



International Labour Standards

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From Protocol to Practice: A Bridge to Global Action on Forced Labour

International Labour Organization

Agenda

1. Benefits of international labour standards
2. Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration) Fundamental Principles and Rights at Work
3. ILO Forced Labour Convention, 1930 (No. 29)
4. Protocol to the ILO Forced Labour Convention, 1930 (P29)

► Benefits of international labour standards

Development of people as human beings - “Labour is not a commodity”.

International legal framework for fair and stable globalization.

A level playing field.

Improving productivity and economic performance.

Efficient and stable labour market for workers and employers.



Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration)

- Guidance on how enterprises can contribute through their operations worldwide to the realization of decent work - rooted on ILO standards; aligned with the National Action Plan on Business and Human Rights and OECD Guidelines for MNE; covers the following:
 1. General policies
 2. Employment
 - Employment promotion
 - Social security
 - Elimination of forced or compulsory labour
 - Effective abolition of child labour
 - Equality of opportunity and treatment
 - Security of employment
 3. Training
 4. Conditions of work and life
 - Wages, benefits and conditions of work
 - Safety and health
 5. Industrial relations
 - Freedom of association and the right to organize
 - Collective bargaining
 - Consultation
 - Access to remedy and examination of grievances

Fundamental Principles and Rights at Work (FPRW)

- Elimination of forced or compulsory labour.
- Abolition of child labour.
- Freedom of association and effective recognition of the right to collective bargaining.
- Elimination of discrimination in respect of employment and occupation.

Selected principles from the MNE declaration aside from FPRW

- Carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts on human rights
- Endeavor to provide stable employment for workers and observe freely negotiated obligations concerning employment stability and social security, promote security of employment, providing reasonable notice of intended changes in operations and avoiding arbitrary dismissal
- Maintain highest standards of safety and health at work, provide information on good practice observed in other countries, cooperate with international and national safety and health organizations, national authorities, workers and their organizations
- Throughout their operations, observe standards of industrial relations
- Use leverage to encourage business partners to provide effective remediation
- Examine the grievances of worker(s), pursuant to an appropriate procedure; seek to establish voluntary conciliation machinery jointly with representatives and organizations of workers
- Responsibility throughout the supply chain, impacts directly linked to its operations, products or services

Forced Labour Convention, 1930 (No. 29)

Fundamental obligation: *"to suppress the use of forced or compulsory labour in all its forms"*

DEFINITION OF FORCED LABOUR

Any work or service

Exacted from any person

Done involuntarily

Under the menace or threat of a penalty

Sanctions: Exaction of forced labour punishable as a *penal offence*, with *penalties adequate and strictly enforced*

▶ Protocol to the Forced Labour Convention, 1930 (P29)

- Prevention, e.g. awareness-raising, improving recruitment practices, protection of migrant workers, due diligence, coverage and enforcement of laws to cover all workers
- Identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support
- Irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation; non-criminalization of victims of forced labour

These indicators are alerts or signs of possible forced labour and should be understood from the point of view of the persons affected by forced labour. These are not stated in the ILO Conventions/Protocol.

1. Abuse of vulnerability
2. Deception
3. Restriction of movement
4. Isolation
5. Physical and sexual violence
6. Intimidation and threats
7. Retention of identity documents
8. Withholding of wages
9. Debt bondage
10. Abusive working and living conditions
11. Excessive overtime

Key questions:

- Have the workers entered into employment or work voluntarily?
- Are they free to leave it if they will?
- Are penalties or threats used to keep workers from leaving employment or work?

▶ Thank you for your attention.



▶ Responsible Business Conduct in action

Jodelen Mitra, Technical Officer

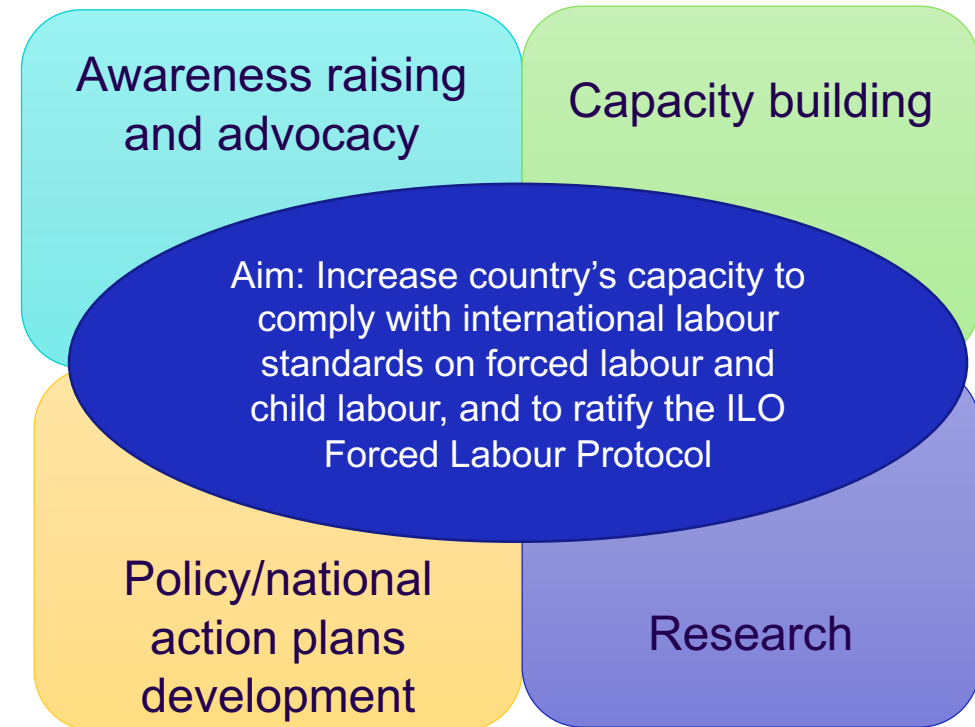
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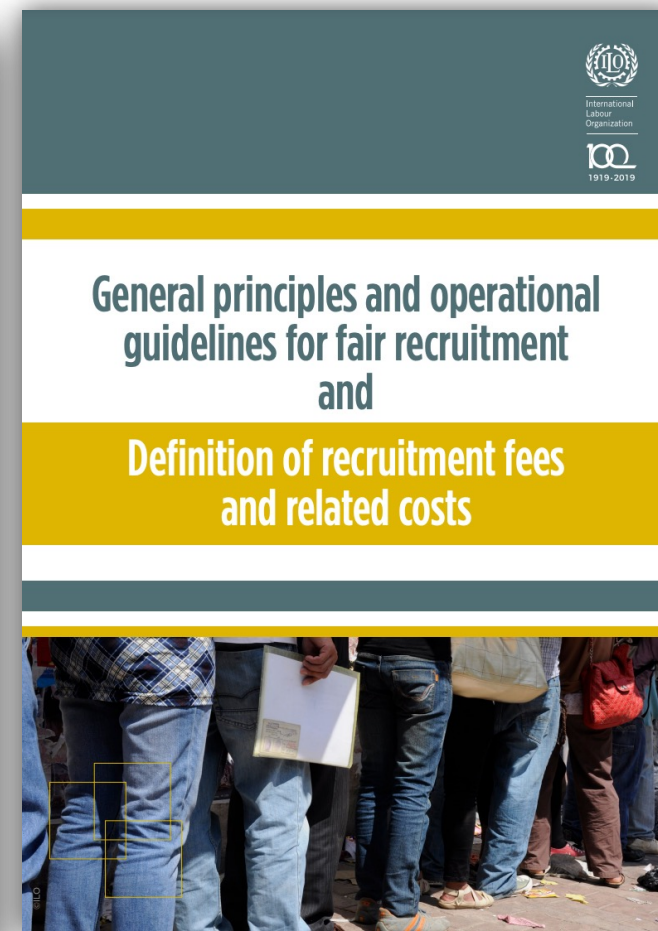
- Mainstreams responsible business conduct in all components of the project, such as:
 - Trainings and awareness raising materials and events for employers and workers with guide on Malaysian legal framework
 - National action plans and policy development process with participation of the employers' representatives
 - Research on migration costs, technical support to the government's oil palm plantations survey

Bridge Project funding support from the US Department of Labor



Addressing risk of labour exploitation during:

1. Pre-employment
2. During employment
3. Post-employment



Pre-employment

- Assess and monitor **recruitment agencies**
- Fair, transparent and accurate terms and conditions in the **contract**, in the language the worker can understand
- **Recruitment fees** – no charging or imposing fees to the worker
- **Hiring criteria** met by the workers
- Pre-departure and post-arrival orientation, workers' **handbook, factory regulations** - paid their regular wage for time spent in **orientation training**
- **Documentation of workers** – non-retention of passport and other legal documents, ensure proper documentation of migrant workers
- **Grievance and other dispute resolution mechanisms** for workers should be available to those who may have suffered abusive treatment in the recruitment process
- Other fair recruitment practices – e.g. **training** for managers, supervisors and workers, **not resorting to labour recruiters to replace workers who are on strike**

▶ During employment

- Principles and guidelines on labour protection **apply to all workers** recruited in all situations
- Right to **freedom of association and collective bargaining** of recruited workers
- **Wage payments** – legally-compliant, regular and documented
- **Occupational safety and health** – Trainings, PPEs, hazard indicators, OSH Committee
- **Wage deductions and in-kind payments** – documented, legally-compliant, should not bind workers to employment; Payments-in-kind in any form including goods or services, accommodation, vouchers or coupons shall not be used as payment of wages. Workers shall not be compelled to purchase goods or services from any particular store or service provider assigned by employers.
- **Loans and advance payments to workers** – clear, documented agreement freely accepted by both parties. Documented payments. Must not bind workers to employment.

▶ During employment

- **Deposits from workers** - Reasonable amount and must not deter workers from leaving. The workers should be informed of the conditions for return of the deposit including the uniform be returned in reasonable condition, etc.
- **Working hours, rest days, holiday and leave** – national laws should be complied with; no forced overtime; no threats/penalty
- **Freedom of movement** – Movement restrictions should be aligned to government policies. Ensure that workers have access to telephones, or internet that would enable them to contact people from outside the quarantine facility, are able to leave the premises as allowed by government regulations (e.g. essential needs); Do not lock the doors to the workplace (even during work hours) or dorms to prevent workers from leaving, do not use penalties to enforce a curfew.
- **Dialogue with workers and worker representatives/trade unions**

▶ During employment

- **Accommodation and health** – comply with Act 446, OSH Act and other COVID-19 related prevention policies
- **Passport and personal possessions** – comply with Passport Act and also the implementing regulations for Act 446 that requires employers to provide workers with storage in their accommodations
- Onsite **migrant workers' coordinator**
- **Disciplinary and grievance measures** - strict policy on preventing violence, harassment, abuse and coercion; formal complaints mechanism that allows anonymous reporting and protects whistle-blowers

► Post-employment

- **Termination of employment** – standard notice of termination by either party in accordance to the Employment Act or the terms and conditions of the contract, they should also provide clear provisions for premature termination by either party and penalty or compensation, if applicable, to ensure fairness for both parties
- **Final wages** - workers should receive all outstanding remuneration, including wages, bonus and overtime pay, or other benefits for work performed, including severance payments normally due, prior to repatriation
- **Repatriation** - employers should pay for the cost of the workers' return airfare to the source country as part of the repatriation process
- **Dialogue with workers and worker representatives/trade unions**

▶ Thank you for your attention.