Abolition of Forced Labour Convention

Canada ratified the Abolition of Forced Labour Convention, 1957 on 14 July 1959.
Adoption: The Convention was adopted by the General Conference of the International Labour Organization on 25 June 1957.
Entry into force: 17 January 1959
Number of signatories and ratifications/accessions: 175 countries have ratified the Abolition of Forced Labour Convention, 1957.

Summary information

The efforts of the international community to limit and abolish the use of forced labour include three instruments: the Forced Labour Convention, 1930; the Abolition of Forced Labour Convention, 1957; and the Protocol of 2014 to the Forced Labour Convention, 1930.

While the Slavery Convention adopted by the League of Nations in 1926 undertook to abolish that obscene practice, there was concern that the existence of compulsory or forced labour in areas under colonial administration could develop in conditions analogous to slavery. The International Labour Organization was requested by the League to study the issue which led to the Forced Labour Convention, 1930.

During the Second World War there was an increase in forced labour, not only in colonial territories but also in independent countries and this resulted in initiatives to prohibit the practice in all countries. In 1951, ECOSOC and the ILO formed an *Ad Hoc* Committee on forced labour to study the extent of the problem particularly as a means of political coercion or punishment for holding or expressing political views and also for economic purposes. The International Labour Conference in 1956 agreed on the need for a new international instrument in the form of a convention to cover these forms of forced labour.

The Abolition of Forced Labour Convention, 1957 was adopted by the General Conference of the International Labour Organization on 25 June 1957. It entered into force in January 1959, twelve months after the date on which the ratifications of two members of the ILO were registered with the Director-General.

The Convention requires that Members of the ILO that ratify it must immediately abolish of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views, as a method of mobilizing and using labour for purposes of economic development, as a means of labour discipline or having participated in strikes and as a means of racial, social, national or religious discrimination.

History

While the Slavery Convention adopted by the League of Nations in 1926 undertook to abolish slavery, there was concern that the existence of compulsory or forced labour in areas under colonial administration could develop in conditions analogous to slavery. The International Labour Organization, in response to a request from the League, studied the situation with respect to forced labour in areas under colonial rule by various countries, including the regulations already put in place by these countries. The report of the ILO study led to the adoption of the Forced Labour Convention, 1930 in June 1930 by the 14th Session of the International Labour Conference. The Convention entered into force in May 1932.

The Recruiting of Indigenous Workers Convention, 1936, the Contracts of Employment (Indigenous Workers) Convention, 1939 and the Penal Sanctions (Indigenous Workers) Convention, 1939 were subsequently adopted by the International Labour Conference and were intended to provide further protection to indigenous workers under colonial administration. The first of these conventions entered into force in 1939, while the latter two did not enter into force until 1948.

While the economic crisis of the 1930s resulted in reduced labour in colonial territories, including forced labour, the Second World War reversed that trend and saw an increase in forced labour, not only in colonial territories but also in independent countries. As a result, following the war, there were initiatives to prohibit compulsory labour in all countries. The ILO brought to the attention of all governments that the Forced Labour Convention was intended to apply to forms of forced labour found in independent countries and in 1948 the ILO's Governing Body started to require reports on the adherence to the Forced Labour Convention, 1930 even from States Members that had not yet ratified it.

On another front, the USA proposed text to be included in the *Universal Declaration of Human Rights* that "no one shall be held in slavery, nor be required to perform compulsory labour in any form other than as part of a punishment pronounced by a competent judicial tribunal." While the final text of the Declaration did not retain these words, it did affirm the universal right to "free choice of employment" without referring to forced or compulsory labour.

In 1947, the American Federation of Labor suggested, in a letter to the UN Economic and Social Council (ECOSOC), that the ILO be asked "to undertake comprehensive survey on the extent of forced labour in all Member States of the United Nations and to suggest positive measures, including a revised Convention and measures for its implementation, for eliminating forced labour." In 1949, ECOSOC requested that the UN Secretary-General work with the ILO to determine to what extent Governments would be willing to cooperate "in an impartial investigation into the extent of forced labour in their countries, including the reasons for which persons were made to perform forced labour and the treatment accorded them."

In 1951, ECOSOC invited the ILO to join in forming an *Ad Hoc* Committee on forced labour of not more than 5 independent members to study "the nature and extent of the problem raised by the existence in the world of systems of forced or 'corrective' labour, which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country" and to report back to ECOSOC and the ILO. The Committee reported back in 1953. The Committee found forms of forced labour both in territories under colonial administration and in independent countries.

Forced labour as a means of political coercion was found to be established in several countries "where a person may be sentenced to forced labour for the offence of having in some way expressed his ideological opposition to the established political order, or even because he is only suspected of such hostility; when he may be sentenced by procedures which do not afford him full rights of defence, often by a purely administrative order; and when, in addition, the penalty of forced labour to which he is condemned is intended for his political 'correction' or 're-education', that is, to alter his political convictions to the satisfaction of the government in power." The Committee added that such a system is "a violation of the fundamental rights of the human person as guaranteed by the Charter of the United Nations and proclaimed in the Universal Declaration of Human Rights."

The Committee also found systems of forced labour for economic purposes to be present in various counties and, "while less seriously jeopardising the fundamental rights of the human person", they "are no less a violation of the Charter of the United Nations and the Universal Declaration of Human Rights."

The Committee concluded that its enquiry had "revealed the existence of facts relating to systems of forced labour of so grave a nature that they seriously threaten fundamental human rights and jeopardise the freedom and status of workers in contravention of the obligations and provisions of the Charter of the United Nations" and recommended "that these systems of forced labour, in any of their forms, should be abolished, to ensure universal respect for, and observance of, human rights and fundamental freedoms."

A questionnaire on the potential points that might be dealt with in a new "international instrument" on forced labour was sent to the Members of the ILO in 1955. The answers to the questionnaire revealed a general consensus that forced or compulsory labour should be abolished:

- as a means of political coercion or education or as a punishment for holding or expressing political views;
- as a normal method of mobilising labour for purposes of economic development; and
- as a means of labour discipline.

Subsequently, at the 39th session of the International Labour Conference in 1956, there was a high degree of unanimity on the need for a new international instrument to cover

these forms of forced labour and that the new instrument should take the form of a Convention.

The Abolition of Forced Labour Convention, 1957 was adopted by the adopted at the 40th Session of the International Labour Conference on 25 June 1957 by 240 votes to nil with one abstention (USA) and entered into force in January 1959, twelve months after the date on which the ratifications of two members of the ILO were registered with the Director-General.

Key Provisions

There are two main provisions in the Convention.

Firstly, each Member of the ILO that ratifies the Convention must undertake "to suppress and not to make use of any form of forced or compulsory labour":

- as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- as a method of mobilizing and using labour for purposes of economic development;
- as a means of labour discipline;
- as a punishment for having participated in strikes; and
- as a means of racial, social, national or religious discrimination.

Secondly, each Member that ratifies the Convention "must take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified" above.

The Abolition of Forced Labour Convention, 1957 was adopted by the General Conference of the International Labour Organization on 25 June 1957. It entered into force in January 1959, twelve months after the date on which the ratifications of two members of the ILO were registered with the Director-General. It comes into force for any Member twelve months after the date on which the ratification is registered with the International Labour Office.

Canada's Commitments and Responsibilities
Canada ratified the Convention in 1959.

Interestingly, although Canada had helped develop the Convention of Forced Labour, 1930 and voted to adopt it at the International Labour Conference in 1930, it did not ratify that Convention until 13 June 2011.

In June, 2014 the International Labour Conference adopted the Protocol of 2014 to the Forced Labour Convention, 1930, a legally binding ILO protocol on forced labour, aimed at advancing "prevention, protection and compensation measures, as well as to

intensify efforts to eliminate contemporary forms of slavery.” Canada has yet to ratify the 2014 Protocol.

International Monitoring and Implementation

The Abolition of Forced Labour Convention, like other international labour standards, is backed by a supervisory system to ensure that countries implement the conventions they ratify and to indicate where the standards could be better applied. There are two kinds of supervisory mechanism:

- The regular system of supervision: examination of periodic reports submitted by Member States on the measures they have taken to implement the provisions of a ratified Convention; and
- Special procedures: a representations procedure and a complaints procedure.

The ILO set up the Committee of Experts on the Application of Conventions and Recommendations in 1926 to examine the growing number of government reports on ratified conventions. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

Today the Committee of Experts is composed of 20 eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. There are no Canadian experts currently serving on the Committee.

“When examining the application of international labour standards the Committee of Experts makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned.”

“The annual report of the Committee of Experts, usually adopted in December, is submitted to the International Labour Conference the following June, where it is examined by the Conference Committee on the Application of Standards. A standing committee of the Conference, the Conference Committee is made up of government, employer, and worker delegates. It examines the report in a tripartite setting and selects from it a number of observations for discussion. The governments referred to in these comments are invited to respond before the Conference Committee and to provide information on the situation in question. In many cases the Conference Committee draws up conclusions recommending that governments take specific steps to remedy a problem or to invite ILO missions or technical assistance. The discussions and conclusions of the situations examined by the Conference Committee are published in its report. Situations of special concern are highlighted in special paragraphs of its General Report.”

Special Procedures

There are two types of special procedures:

The Representations procedure "grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, 'has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party'. A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response."

Under the Complaints procedure "a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them. To date, 11 Commissions of Inquiry have been established."

A Commission of Inquiry was held as a result of a 1961 complaint against the Government of Portugal by the Government of Ghana concerning the observance by Portugal of the Abolition of Forced Labour Convention, 1957 in the territories of Mozambique, Angola and Guinea. It was held that Portugal had not completely complied with the Convention.

It should be noted that the Convention has been cited in a recent court case in Zambia.

Canada is scheduled to provide a report in 2017 and again in 2020 on the measures which it has taken to give effect to the provisions in the Abolition of Forced Labour Convention. From 1990 to 2007, the Committee of Experts made a series of Observations with respect to the *Canada Shipping Act* under which penalties of imprisonment involving compulsory labour could be imposed for breaches of discipline in circumstances where the safety of the ship or the life or health of persons are not endangered. The new *Canada Shipping Act, 2001*, which came into force in 2007, deleted the obligation to perform prison labour for these offences.

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