

Protocol of 2014 to the Forced Labour Convention, 1930

Canada has not ratified the Protocol of 2014 to the Forced Labour Convention, 1930.

Adoption: The Protocol was adopted by the General Conference of the International Labour Organization on 11 June 2014.

Entry into force: 9 November 2016

Number of signatories and ratifications/accessions: 7 countries have ratified the Protocol of 2014 to the Forced Labour Convention, 1930.

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 into conditions analogous to slavery. The International Labour Organization was requested by the League to study the issue which led to the ILO's 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, UN Economic and Social Council (ECOSOC) and the ILO formed an *Ad Hoc* Committee on forced labour to study the extent of the problem. This study led to the Abolition of Forced Labour Convention, 1957 which requires that Members of the ILO that ratify the convention to immediately abolish 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 for having participated in strikes and as a means of racial, social, national or religious discrimination.

Since the adoption of the Abolition of Forced Labour Convention, 1957, new forms of forced labour have emerged, particularly those affecting women and girls, such as human trafficking for purposes of sexual exploitation and for domestic work, and gaps have been found in the coverage of the two existing ILO forced labour conventions, particularly in the areas of prevention and victim protection, including compensation.

As a result, there were initiatives to determine how best to address these issues, particularly at the 101st Session of the International Labour Conference in 2012. The results of a questionnaire sent to the member States showed a strong majority of

respondents favoured a Protocol or a Protocol with a Recommendation to the Forced Labour Convention, 1930.

The Protocol of 2014 to the Forced Labour Convention, 1930 was adopted by governments and worker and employer delegates at the 103rd International Labour Conference on 11 June 2014. The Protocol requires member States to take effective measures to prevent and eliminate forced or compulsory labour, to provide protection to victims and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.

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 into 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 member States that had not yet ratified it.

Following a suggestion from the American Federation of Labor, in 1951, the UN Economic and Social Council (ECOSOC) invited the ILO to join in forming an Ad Hoc Committee on forced labour 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.” The Committee reported back in 1953 with findings that such forms of forced labour exist both in territories under colonial administration and in independent countries.

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.”

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 at the 40th Session of the International Labour Conference in June 1957 and entered into force in January 1959. The Convention requires Members of the ILO, which ratify it, to 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 for having participated in strikes and as a means of racial, social, national or religious discrimination.

There have emerged new forms of forced labour since the adoption of the Abolition of Forced Labour Convention, 1957, particularly those affecting women and girls, such as human trafficking for purposes of sexual exploitation and for domestic work. As well, forced labour through economic exploitation, involving primarily men and boys, continued in the areas of agriculture, construction and mining. In addition, there had been gaps found in the coverage of the two existing ILO forced labour conventions, particularly in the areas of prevention and victim protection, including compensation.

As a result, there were initiatives to determine how best to address these issues, particularly discussion at the 101st Session of the International Labour Conference in 2012 and by the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation in 2013. Consideration was given as to whether a third convention, a protocol to an existing convention or merely a new recommendation would be required. A summary report on the law and practice in member states was prepared and a questionnaire was sent to the representatives of the member states to get their views on how to proceed as well as the possible text for the new instrument. A strong majority of respondents favoured a Protocol or a Protocol with a Recommendation to the Forced Labour Convention, 1930.

The Protocol of 2014 to the Forced Labour Convention, 1930 was adopted by governments, worker and employer delegates at the 103rd International Labour Conference on 11 June 2014 with 437 votes for, 27 abstentions and 8 against. The Government of Thailand was the only country to vote against adoption of the Protocol on that day but reversed its position shortly thereafter.

Key Provisions

The Protocol retains the definition of forced or compulsory labour from the Forced Labour Convention, 1930. Forced or compulsory labour is defined 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 Protocol begins by stating that member States must take effective measures to prevent and eliminate forced or compulsory labour, to provide protection to victims and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour. The States are required to have a national plan of action developed in consultation with employers’ and workers’ organizations and involving systematic action by competent authorities.

Key measures to be taken by member States for the prevention of forced or compulsory labour include:

- educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- ensuring there is legislation to prevent forced or compulsory labour and labour inspection services responsible for the implementation of the legislation; and
- protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process.

Member States are to take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour and ensure that they have access to appropriate and effective remedies, such as compensation. States are also to ensure that victims are not prosecuted for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour. Member States are to cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

The Protocol also deletes various transitional provisions in the Forced Labour Convention, 1930.

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The Protocol came into force on 9 November 2016, 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. Only ILO member states that have ratified the Forced Labour Convention, 1930 may ratify the Protocol of 2014.

The Forced Labour (Supplementary Measures) Recommendation, 2014 accompanied the Protocol and “provides non-binding practical guidance in the areas of prevention, protection of victims, and ensuring their access to justice and remedies, enforcement and international cooperation.” It supplements both the Protocol and the Forced Labour Convention, 1930.

Canada’s Commitments and Responsibilities

Canada ratified has not ratified the Protocol of 2014 to the Forced Labour Convention, 1930.

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. Canada ratified the Abolition of Forced Labour Convention, 1957 on 14 July 1959.

International Monitoring and Implementation

Member States that ratify the Protocol must submit a report every three years on measures they have taken to implement the Protocol. The reports are examined by the ILO supervisory bodies.

References

Slavery Convention

International Labour Conference – 14th Session

Forced Labour Convention, 1930

Recruiting of Indigenous Workers Convention, 1936

Contracts of Employment (Indigenous Workers) Convention, 1939

Penal Sanctions (Indigenous Workers) Convention, 1939

Report of the Ad Hoc Committee on Forced Labour

39th Session of the International Labour Conference – Report VI (1)

39th Session of the International Labour Conference – Report VI (2)

Abolition of Forced Labour Convention, 1957

101st Session of the International Labour Conference

Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation

103rd International Labour Conference, Strengthening action to end forced labour
Report IV 2(A)

103rd International Labour Conference, Strengthening action to end forced labour
Report IV 2(B)

Protocol of 2014 to the Forced Labour Convention, 1930

ILO adopts new Protocol to tackle modern forms of forced labour

Strengthening the global fight against all forms of forced labour

Applying and promoting International Labour Standards