specialised agency of the United Nations (UN) in 1946. The ILO is unique because it is the only international organisation which includes representatives of trade unions and employers organisations, 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.

In order to ensure that these Conventions are properly applied the ILO has set up a supervisory system which obliges governments to report regularly on Conventions that they have ratified. Employer organisations and trade unions 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 that they have ratified.

In 1998, the ILO decided to focus its attention on the protection of fundamental rights at work or "**core labour standards**". These core labour standards include eight ILO Conventions which seek to eliminate forced labour, child labour and discrimination in employment, while ensuring respect for the right to freedom of association and collective bargaining. Governments have to report on these Conventions regardless of whether they have ratified them or not. The two ILO Conventions on forced labour are included in the eight Conventions dealing with the core labour standards.

In 1930, the ILO adopted the Forced Labour Convention (ILO Convention No.29). Article 2(1) of this Convention defines forced labour as "**all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.**"

The ILO Convention's definition of forced labour focuses on the exaction of involuntary labour through coercive means and thereby retains the link between forced labour and slavery.

In 1957, the ILO supplemented Convention No.29 with the Abolition of Forced Labour Convention (ILO Convention No.105) which provides for the immediate and complete eradication of forced labour in specific circumstances. Article 1 imposes an obligation on ratifying States to suppress the use of forced labour where it is used for political purposes; for purposes of economic development; as a means of labour discipline; as a punishment for strike action; or as a means of discrimination. ILO Conventions No.29 and No.105 are collectively referred to as the "**ILO**

forced labour Conventions". Together they represent 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. It should be stressed that not all forms of forced labour are prohibited under these Conventions. Article 2(2) of Convention No.29 sets out certain exemptions which otherwise would have fallen under the definition of forced or compulsory labour. However, these exceptions are very much narrower than previously permitted under the 1926 Slavery Convention and are set out below:

(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 fall under 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 under 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 convicted criminal. Detainees awaiting trial cannot be forced to work nor can people who have been imprisoned for political offences or as a result of labour disputes. 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.¹

(d) Emergencies

The right of a government to exact forced labour in times of emergency is recognised 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 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.²

(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.³

Slavery and forced labour in Sudan - case study

In 1999, the United Nations Special Rapporteur on Human Rights in Sudan reported that militias, sometimes with the support of forces directly under the control of the Sudanese authorities, systematically raid villages, torch houses, steal cattle, kill men and capture women and children as war booty.

These women and children, whether captured in the course of the civil war or as a result of longer term conflict between communities, are often taken to the North where they are forced to work either for their captors or sold on to other people. Many of the people enslaved in this way have been subjected to physical or sexual abuse.



Freed Dinka abductees, Sudan. Credit: M.Dottridge/Anti-Slavery

In May 1999, the Government of Sudan set up a Committee for the Eradication of the Abduction of Women and Children (CEAWC), in order to take action to identify and release people whom it acknowledges to be victims of "abductions" and "forced labour" in Sudan. While this initiative was generally welcomed, few people would question the seriousness of the challenge that confronts CEAWC.

In 2000, one organisation engaged in identifying victims as part of CEAWC's work, the Dinka Committee, estimated that 14,000 women and children had been abducted from parts of southern Sudan and taken to the North since the late 1980s. Most are reported to belong to the Dinka ethnic group, the largest single ethnic group in southern Sudan. Many of these people were abducted from their homes in Bahr al-Ghazal and some are still subjected to forced labour.

Furthermore, the Sudanese Government has not taken effective action to prevent attacks on civilians which has led to new abductions during 2000. In June 2000, the ILO's Committee on the Application of Standards, which monitors countries to ensure that they are complying with ILO Conventions which they have ratified, expressed "deep concern at continuing reports of abductions and slavery". It urged the Government to punish those responsible for the abductions and ensure full compliance with ILO Convention No.29 on forced labour. The Committee also strongly recommended that an ILO "direct contacts" mission be sent to Sudan to investigate the situation, but this was not accepted by the Sudanese Government.

Forced labour in Burma and the ILO – case study

The ILO Article 24 procedure (1993-1994)



Forced labour in Burma. Credit: Burma Action Group

Burma ratified ILO Convention No.29 in 1955, but it was not until 1964 that the ILO Committee of Experts called on the Burmese Government to repeal or amend the relevant provisions of the Towns Act (1907) and Villages Act (1908) which permitted the army or the police to exact forced labour from the civilian population.

In 1967, the Government committed itself to amending its legislation, but failed to do so during the following years. The ILO Committee repeated its demand throughout the 1970s and the 1980s, to no avail.

In 1993, the International Confederation of Free Trade Unions (ICFTU) lodged a formal representation under Article 24 of the ILO Constitution⁴ against Burma's State Law and Order Restoration Council (or SLORC, as the ruling junta called itself at the time). Quoting numerous testimonies by victims, reports by human rights' organisations and other sources, the ICFTU

outlined the treatment of porters who were forced to work (eg, carrying supplies, constructing camps, etc) for the military:

"They are not paid for their work and are allowed very little food, water, or rest. In many cases, porters are bound together in groups of 50-200 at night. They are denied medical care. Porters are subject to hostile fire as well as to abuse by the soldiers they serve. They are routinely beaten by the soldiers and many of the women are raped repeatedly. Unarmed themselves, they are placed at the head of the columns to detonate mines and booby traps as well as to spring ambushes. According to credible sources, many of these porters die as a result of mistreatment, lack of adequate food and water, and use as human mine sweepers."

The special ILO Committee, established to examine the ICFTU's claims and the Government's response, concluded that the legislation in place provided for "the exaction of forced or compulsory labour as defined in Article 2(1) of the Convention". In conclusion the Committee forcefully called for the repeal of these laws, as the Committee of Experts had been doing since 1964, and for strictly enforced penal prosecution and punishment of coercion to forced labour.

The ILO Commission of Inquiry (1996- 1998)

In view of the lack of progress in stopping the use of forced labour in Burma, trade union representatives to the 1996 session of the ILO's annual Conference filed a formal complaint against the Burmese Government under Article 26 of the ILO Constitution. This allows the ILO to establish a special Commission of Inquiry in order to investigate particularly grave violations of a ratified ILO Convention. An ILO Commission of Inquiry is an exceptional procedure: less than 20 have been established since the ILO's foundation in 1919. It is a judicial procedure, governed by rules similar to that of the International Court of Justice. Implementation by the Member State of its recommendations can only be challenged before that Court.



The Government refused to take part in the Commission of Inquiry's proceedings, held in Geneva in 1997. The Commission interviewed a dozen witnesses during its formal hearings, after which it applied for permission to investigate the situation in the country itself, which the Government refused. The Commission then travelled to several bordering countries, where it interviewed over 200 additional witnesses and victims of forced labour. In the course of its proceedings, the Commission also examined over 6,000 pages of evidence submitted by the ICFTU, which acted as the Plaintiffs' representative.

The Report of the Commission of Inquiry found abundant evidence of the systematic and widespread use of forced labour in Burma. Military and government officials had unfettered powers which allowed them to force civilians, including women, children and elderly people, to work in portering, agriculture, construction, the maintenance of roads, railways and bridges, and a range of other tasks. Sometimes this work was carried out for the profit of private individuals. None of this work fits the conditions in which forced labour is permitted, as listed in Article 2 (2) of ILO Convention No.29.

The forced labourers were almost never paid or compensated for their work. Indeed in most cases they had to provide their own food even though the exaction of forced labour meant they could not make a living through their normal jobs. Furthermore, their health and safety was completely disregarded while they performed the forced labour. Work related sickness and injuries normally went untreated and deaths were a regular occurrence on some projects. Forced labourers were frequently subjected to physical and sexual abuse, including rape.

Failure to respond to a call-up for labour can be punished with a fine or imprisonment under the Village Act, but may also lead to reprisals such as physical abuse, torture, rape and murder. The Report stresses that regardless of the provisions in national law, "any person who violates the prohibition of recourse to forced labour under the Convention is guilty of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity".⁵

Other international standards which deal with 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 UN Universal Declaration of Human Rights (1948) before it, the UN International Covenant on Civil and Political Rights (1966) also prohibits slavery and servitude. However, 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 or compulsory labour**", subject to certain exceptions which are broadly similar to those outlined in ILO Convention No.29.⁶

The International Covenant on Economic, Social and Cultural Rights (1966) recognises rights at work which also help to prohibit 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 or compulsory labour.**"

While these international and regional treaties contain a prohibition against forced labour, the ILO forced labour Conventions remain the only international instruments that set out a substantive definition of forced labour. Over the years, the ILO has also recognised the practices of bonded labour (also referred to more formally as debt bondage) and some aspects of child labour as forced labour and uses ILO Convention No.29 to review member states' progress in eliminating this practice. Bonded labour and forced child labour are considered in more detail next.

Bonded labour

In 1999, the United Nations Working Group on Contemporary Forms of Slavery estimated that some 20 million people are held in bonded labour around the world, making it the most widely used method of enslaving people.

Debt bondage was first defined in Article 1 (a) of the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) as: "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".

The 1956 Supplementary Convention specifies that debt bondage is a practice similar to slavery and stipulates that governments should take measures to secure its complete abolition or abandonment as soon as possible.

The Convention's definition clearly distinguishes bonded labour from a normal situation in which a worker accepts credit for whatever reason and then repays the amount by working. In the latter situation the repayment terms are fixed and the capital sum borrowed is only subject to reasonable interest rates. In bonded labour cases these safeguards do not exist as the terms and conditions are either unspecified or not followed, leaving the bonded labourer at the mercy of their employer or creditor.

In these circumstances bonded labourers can be forced to work very long hours, seven days a week for little or no wages. The employer may also adjust interest rates or simply add interest; impose high charges for food, accommodation, transportation or tools; and charge workers for days lost through sickness. In such cases workers may not have been told in advance that they will have to repay these expenses. Bonded labourers may take additional loans to pay for medicines, food, funerals or weddings resulting in further debt.



Escaped bonded labourers seek advice from Mrs Nasreen Shakil Pathan, Special Task Force for Sindh, Pakistan. Credit: Anti-Slavery

Tackling the problem of bonded labour

If bonded labour is to be eliminated then governments need to ensure that they have the appropriate legislation which defines and prohibits bonded labour and establishes criminal sanctions for those that employ or facilitate the employment of bonded labourers.

This is the first step in ending this forced labour practice, but it is not in itself sufficient to ensure those in bondage their freedom (see the following case studies from Nepal, India and Pakistan).

Governments should also regulate the way in which wages are paid in order to prevent a situation arising in which debt bondage can occur. Many of these issues are dealt with in ILO Convention No.117 concerning Basic Aims and Standards of Social Policy (1962).⁷

This Convention includes measures which stipulate that:

Minimum wages should be fixed and any underpayment of the minimum wage should be legally recoverable (Article 10).

Wages should normally be paid in legal tender (Article 11).

Wages should be paid at regular intervals in order to reduce the likelihood of indebtedness, unless there is an established local custom to the contrary which is supported by the workers (Article 11).

Where food, housing, clothing and other essential supplies and services form part of remuneration, all practicable steps must be taken by the competent authority to ensure that they are adequate and their cash value is properly assessed (Article 11).

The competent authority shall limit the amount of advances which may be made to a worker. Any advance exceeding this amount will be legally irrecoverable (Article 12).

Nepal - case study

Bonded labour in Nepal primarily affects *dalits* ("untouchables") and the indigenous *Tharu* community of the Far-Western Region. During the 1960s, many *Tharus* were displaced from their land because it had not been legally registered. With little access to education or credit, and with wages as low as 13 rupees (US\$ 0.20) per day, many were forced to take loans and thus became bonded labourers under what is called the Kamaiya system.



Workers in Nepal. Credit: Tim White

Bonded labourers in Nepal often work between 12 to 14 hours a day for little or no income, on land they had previously owned themselves. The debt is passed on from father to son and many women marry into bondage. Cases of women being sexually exploited by landlords are not uncommon.

On 1 May 2000, a group of *kamaiyas* led by the *Kamaiya* Movement Working Committee, invoked Article 20 of the 1991 Nepalese Constitution, which prohibits forced labour, to file a case for their release. The initial refusal by government officials to register the case led the bonded labourers to organise a series of demonstrations, including one in front of the Nepalese Parliament.

This led the Minister for Land Reforms and Management to announce, on 17 July 2000, that the Government of Nepal had decided to end the practice of bonded labour with immediate effect and that all outstanding debts owed by bonded labourers were cancelled.

However, many landlords responded to this announcement by forcing the bonded labourers out of their homes and off their land. Thousands of bonded labourers and their families were left homeless and without jobs or food. In the weeks following the declaration local organisations struggled to provide tents, rice and medicines to those affected as assistance promised by the Government failed to materialise.

While the declaration of 17 July was an important step towards the elimination of bonded labour, the Government's failure to make appropriate provision for the consequences of its announcement left many former bonded labourers near to starvation. A clear legislative framework for implementing the declaration should have been introduced at the same time. This could have dealt with key issues like bonded labourers' land rights; compensation payments of money owed to bonded labourers; minimum wage payments; a clear definition of bonded labour; and the specification of criminal sanctions for those using bonded labourers.

India - case study

On 13 November 1999, an Indian human rights organisation, Volunteers for Social Justice, filed a number of test cases from two villages in Punjab State with the District Magistrate. The cases consisted of 11 women who became bonded labourers after taking loans ranging between 3,000 and 10,000 rupees (US\$70-\$230). Since then they have had to work to repay the interest on their loans and receive no wages for their labour. Some of the women's children or grandchildren have to help with the domestic work instead of attending school.



A family of bonded labourers, India. Credit: Volunteers for Social Justice

When the landlords heard of the cases that had been filed against them, they threatened to kill the women and destroy their property. One of the bonded labourers who refused to withdraw her case, Dheer Kaur, said she was forced by the landlords to put her thumbprint on a pre-written statement which said that she was dropping her complaint. By August 2000, the women who had not been intimidated into withdrawing their cases still had not been released.

Unfortunately, their experience is not exceptional. In August 2000, Volunteers for Social Justice documented 698 cases in which the authorities had failed to take action to release bonded labourers. Almost all of these cases were filed in 1999 or before and in 99 per cent of these cases, complaints had been registered with either the Punjab State Human Rights Commission or the Punjab and Haryana High Court.

This problem is not unique to Punjab State. In Tamil Nadu, the State government commissioned a report on bonded labour which was completed in April 1997 and identified 25,000 bonded labourers. However, according to a High Court deposition made in August 1999 on behalf of the organisation Development and Education for Workers, only 10 per cent of the 25,000 bonded labourers had been released.

It is no coincidence that a disproportionate number of the victims of this form of slavery are *dalits* or *adivasis* ("untouchables" or indigenous groups). These minority groups are marginalised and discriminated against in Indian society.

Research carried out in 2000 by the Mine Labour Protection Campaign (MLPC), found that there is a high incidence of bonded labour amongst the three million mine and quarry workers in Rajasthan State and that approximately 95 per cent of these workers are *dalits* or *adivasis*.

Those working in mining and quarrying are also exposed to significant health risks. Large numbers of workers involved in sandstone mining in Rajasthan are suffering from silicosis, tuberculosis, chest pains, asthma and other respiratory diseases. Approximately, one third of mineworkers are women. According to MLPC, almost a quarter of the female workforce consists of widows of mine labourers who have died of silicosis and tuberculosis.

In order to eliminate bonded labour the Indian Government will have to confront powerful local elites and the caste system. The failure of the State to intervene promptly in the cases outlined above to ensure the release of the victims and the prosecution of the perpetrators is a substantial disincentive to other bonded labourers to seek their own release.



Bonded labourer breaking rocks, India. Credit: Ben Buxton/ Anti-Slavery

Bonded labour in Pakistan – case study

The 1992 Bonded Labour System (Abolition) Act prohibits the use of bonded labour in Pakistan. An official of the Government of Pakistan stated in a letter to the European Union Ambassador in Pakistan in May 2000 that "stringent measures have been taken by the Government to ensure that the law is fully implemented".

However, evidence collected by the Human Rights Commission of Pakistan's Special Task Force for Sindh (STFS), indicates that this is not the case. Mrs Nasreen Shakil Pathan testified on behalf of STFS to the UN Working Group on Contemporary Forms of Slavery in June 2000 that local government officials in Sindh Province were systematically failing to implement the law to abolish bonded labour. She submitted details regarding 215 cases involving more than 4,000 bonded labourers which had been registered with the district authorities between 3 January 2000 and 10 April 2000. In only five of these cases had the bonded labourers been freed.

One particular case which STFS was involved in concerned the Munoo Bheel family. Eight members of this family worked as bonded labourers for the landlord Abdur Rehman Murri in Sindh's Sanghar District until they were released with STFS' help in 1996. Two years later, on 4 May 1998, Abdur Rehman Murri and six other men were identified as being responsible for abducting them at gunpoint from the farm where they were working. During the abduction other labourers were beaten and at least one was seriously injured.



Bonded agricultural labourers, Sindh Province, Pakistan. Credit: Shakil Pathan

The case was registered with the local police (official reference FIR No.35, 1998), but over two years later the Munoo Bheel family still has not been freed. The landlords who used violence to abduct the family have acted with impunity as no charges have been filed against them for the forced abductions, the use of violence, or for using bonded labour in the first place, which is illegal under the 1992 Bonded Labour System (Abolition) Act.

This failure to ensure that bonded labourers are released and that those who profit from them are punished is a serious impediment to eliminating this form of forced labour. In its 2000 report, the ILO's Committee of Experts urged Pakistan to conduct proper surveys of the total numbers of bonded labourers in the country and to provide statistics on the number of inspections, prosecutions and convictions of offenders.

Despite the concerns raised repeatedly by the ILO, the Government of Pakistan recently asserted that "bonded labour in Pakistan is not widespread."⁸ While the Government dismisses the problem of bonded labour as being insignificant then it sends a clear message that tackling bonded labour is not a priority.

Once laws have been passed prohibiting bonded labour, governments need to take decisive action to enforce them. This would include drawing up action plans for the identification, release and rehabilitation of bonded labourers. A common problem is that accurate numbers of people held in bonded labour are generally not available, so governments should commission independent and comprehensive national surveys to identify the total number of bonded labourers in the country. Then they can begin programmes to systematically release them.



Statutory registers should be kept recording the release date and compensation paid to former bonded labourers. Reviews also need to be carried out to see whether freed bonded labourers are falling back into debt bondage. The number of prosecutions brought, successful convictions and sentences passed against those using bonded labourers should also be regularly recorded and made publicly available. It is essential that these policies are complemented by preventive measures to break the cycle of poverty and debt. This would mean developing economic alternatives to bonded labour which may involve implementing minimum wage legislation and land reform; setting up rural credit facilities; ensuring access to education and basic health facilities; and running public information campaigns so people know what their rights are.

Unannounced inspections of industries where bonded labour is commonly used (eg, agriculture, quarrying, brick making, gem cutting, weaving, etc) will help to stamp out the problem and stop it recurring. Underlying all of these policies is the presumption that the government has the political will to challenge existing elites and deep rooted social structures, such as the caste system, in order to fully implement the law and provide meaningful alternatives to bonded labour.

Debt bondage is not only found in South Asia. Contemporary forms of debt bondage which affect victims of trafficking and migrant workers have meant that bonded labour is now very much a global problem. This practice is examined next.

Trafficking, migrant workers and forced labour

Many migrant workers also become victims of debt bondage when they look for work abroad. The migrant is offered a job with a good salary in the country of destination and the debt is incurred as a payment to the trafficker as a fee for finding the job, arranging transportation and, in some cases, obtaining travel documents for the migrant.

Yet, on arrival the migrant often finds that the job they were offered does not materialise or that the contract that they agreed to has been disregarded. The migrant is now in debt to the trafficker and this debt may then be inflated through exorbitant charges for interest, accommodation, food and sometimes fines (eg, for being late for work or ill).

Traffickers normally use either an implicit or explicit threat of violence, which can be directed at the migrant or at their family back in the country of origin to ensure that the migrant does the work as instructed. Traffickers may also confiscate the migrant's identity or travel documents to control their movements and ensure that they do not try to escape. Typically the migrant will not know the language or country to which they have been brought and will have no money to live on let alone pay for a return ticket home. It should be stressed that migrant workers can be subjected to the same sort of coercion when looking for work within their own country.

Migrant workers in this position are clearly working against their will under the menace of reprisals from the trafficker and therefore meet the criteria of forced labour set out in ILO convention No.29. Many will also be victims of debt bondage in accordance with the provisions of the 1956 Supplementary Convention.

Trafficking in human beings is the fastest growing manifestation of forced labour. A study published in 2000, for the US Centre for the Study of Intelligence estimated that between 700,000 and two million women and children were trafficked across borders each year globally. In December 2000, the United Nations sought to address this problem by adopting a Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to supplement the UN Convention against Transnational Organized Crime.

The Protocol seeks to prevent and combat trafficking in persons and also to protect and assist victims of trafficking, with full respect to their human rights. It includes, in Article 2, the following definition of trafficking:

This definition is very inclusive. Traffickers are all those who facilitate the recruitment, transportation, transfer, harbouring or receipt of persons through means which would include coercion, deception or by taking advantage of the victim's vulnerability in order to exploit them.

'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, 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 Protocol also seeks to offer extra protection to victims of forced labour by stating in Article 3 that, when coercion, deception or the abuse of authority takes place, then it is irrelevant whether the trafficking victim consented to their exploitation or not. Thus, a woman may agree to be a sex worker in Europe, but then on arrival find that her passport is confiscated, she is forced to work 12 hours a day and she is not paid. In this situation she is a victim of trafficking because she has been deceived as to the conditions of work and therefore the fact that she consented to be a sex

worker is irrelevant.

The Protocol also states that the recruitment, transportation, transfer, harbouring or receipt of a child (any person under 18) for the purpose exploitation should always be considered as trafficking. Those migrant workers who have been trafficked or who have not got a regular immigration status are particularly at risk of being subjected to forced labour because they are afraid that if they go to the authorities to make a complaint or to seek protection they will be deported.

However, even migrants who enter another country with the proper documentation are still at risk of being subjected to forced labour. Migrant domestic workers are particularly vulnerable to forced labour because the nature of their work means that they are invisible to the wider society. Employers may seek to further isolate their domestics by preventing them from leaving the house where they live and work unless they are accompanied, and by confiscating their passport or other identity documents.

Trafficking and forced child labour in Gabon – case study

In 1999, an organisation in Benin, *Enfants Solidaires d'Afrique et du Monde* (ESAM), completed a report on the trafficking of children between the Republic of Benin and Gabon. The research was based on interviews with parents, children, receiving families, traffickers and officials. The report found that out of a sample of 229 children who had been trafficked, 86 per cent were girls. This reflects the fact that girls are in greater demand for work as domestics and as market traders. Of the trafficked boys interviewed, most worked in the agricultural or fishing sectors. More than one-third of parents said that they were prepared to hand their children over to traffickers because they could not earn enough to meet the essential needs of their family.



Child Domestic worker, Benin. Credit: ESAM

A total of 91 children were interviewed in Benin about the conditions in which they lived and worked while they were in Gabon. With regard to their living conditions, more than two-thirds described their treatment as 'bad'. They described being shouted at, being deprived of food and being beaten by their employer as examples of the bad treatment they endured.

With regard to their working conditions, more than half described their treatment as very bad. These children were generally working for traders and had to work between 14 and 18 hours a day - this includes both domestic work and commercial activities. They had to carry heavy loads and walk long distances in order to sell goods.

If the girls did not earn enough money they risked being beaten. This meant that they were often frightened about going home if their earnings for the day were low or if they had been stolen. This makes the girls vulnerable to exploitation by people who offer to pay the money they must give to their employers (who are called "aunties"). However, instead of helping them these men often sexually abuse them or force them into prostitution. The following testimonies taken from different girls after their return to Benin illustrate these dangers:

"One day, I was coming back from the market crying because a gang had beaten me up and taken all the money I'd made from selling iced juice. A man proposed to give me the money I must give to my auntie but I had to stay with him for a while before returning home. He abused me sexually. He always wants the same thing. Another day, he paid for the whole tray of fruits I was selling, and I had to do the very same thing. I fled from my auntie and found refuge with a Gabonese woman."

...case study continued.

"I couldn't sell a lot of fruit that day. I went back home and my auntie beat me because I didn't bring enough money. I ran away to cry behind the house. A man proposed that I spend the night with him and he would pay my auntie the money I owe. The following day, he brought me to a station where we took a bus for Equatorial Guinea. I worked a lot on a plantation and also acted as his wife. One day, I fled by going through the forest until Libreville. From there I was brought back to Benin."



Child Domestic worker, Benin. Credit: ESAM

Pakistan, Burma and the European Union's GSP - case study

Pressure by the ICFTU and the European Trade Union Confederation (ETUC) amongst others persuaded the European Union to attach a human rights clause to its Generalized System of Preferences (GSP), in effect since 1995. Under the GSP, exports from particular countries benefit from reduced tariffs in the European Union.

The clause allows the GSP to be withdrawn when a complaint about human rights violations taking place in a particular country is upheld by the European Commission.

In June 1995, the ICFTU, the ETUC, the International Textile, Garment and Leather Workers' Federation (ITGLWF) and the European Trade Union Federation: Textiles, Clothing and Leather (ETUF-TCL), submitted a complaint under the European GSP regarding the use of forced labour in Pakistan and Burma.

As a result of this complaint against Burma the European Commission launched an investigation in January 1996. The investigation concluded that the authorities in Burma routinely used forced labour and, as a result, the EU Council of Ministers decided in March 1997 to suspend Burma's GSP trade privileges covering around US\$30 million worth of imported industrial goods.

However, in relation to Pakistan, the European Commission did not set up an investigation. This was despite the substantial evidence of bonded and child labour being used in the carpet industry in Pakistan. Western countries are estimated to import 97 per cent of carpets produced in Pakistan, India and Nepal.

Trade unionists working to free children from bondage in Pakistan have also been subject to attacks and harassment.

In February 1998, the same trade unions submitted further filmed evidence of enslaved children working in brick kilns and making carpets in Pakistan. Yet once again, the European Commission declined to take action, claiming that there is evidence of willingness on the part of the Pakistani Government to take measures to address the problem.

Migrant domestics and forced labour in the UK - case study

Rita (not her real name) escaped from her abusive employer who owns a house in Kensington on 17 November 2000 and went to *Kalayaan*, an organisation set up to assist migrant domestic workers, the same day.



Campaign for justice for overseas workers, UK. Credit: Kalayaan

Rita arrived in the UK with her employer in May 2000. She was forced to work from 6.30am to 11.30pm and was not given any time off apart from one hour each Sunday to attend church. Rita's employers would pull the plug out of the phone if she tried to contact her friends and locked her into the house when they went out to prevent her from leaving.

She was forced to sleep on the floor in the kitchen and subjected to constant verbal abuse. Her employers also took her passport and told her that if she left her job she would be deported back to India.

While recent changes to UK legislation allow domestic workers to leave their employers for any reason and seek work elsewhere, many migrants do not know this. Domestics applying for visas to work abroad should be interviewed separately from their employers and informed of their rights, but this is rarely done. In Rita's case, her employer was present when she was interviewed for a visa in India and told

her what she should say. In these circumstances it is difficult, if not impossible, for migrants to ask questions about their immigration status or their right to change employers once in the UK.

However, even if Rita had known what her rights were, without her passport she could not prove that she had a visa and permission to work as a domestic in the UK, thereby making her vulnerable to deportation.

Rita was told that she would receive £150 per week while working in the UK. In reality her employers only agreed to pay her £75 per month which they claimed they were sending to an account in India. However, Rita is not yet sure if any money has been paid into that account and *Kalayaan* say that, based on their previous experience of similar situations, it is extremely unlikely that any payments have been made.

Government regulations concerning the employment of foreigners often makes the situation worse by only allowing domestics into the country to accompany their employer. The fact that the migrant does not have a work permit in their own right makes it impossible for them to change employers. Employers can also with-hold wages until they have accumulated several months of backpay, thereby making it much more difficult for the worker to leave. This, combined with their isolation and precarious legal status, leaves migrant workers extremely vulnerable and many are subjected to a range of human rights violations, including physical and sexual abuse as well as forced labour. It is not uncommon for migrant workers caught in this situation to be children.

Forced child labour

Several international standards identify conditions and circumstances in which no child can be employed. Article 26 of the Universal Declaration of Human Rights stipulates that **"Elementary education shall be compulsory"** thereby prohibiting any work which prevents a child from attending or completing elementary education.

Article 10 of the Economic, Social and Cultural Rights Covenant calls on states to specify a minimum age below which **"the paid employment of children should be prohibited and punishable by law"**.

The ILO Minimum Age Convention of 1973 (No. 138), provides the only comprehensive set of guidelines relating to the appropriate age at which young children can enter the work force. It also takes into consideration the fact that in less developed countries many families rely on money earned by their children.

ILO Convention No.138 sets the minimum age for work at not less than the age for finishing compulsory schooling and in any case, not less than 15 years old (14 in countries where the **"economy and educational facilities are insufficiently developed"**). Light work can be done by children between the ages of 13 and 15 years old (reduced to 12 in developing countries), but the Convention does not allow children under 12 to be employed in any circumstances. The minimum age for hazardous work likely to jeopardise the health, safety, or morals of a worker is set at 18 years old.

Article 32 of the UN Convention on the Rights of the Child (1989) calls on governments to ensure that children do not perform **"any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development"**.

The ILO Bureau of Statistics has estimated that there are 250 million working children between the ages of five and 14 in the world, with some 120 million children working full-time. Many of these children will be working in contravention of the international standards outlined above. However, this in itself does not mean that they are involved in forced child labour.

The general prohibitions on forced labour that have already been discussed apply equally to children. However, additional factors have to be considered when assessing whether a case of child labour can be described as forced labour.

When children are sent to work away from their families, sometimes to a different country, they are made dependent on their employer for their well-being and basic necessities. The child cannot leave because they do not have any money; are too young to find their way home (particularly if they are abroad and do not speak the local language); or are too afraid of what their employers might do to them if they tried to run away. Children are often sent to work in other households or to relatives by their parents because they are having difficulty looking after them or think that their child will be better off working in a more affluent house. This practice particularly affects girls who are then employed as live-in domestics.

Parents are frequently promised that their child will go to school or get job training. Wages are sometimes paid to the parents in advance, particularly if the child has to live some distance from home. In other cases the child receives no wages and works solely for their upkeep.

The complete dependence of the child on their employer means that they are vulnerable to extreme exploitation and abuse. For this reason Article 1(d) of the 1956 Supplementary Convention specifically prohibits:

"any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour".

This type of practice, which often involves coercion, abduction, deception, or the abuse of power or a position of vulnerability, comes under the definition of trafficking as set out in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. The Protocol prohibits the trafficking of children for whatever purpose.

The ILO uses Convention No.29 on forced labour to examine cases of bonded child labour, child sexual exploitation and child domestic work in conditions which are similar to slavery.

Restaveks in Haiti – case study

In Haiti, children are given away or sold by their parents to other families to work as domestic servants. These children are known as *restaveks* and the majority are girls from poor rural backgrounds. The *restaveks* are placed with their employers through an intermediary and contact between the child and their parents is severed, leaving the child completely dependent on her employing family and vulnerable to exploitation.

The *restavek* child is not viewed as a person, but rather as a transferable resource. If members of the employing family decide at any time that they are not happy with the child, they can throw them out. Yet

if the child is unhappy or becomes the victim of abuse they cannot leave. Those who try to run away may be recaptured, beaten and returned to the employing family.



Child domestic worker, Haiti. Credit: Leah Gordon

In 1993, the ILO's Committee of Experts reviewed the situation of *restavek* children under ILO Convention No.29.

The Committee of Experts highlighted three aspects of the situation faced by *restavek* children which were characteristic of forced labour:

The children's separation from their families;

The fact that the children are not consulted regarding their willingness to work as domestics;

The children's total dependence upon their employing family for their welfare and their consequent vulnerability to extreme exploitation, abuse and other forms of punishment.

The Committee commented that *restavek* children were found "...to work as domestics in conditions which are not unlike servitude. The children were forced to work long hours with little chance of bettering their conditions; many children were reported to have been physically and sexually abused".

...case study continued.

The Committee of Experts also noted that for many their only choice was to run away and that in many cases they ended up "preferring a life without shelter or food to a life of servitude and abuse. The practice of *restavek* was openly compared to slavery in Haiti". In 1999, ILO/IPEC estimated between 110,000 and 250,000 children work as *restaveks* in Haiti.

In recent years, the ILO has intensified its efforts to eradicate the use of forced child labour internationally. In 1992, the ILO set up the International Programme on the Elimination of Child Labour (IPEC) to assist countries in developing and implementing policies and programmes to eliminate child labour. IPEC made the elimination of forced child labour and child bonded labour one of its three priority areas.

In June 1998, the ILO's International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work, which made the effective abolition of child labour one of its four fundamental principles.

This means that all member states are required to promote the abolition of child labour even if they have not ratified the relevant "core" standard in relation to child labour. These standards are the ILO Minimum Age Convention (No.138) and the new ILO Convention on the Worst Forms of Child Labour (No.182) which was adopted in 1999.

The Worst Forms of Child Labour Convention calls on states to take immediate and urgent action to prohibit and eliminate the most abusive and hazardous forms of exploitation, now referred to as the "worst forms" of child labour. The definition of "the worst forms of child labour" is presented in Article 3 and includes:



Former child soldier, Uganda. Credit: GUSCO

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict

The accompanying recommendation proposes that governments establish programmes of action to identify the forms of child labour which require elimination and then to take the necessary measures to effectively abolish them.

Forced child labour in the United Arab Emirates (UAE) – case study

Very young children from the Indian sub-continent and various parts of Africa have been kidnapped or trafficked to the United Arab Emirates (UAE) to work as camel jockeys.

The fact that children are separated from their families, taken to a country where the people, culture and usually the language are completely unknown and left completely dependent on their employers for their very survival means that they are not in a position to stop working and are vulnerable to extreme exploitation and physical abuse.

Despite the fact that Article 20 of the UAE's 1980 labour legislation prohibits the employment of anyone under the age of 15, the UN Special Rapporteur on the sale of children noted in her 1999 report that little was being done to stop the use of underage children as camel jockeys. She found evidence that:

"...clearly indicates that the rules are being blatantly ignored. In February 1998, ten Bangladeshi boys, aged between five and eight, were rescued in India while being smuggled to become camel jockeys. The boys had been lured away from their poor families with the promise of high-paying jobs".

During 1999 and 2000, a number of cases involving the trafficking or abuse of camel jockeys were reported. One involved a four-year-old camel jockey from Bangladesh who was found abandoned and close to death in the UAE desert. In a separate case another four-year-old from Bangladesh had his legs severely burnt by his employer as a punishment for "under performing".



Child camel jockey, UAE. Credit: Newline

Conclusion - focusing on the elimination of forced labour

In recent years the issue of forced labour has been given greater prominence on the international human rights agenda. This is reflected in specific prohibitions on the use of forced labour in both the ILO Convention on the Worst Forms of Child Labour (No.182), 1999 and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000.

The ILO has also prioritised the elimination of forced labour through its 1998 Declaration on Fundamental Principles and Rights at Work. The Declaration says that all member states have an obligation to promote the principles in eight core ILO Conventions, which include the forced labour Conventions (Nos.29 and 105), regardless of whether they have ratified them or not.

The ILO has recently signalled its determination to see that the provisions on these Conventions are respected by taking unprecedented action against Burma for its failure to comply with ILO Convention No.29.

As part of the follow-up to the Declaration a global report is made each year to the ILO Conference giving an overall assessment of how the fundamental principles are being applied. In June 2001, the global report is scheduled to look at forced labour and examine the extent to which it

continues to occur throughout the world. It will also assess the effectiveness of the ILO's initiatives to combat forced labour and make recommendations on what its priorities should be in the next four years.

The global report provides a real opportunity to focus attention on forced labour internationally and to put pressure on governments to implement the report's recommendations and take the necessary action to eradicate forced labour. The global report for 2002 will focus on the elimination of child labour and therefore also allows follow-up on forced labour issues.

ILO Convention No.29 on forced labour was adopted over 70 years ago and has been ratified by 155 out of the 175 ILO member states.⁹ Yet, as this booklet has shown, millions of people continue to be subjected to various forms of forced labour in countries all over the world.

This booklet is in no way an exhaustive account of all the forced labour that takes place globally. Nor does it cover all the international laws and human rights monitoring mechanisms which can be used to try to combat forced labour. However, we hope that this booklet will provide a useful introduction and reference point for those who are seeking the effective elimination of forced labour in their own countries and around the world.

ILO action against forced labour in Burma - case study

As seen earlier, the Government of Burma has been repeatedly condemned by the ILO for its widespread and systematic use of forced labour (see pages 4 and 5). At the ILO Conference in June 2000, a resolution was passed which effectively called for sanctions to be imposed against Burma if the Government did not take concrete steps to implement the ILO's recommendations by 30 November 2000.

Following an ILO technical assistance mission to Burma the ILO's Governing Body concluded in November 2000 that the ILO Commission of Inquiry's recommendations to stop the use of forced labour had not been implemented. This cleared the way for measures to be taken to compel Burma to meet its obligations under ILO Convention No.29.

Acting on that decision, the ILO Director General contacted international organisations and requested them to stop any co-operation with Burma and cease any activities which could directly or indirectly support the practice of forced labour. All ILO constituents - which includes governments, trade unions and employers' organisation - were also urged to review their relations with Burma and take measures to ensure that Burma could not take advantage of these relations to perpetuate the use of forced labour.

This action is unprecedented for the ILO and indicates that the institution and its constituent members are serious in their commitment to trying to tackle forced labour.

footnotes

footnote number	page number
¹ The Standard Minimum Rules for the Treatment of Prisoners adopted in 1955 by the first UN Congress on the Prevention of Crime and the Treatment of Prisoners stated that detainees who have not been tried cannot be forced to work but should be offered the possibility of doing so. In either case the prisoners should be paid equitable remuneration for the work done.	2
² <i>Abolition of Forced Labour</i> , General Survey by the Committee of Experts, ILO, Geneva, 1979, para. 36-37.	2
³ <i>1979 General Survey on the Abolition of Forced Labour</i> , para.37 .	2
⁴ The representation procedure allows reports to be submitted to the ILO which allege that a member country has failed to implement an ILO Convention. These allegations are thoroughly examined by a specially-appointed, tri-partite committee which submits its conclusions and recommendation to the ILO Governing Body for adoption.	4
⁵ The Report of the Commission of Inquiry, <i>Forced labour in Burma</i> , International Labour Office, Geneva, 2 July 1998, page 158. See also page 20 for recent ILO action to follow up on the Commission's report and recommendations.	5
⁶ The exception to this relates to 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, for example, pending trial. In contrast, ILO Convention No.29 only allows the authorities to oblige a detainee to work if they have been convicted.	5
⁷ Some of these measures are also required by ILO Convention No.95 concerning the Protection of Wages (1949). Article 12 of Convention No.95 also prohibits methods of payment that deprive workers of the genuine possibility of terminating their employment.	6
⁸ Letter to H.E. Mr Kurt Juul, Ambassador for the European Union to Pakistan from Mr Youseaf Kamal of the Government of Pakistan's Labour, Manpower and Overseas Pakistanis Division.	9
⁹ At the time of writing this report, the countries which had not ratified Convention No.29 included Afghanistan, Bolivia, Canada, China, Korea, Latvia, Mozambique, Nepal and the United States.	20

for further information contact...

If you would like to find out how to get involved in campaigns against forced labour or would like more information on the issues raised in this booklet please visit the following websites:

www.antislavery.org

(English only)

www.ICFTU.org

(French & Spanish available)

International Labour Organisation:

www.ilo.org

(French & Spanish available)

Solidar:

www.solidar.org

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Werkstatt Ökonomie:

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Anti Slavery International is the world's oldest international human rights organisation and was set up in 1839. Anti-Slavery is committed to eliminating slavery through research, raising awareness and campaigning. It works with local organisations to put pressure on governments to acknowledge slavery and to take action to abolish its practice.

The International Confederation of Free Trade Unions (ICFTU), was set up in 1949. It has 221 affiliated organisations covering all five continents and a membership of 155 million. The ICFTU campaigns on issues such as the defence of trade union and worker's rights, the eradication of forced and child labour and the promotion of equal rights for working women.



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