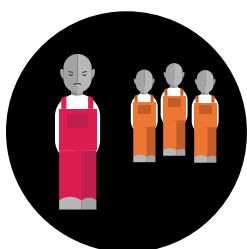


Guidance on Operational Practice & Indicators of Forced Labour

This document provides guidance on how to spot the signs of actual, likely or possible cases of forced labour for both auditors and audit readers. It proposes a list of indicators, based on operational practice, which either independently or in various combinations, can increase the risk of forced labour through a worker's employment cycle.



The guide also proposes that protecting possible victims and capturing and documenting evidence should be paramount to any key steps to be taken by auditors when forced labour is suspected or found. The guide can be used as a general reference tool by auditing bodies, ethical sourcing initiatives and brands to help their understanding forced labour risks and to enhance their existing audit protocols.

Empowering responsible supply chains

Sedex®

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Sedex would like to thank Stronger Together for lending us David Camp's leadership and expertise to the Working Group. Stronger Together was launched in 2013 as a collaborative business led initiative to equip employers and recruiters with the practical knowledge and resources to tackle modern slavery by providing free good practice guidance and tools through www.stronger2gether.org and to support industry to combat forced labour, labour trafficking and other hidden worker exploitation in their business and supply chains.

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INTRODUCTION

The International Labour Organization (ILO) estimates on its [website](#) that at least 21 million people worldwide are victims of forced labour. Of these, the ILO finds 14.2 million (or 68 per cent) are victims of forced labour exploitation in economic activities, such as agriculture, construction, domestic work or manufacturing. The risks to business are far reaching; the sixth edition of the U.S. Department of Labour's *List of Goods Produced by Child Labour or Forced Labour* includes 136 goods produced through these forms of labour abuse in 74 countries across the world.

Recent legislation, such as The UK's Modern Day Slavery Act, shows a growing recognition of the links between forced labour and the regulation of supply chains and adds to the rising pressure on businesses to address their impacts on human rights in their business and supply chains. Nothing can substitute for the critical role of governments and workers' organisations in ensuring compliance with labour standards, but in places where these mechanisms are not fully developed, private sector compliance initiatives fill an important gap. An effective social audit can make an important contribution to the identification, prevention and eradication of forced labour.

WHY IS THIS GUIDE NECESSARY?

In the [briefing](#) on Modern Day Slavery, Sedex highlights research showing forced labour is a common risk in the supply chain but that audit findings rarely raise it. The briefing provides many reasons why the problem is underreported in audits and why they may not be providing the full story, many of which fall outside the scope of a guide to solve. Forced labour can be notoriously difficult to stamp out. Supply chains are long and complex and often, companies don't have enough visibility or influence to address the problem. However, this document seeks to move us one step closer to the identification of forced labour, through guidance on the signs where forced labour is – or may be – an issue.

We seek to help to overcome some of the practical confusions around freedom of choice and freedom to leave in ILO definitions of forced labour. There is an important distinction to be made between forced labour and situations where people may be working in sub-standard employment. However, sometimes the difference may not be immediately clear. Forced labour occurs on a spectrum of exploitation. *Where does decent work end and labour exploitation begin, and where does labour exploitation end and forced labour begin?* In between the extremes, there are a variety of employment relationships in which the element of free choice by the worker begins at least to be mitigated or constrained, and can eventually be cast into doubt. The challenge for auditors is to draw the line between substandard working conditions and extreme forms of exploitation such as forced labour. This is because the majority of cases occupy a middle ground and are hard to fit into a straightforward 'forced labour – yes/no' category. Sometimes it is the combination of factors which lead to a forced labour situation.

This Guide has been produced for use by social auditors and businesses on how to spot the signs, by proposing a list of operational indicators of actual, likely or possible situations of forced labour. This document proposes a list of pragmatic operational indicators, which either independently or in various combinations, can increase the risk of forced labour through a worker's employment cycle. The guide also proposes that protecting possible victims and capturing and documenting evidence should be paramount to any key steps to be taken by auditors when forced labour is suspected or found.

HOW CAN THIS GUIDE BE USED?

Social auditors and audit readers can use this guide to collect and communicate data points that will, over time hopefully, facilitate greater comparability and broader reporting of risks across audits associated with this critical issue. Business can also use the guide to better understand the operational practices that increase workers' vulnerability to forced labour and where the risk of forced labour is more likely.

The guide can be used as a general reference tool by auditing bodies, ethical sourcing initiatives and brands to help their understanding forced labour risks and to enhance their existing audit protocols. Auditors and companies that hire them are encouraged to engage their employees and business partners to promote broader recording and reporting of forced labour risks in social audits, and to develop an implementation plan on how to incorporate the range of indicators proposed into their existing auditing systems in a manner that ensures victim protection and capturing evidence for follow-up investigation or remediation are paramount. There are some auditors and companies that are doing significantly more today and we expect as they adopt this guide they will naturally innovate and significantly improve on the recommendations.

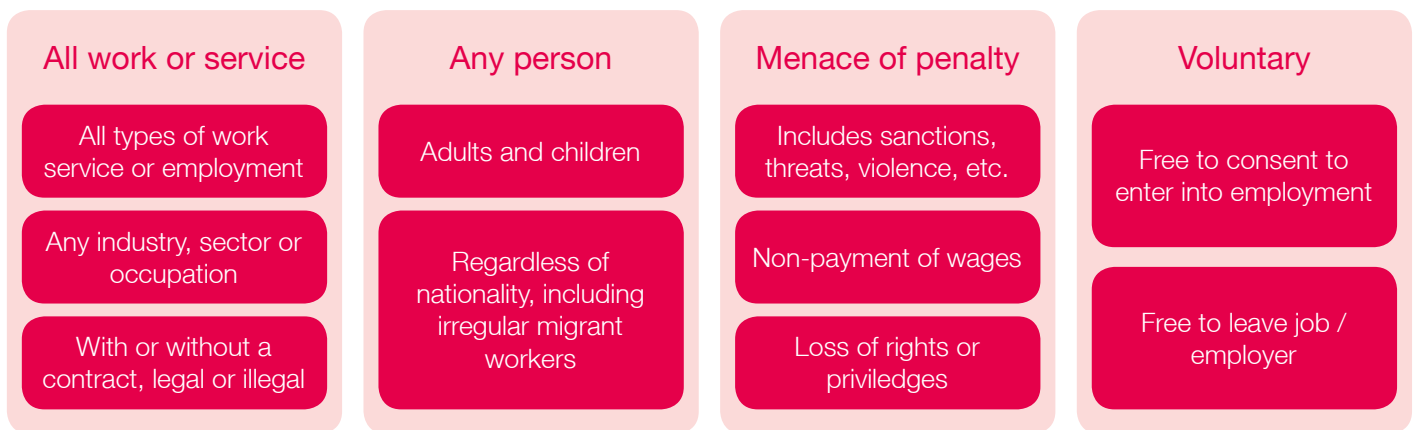
Please note that while implementing these indicators demonstrates good human rights due diligence practices, this guidance is not intended as a stand-alone document to conduct an audit, but rather as a supplement to audit companies' own systems as well as to the Sedex Members Ethical Trade Audit (SMETA) materials available from the Sedex web site. Moreover, the indicators are not exhaustive and are not intended to be used as a substitute for legal advice; consequently all liability for any claim or loss is excluded.

This Guidance on Operational Practice & Indicators of Forced Labour is a work in progress. We therefore encourage broad feedback on the document. As we learn from experience, we will review and improve the guidance and expand our tool set for members.

WHAT IS FORCED LABOUR?

According to the ILO's [Article 2.1 of the Forced Labour Convention No. 29](#), forced labour “shall mean *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 [or herself] *voluntarily*.” The key elements of the definition are in the figure below.

Figure: Key Elements of the Forced Labour Definition



Source: [ILO's Combating Forced Labour: A Handbook for Employers and Business](#)

The ILO has explained that forced labour is determined by the nature of the relationship between a person and an ‘employer’ and not by the type of work performed or the legality of the work. In its guidance, “[Indicators of Forced Labour](#)”, the ILO categorises eleven indicators of forced labour:

- | | | | |
|--|------------------------------|---|---------------------------------------|
|  | Abuse of vulnerability |  | Retention of identity documents |
|  | Deception |  | Withholding of wages |
|  | Restriction of movement |  | Debt bondage |
|  | Isolation |  | Abusive working and living conditions |
|  | Physical and sexual violence |  | Excessive overtime |
|  | Intimidation and threats | | |

WHAT ARE THE “ALERT SIGNS” THAT MAY INDICATE POTENTIAL OR ACTUAL FORCED LABOUR?

There are significant challenges involved in translating the ILO’s concept into a practicable footing in social audits. Aware of the nebulous real-world boundaries between forced labour and more general exploitation, and of the fact that modern forms of forced labour extends beyond the main ILO 11 indicators, we set out to devise a longer list of forced labour indicators. This guidance builds on the ILO list and provides a range of “Operational Practices and Indicators” which auditors may uncover during audits.

The proposed indicators offer a range of “monitoring measures” or “alert flags” that may be used to help identify actual, likely or possible situations of forced labour. In essence they provide common examples of the practices employers engage in that – if severe or numerous enough – or if brought together – can lead to forced labour situations. They also identify the negative outcomes resulting from workers experiencing forced labour.

To assist auditors in their approach, this guidance groups these practices and indicators into the employment cycle and proposes definitions within that cycle that characterise the elements of forced labour. See the figure below.

Figure: Forced Labour Risk Factors – The Employment Cycle



For each indicator proposed, the ILO's 11 indicators (see page 7 of this document) are linked as well as its applicable ILO definitional element.

Each indicator is also marked to show its strength or significance, as follows:



Definite indicator, which warrants a finding of non-compliance with the “Employment is Freely Chosen” standard.



Strong indicator, which signals an increased risk for forced labour, but further investigation may be needed to determine the context and any interplay with other indicators, in order to establish whether or not it rises to the level of forced labour.



Possible indicator, which if found alongside other possible indicators, may warrant further investigation.

Columns are also added to demonstrate who does it in order to show the different contexts in which forced labour is possible, as follows:



Employer-led exploitation is exploitation of job applicants and workers by the employer.










Intermediary led exploitation is by an employer endorsed labour provider or other formal or informal recruitment intermediary.




Hidden third party labour exploitation occurs where one person holds a position of power over another and abuses that position for personal gain. It usually takes place largely in an informal, unregulated way at a stage before the recognised labour supply chain. In other words, these workers are often “introduced” to employers or labour providers, who are often unaware of the risk that the workers are being controlled by exploitative individuals. It also occurs during employment by exploitative individuals or gangs acting covertly without the employer’s knowledge.



















Deceptive or Coercive Recruitment						
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments	
Recruiter or employer employs coercive recruitment practices, which physically (abduction, confinement) or psychologically control the worker during recruitment process	Definite	Recruiter, Employer	Intimidation & threats, restriction of movement	Involuntariness	Deception relates to the failure to deliver what has been promised to the worker, either in verbally or in writing. The worker could be in a forced labour situation if they have entered into a job through deception or false promises made at the time of recruitment and hiring with regard to the terms and conditions of employment, including job type, availability of work, location, and length of contract, or salary and benefits, as well as housing and living conditions, or the acquisition of regular migration status, job location or the identity of the employer. Children may be recruited through false promises surrounding school attendance or frequency of parent visits, etc. If then, the worker's freedom to leave the employment at any time is restricted in any way, the worker would be in a forced labour situation.	
Job adverts (particularly for jobs requiring migration) are misleading about the job, job location, employer, working conditions, employment contract terms, wages or earnings	Strong	Recruiter, Employer	Abuse of vulnerability, Deception	Involuntariness		
Worker contract or oral representations misrepresents employment relationship or entitlements and/or workers are asked to sign contract which may be misrepresentative	Strong	Recruiter, Employer	Abuse of vulnerability, Deception	Involuntariness		
Nature of the work, working conditions, employment terms, living costs or wages/earnings are worse than those indicated to workers, including migrant workers, at the point of job application and/or after contract signed	Strong	Recruiter, Employer	Abuse of vulnerability, Deception	Involuntariness	The worker could be in a forced labour situation if the original contract provisions agreed to at the time of recruitment are replaced by provisions less favourable to the worker, either one or more times over the course of the hiring and deployment process (e.g., "contract substitution") or once the worker arrives at the worksite through so-called "supplemental agreements." No contract substitution for materially worse conditions (e.g., different product facility, undisclosed fees for housing or food, lower wages, etc.) should be allowed for migrant labour between home departure and start of work.	
The terms and conditions of employment agreed upon at the time of recruitment are not those contained in the employment contract. Changes have been made without the knowledge or consent of the worker	Strong	Recruiter, Employer	Abuse of vulnerability, Deception	Involuntariness		










Deceptive or Coercive Recruitment					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Workers are being fraudulently charged fees for food, clothing, transportation (bus or airplane tickets and boat rides), health checks, work documentation and/or supplies as part of their recruitment	 Strong	 Recruiter, Employer, Hidden	 Abuse of vulnerability	Involuntariness	
Workers are required to sign blank papers, resignation letters etc., which could lead to workers being tied to terms and conditions of employment they did not consent to	 Strong	 Recruiter, Employer, Hidden	 Abuse of Vulnerability, Deception	Involuntariness	The worker could be in a forced labour situation if they have entered into a job through deception about the type/terms for work, indicating a lack of consent. If then, the worker's freedom to leave the employment at any time is restricted in any way the worker would be in a forced labour situation.
Key employment terms and conditions are systematically not provided prior to employment to workers in understandable writing and in their own language via letter/agreement/contract as required by law	 Possible	 Recruiter, Employer	 Abuse of vulnerability, Deception	Involuntariness	The ILO states all workers should have written contracts, in a language that they easily understand, specifying rights with regard to payment of wages, overtime, retention of identity documents and other issues related to preventing forced labour. If terms/conditions were verbally given and the actual contract mirrors, then it would not necessarily be an indication.
Back to back contracts provided by different actors in the recruitment process do not match (e.g., one with agency in home country and another upon arrival)	 Possible	 Recruiter	 Abuse of vulnerability, Deception	Involuntariness	
















Deceptive or Coercive Recruitment



Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
There are multiple labour brokers and agents from recruitment to employment	 Possible	 Recruiter, Employer	 Abuse of vulnerability, Deception	Involuntariness	
Job advertisements and/or application documents are completed in a better standard of – or in a different language than – the worker possesses	 Possible	 Recruiter, Employer	 Abuse of vulnerability	Involuntariness	An additional difficulty here is that due to flawed recruitment practices sometimes workers do not possess the skills or abilities to undertake the role they were recruited for and therefore end up working in a lesser job at a lower rate than they anticipated. If then, the worker's freedom to leave the employment at any time is restricted in any way the worker would be in a forced labour situation
Workers are uninformed or misinformed about terms of employment. Terms of contract are systematically not explained verbally to workers so they can understand employment letter/ agreement/contract	 Possible	 Recruiter, Employer	 Abuse of vulnerability	Involuntariness	
No systems in place to identify and prevent forced labour in their recruitment and hiring practices and/or to ensure compliance with local, national or international laws on employment is freely chosen labour, including no monitoring of agency workers, temporary/casual/contractor labour	 Possible	 Employer		Involuntariness	While it is only a possible indicator of forced labour risks, it is likely to be a non-compliance as many supplier and buyer codes require management systems, and management systems are critical to ensuring compliance with the law. Worker testimony and lack of documentation can often be cited in support.










Employment under Menace of Penalty					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Undocumented migrant workers have been subjected to threats of being returned to their home country and/ or reported to the authorities if they leave employment	 Definite	 Employer, Hidden	 Intimidation & Threats, Abuse of Vulnerability	Menace of Penalty	Victims of forced labour may suffer intimidation and threats when they complain about their conditions or wish to quit their employment. According to the ILO, this can constitute a form of psychological coercion, designed to increase a worker's sense of vulnerability. The ILO states that the credibility and impact of the threats must be evaluated from the worker's perspective, taking into account his or her individual belief, age, cultural background and social or economic status.
Workers are led to believe that if they do not comply with what is being asked of them their families will be subject to physical, social or financial retribution in their home country	 Definite	 Employer, Hidden	 Intimidation & Threats, Physical Violence, Abuse of Vulnerability	Menace of Penalty	
Workers are controlled through religion, jujū, witchcraft etc. or by violence or threats to self, family or others	 Strong	 Recruiter, Employer, Hidden	 Intimidation & Threats, Physical Violence	Involuntariness	
Workers are coerced/forced to fraudulently claim for social security benefits and/or take out loans/ credit agreements	 Strong	 Hidden	 Intimidation & Threats, Abuse of Vulnerability	Involuntariness	
Workers are subjected to physically abusive or humiliating forms of discipline	 Strong	 Employer, Hidden	 Intimidation & Threats, Physical Violence	Menace of Penalty	













Employment under Menace of Penalty					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Security guards control workforce, restricting freedom of movement beyond what is considered reasonable	 Strong	 Employer	 Restriction of movement, Intimidation & Threats	Involuntariness	Restriction of freedom of movement could constitute a bar to leaving the work relationship, raising the question of voluntariness. According to the ILO, if workers are not free to enter and exit the work premises, subject to restrictions which are considered reasonable, this represents a strong indicator of forced labour.
Unreasonable restrictions on leaving or re-entering premises (including accommodation) e.g. requiring permissions or deposits, such as when shift ends or on days off	 Strong	 Employer	 Restriction of movement, Intimidation & Threats	Involuntariness	ILO provides that legitimate restrictions might include those related to protection of the safety and security of workers in hazardous work sites.
Workers movements are controlled outside the workplace by agents of their employers who accompany them when they leave the site	 Strong	 Employer, Hidden	 Restriction of movement	Involuntariness	
Employer punishes or threatens to remove privileges (such as promotion potential) or extra work for workers who do not cooperate	 Strong	 Employer	 Intimidation & Threats	Menace of Penalty	
Workers required to stay in company or broker controlled housing and are unable to enter or leave the premises freely	 Strong	 Employer, Hidden	 Restriction of movement	Involuntariness	
The employer, employment agent or a third party individual restricts workers communication	 Strong	 Employer, Recruiter, Hidden	 Abuse of Vulnerability	Menace of Penalty	Workers' communication can be restricted by confiscating mobile phones, isolating workers from others, restricting movement in the workplace or living quarters, or by constant surveillance













Employment under Menace of Penalty					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Workers have to work more overtime for fear of some detriment (e.g., dismissal, reduced future work, pay cuts, demotion)	 Strong	 Employer	 Excessive Overtime, Abuse of Vulnerability	Menace of Penalty	The ILO states that the imposition of overtime does not constitute forced labour within the limits permitted by legislation or collective agreements. Above those limits, it is appropriate to examine the circumstances in which a link arises between obligatory overtime and forced labour. Although workers may in theory be able to refuse to work beyond normal working hours, their vulnerability means that in practice they may have no choice and are obliged to do so in order to earn the minimum wage or keep their jobs, or both. The ILO states that in cases in which work or service is imposed by exploiting the worker's vulnerability, under the menace of a penalty, dismissal or payment of wages below the minimum level, such exploitation ceases to be merely a matter of poor conditions of employment; it becomes one of imposing work under the menace of a penalty which calls for protection of the workers.
Child workers are used	 Possible	 Employer	 Withholding of wages	Involuntariness	
Workers are reluctant to leave the facility and seek help. They show signs of distress when dealing with people from the outside. This is compounded by language / cultural barriers	 Possible	 Recruiter, Employer, Hidden	 Abuse of Vulnerability, Isolation	Involuntariness	According to the ILO, anyone can be a victim of forced labour; however people who lack knowledge of local laws, have few livelihood options, belong to a minority, or ethnic group, have a disability or have other characteristics that set them apart from the majority population are especially vulnerable. It is when an employer takes advantage of a worker's vulnerable position that a forced labour may arise.










Employment under Menace of Penalty						
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments	
Workers are fined for, often arbitrary, rule breaking; Unreasonable policy & practice of fining workers for rule breaking	 Possible	 Employer, Hidden	 Withholding of wages	Menace of Penalty		
Workers look to or allow someone else to speak on their behalf and/or act as if instructed by someone else	 Possible	 Recruiter, Employer, Hidden	 Abuse of Vulnerability, Isolation	Involuntariness		
Workers show signs of either psychological or physical abuse. They may appear frightened, withdrawn and confused. Workers show signs of physical abuse. They may have injuries that seem to be the result of an assault, old or untreated wounds, and/or appear dirty and malnourished	 Possible	 Employer, Hidden	 Intimidation & Threats, Physical or Sexual Violence	Involuntariness		
Workers do not know or provide false information: accommodation addresses, and/or name or address of their employer and/or name or address of the location where they are working	 Possible	 Recruiter, Employer, Hidden	 Isolation	Involuntariness		
Geographic, social, cultural, or even language isolation are present that trap migrant workers at a work site	 Possible	 Employer	 Isolation	Involuntariness		













Employment under Menace of Penalty					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
No systems in place to identify and prevent forced labour in their employment practices and/or to ensure compliance with local, national or international laws on employment is freely chosen labour	 Possible	 Employer		Involuntariness and/or Menace of Penalty	While it is only a possible indicator of forced labour risks, it is likely to be a non-compliance as many supplier and buyer codes require management systems, and management systems are critical to ensuring compliance with the law. Worker testimony and lack of documentation can often be cited in support.



















Debt/Wage Entrapment & Termination Prevention					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Workers cannot leave employment until they have worked to pay off debts owed to the employer.	 Definite	 Employer	 Debt Bondage, Withholding of wages	Involuntariness	Forced labourers are often working in an attempt to pay off an incurred (or sometimes inherited) debt during recruitment or employment. The debt can arise from wage advances or loans to cover recruitment or transport costs or from daily living or emergency expenses, such as medical costs.
Workers cannot leave employment until they have worked to pay off debts owed to the labour broker or other intermediary who has facilitated the work, for transport, accommodation or other services	 Definite	 Recruiter, Employer	 Debt Bondage, Withholding of wages	Involuntariness	According to the ILO, debt bondage, or bonded labour, reflects an imbalance in power between the worker and employer or its labour provider or external agent. It has the effect of binding the worker to the employer for an unspecified or excessive period of time and often bears no resemblance to the "normal" loan from a bank or other independent lender for repayment.
Workers cannot leave employment until they have worked to pay off debts owed to a third party individual unconnected with the work who controls them or who has managed them into debt	 Definite	 Hidden	 Debt Bondage, Withholding of wages	Involuntariness	












Debt/Wage Entrapment & Termination Prevention					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Employer inflates workers' indebtedness or ensures they have minimal or no income	 Definite	 Employer	 Debt Bondage, Withholding of wages	Involuntariness	Employers – or recruiters – can also make it difficult for workers to escape from the debt. Induced or inflated indebtedness, or compounded debts can result of many factors such as by falsification or manipulation of accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, charging excessive interest on loans or advances to workers, etc.
Substantial loans held by workers, with excessive interest rates and/or onerous financing schemes and/or unreasonable and/or unlawful terms and conditions of repayment	 Definite	 Recruiter, Employer, Hidden	 Debt Bondage, Withholding of wages	Involuntariness	
Pay, including earned holiday pay, is contingent on the worker not leaving employment before working a minimum or set period of time; Withholding of wages for early contract termination	 Definite	 Employer	 Withholding of wages	Menace of Penalty	The ILO principle, that states all work relationships should be founded on the mutual consent of the contracting parties, implies that both may leave the work relationship at any moment, subject to giving reasonable notice in accordance with national law or a collective agreement. If the worker cannot withdraw his/her consent, without fear of suffering a penalty, the work may be considered to be forced labour, starting from the moment he or she has been denied the right to stop working.
Monetary fines or deductions are levied if a worker does not work a minimum or set period of time	 Definite	 Employer	 Withholding of wages	Menace of Penalty	

Debt/Wage Entrapment & Termination Prevention					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
The employer, employment agent or a third party individual, is in control of worker's original identification papers, and/or travel documents and/or or other personal possessions; workers are unable to access these items on demand and/or they feel that they cannot leave the job without risking their loss	 Definite	 Employer, Recruiter, Hidden	 Retention of identity documents	Menace of Penalty	Retaining the identity documents of migrant workers does not, of itself, constitute forced labour. Employers often rationalize that they are holding passports or other official documents for safekeeping, but in fact workers often do not feel comfortable requesting access to their documents, and/or the process for gaining access to their documents is onerous and intimidating. Without papers, a migrant worker cannot freely and safely move about or leave a host country, and is at risk of imprisonment if stopped and questioned by police. If it is a legal requirement to retain original documents, workers should give their written consent and there should be systems in place to ensure they can retrieve their documents at any time.
Outstanding payments due to workers on termination are not paid (or paid later than the next payroll run)	 Strong	 Employer	 Withholding of wages	Menace of Penalty	Workers may be obliged to remain with an employer longer than agreed while waiting for the wages that are owed to them. According to the ILO, irregular or delayed payment of wages do not automatically imply a forced labour situation. But when wages are systematically and deliberately withheld, and deny a worker the opportunity to change employer, this points to forced labour.
Pay period intervals are longer than one month or wages are paid more than one pay period in arrears; delayed/withheld wages	 Strong	 Employer	 Withholding of wages	Menace of Penalty	
Notice period required from the worker is in excess of the pay period and contrary to law	 Strong	 Employer	 Withholding of wages	Menace of Penalty	

Debt/Wage Entrapment & Termination Prevention					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Workers have to pay their own costs to return to country of origin if they do not complete contract term	 Strong	 Employer, Recruiter, Hidden	 Withholding of wages	Menace of Penalty	
Workers cannot terminate their labour contract until after a specified period of time has passed after training or other benefit has been paid by employer	 Strong	 Employer	 Debt Bondage, Withholding of wages	Involuntariness	
Workers believe they are obliged to work without pay or for low pay to repay a favour or service or for some other reason	 Strong	 Recruiter, Employer, Hidden	 Debt Bondage, Withholding of wages	Involuntariness	

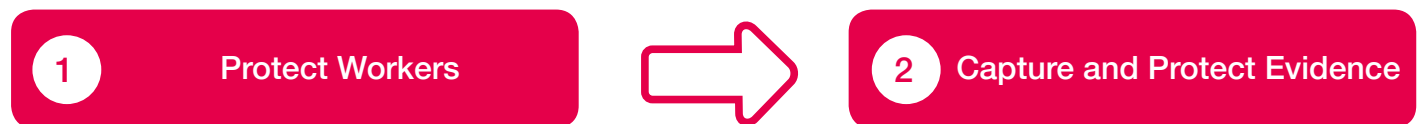
Debt/Wage Entrapment & Termination Prevention					
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments
Workers have to pay off (unreasonable) debts owed to an employment/work finding agent for work finding, transport or other fees	 Strong	 Recruiter, Employer	 Debt Bondage, Withholding of wages	Involuntariness	Employers can also make it difficult for workers to leave employment due to induced or inflated indebtedness
Workers are required to sign up to an excessively long period of accommodation rental or lodge excessive deposits with financial penalties for early leaving of employment or accommodation	 Strong	 Employer	 Withholding of wages	Menace of Penalty	
Workers receive payment in kind (accommodation, tokens, vouchers, etc.) which exceeds an unreasonable % of wage	 Strong	 Employer	 Withholding of wages	Involuntariness	
Workers have wages paid into someone else's bank accounts; or workers are not in control of their own bank accounts	 Strong	 Recruiter, Employer, Hidden	 Abuse of vulnerability; Withholding of wages	Involuntariness	Employer or recruiter access to workers' bank accounts creates powerful leverage for the employer or recruiter over the worker. A worker may feel trapped in his job because she/he fears that her/his earnings will be taken away if she/he complains or attempts to leave.

Debt/Wage Entrapment & Termination Prevention						
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments	
Deductions are made from workers' pay by the employer without worker's consent/knowledge and which are not provided for by national law	 Strong	 Employer	 Withholding of wages	Involuntariness	These schemes often significantly deplete a worker's take-home pay and ability to pay off debt	
Forced savings programs in place – where a portion of the worker's salary is withheld and deposited into a savings account to which the worker does not have access until her term of work is complete	 Strong	 Employer	 Withholding of wages	Involuntariness		
Migrant workers visa and work permit is tied to a single employer	 Possible	 Employer	 Abuse Vulnerability	Involuntariness	This is legal practice in many countries – and an auditor may likely need to link this risk with other indicators.	
Migrant workers are forced to pay for return travel to their home countries	 Possible	 Employer	 Withholding of wages	Involuntariness		
Proportion of wages are withheld and paid at the end of the year	 Possible	 Employer	 Withholding of wages, Deception	Menace of Penalty		
Evidence of deliberate incomplete or falsification of wage and/or working hours records (e.g., double books); Wages and/or hours worked could not be verified or workers paid in such a way that wages cannot be verified	 Possible	 Employer	 Withholding of wages, Deception	Involuntariness		

Debt/Wage Entrapment & Termination Prevention						
Indicator	Strength	Model	Applicable ILO Indicator	ILO Definition Element	Comments	
Monetary deposits required and/or wage deductions made for essential work-related items that should be met by the employer	 Possible	 Employer	 Withholding of wages, Deception	Involuntariness	If deductions are allowed under law and/or customer requirements deductions should not take worker wages below minimum wage.	
Workers have not been given a free choice in where they live and will lose their accommodation if they leave their employment	 Possible	 Employer, Hidden	 Abuse of vulnerability	Involuntariness	Risks of forced labour increase in cases of a pre-existing dependency relationship with the employer or in cases of multiple dependency on the employer that go beyond the job, e.g. the worker depends on the employer not only for his/her job but also for housing, food and how work for his/her relatives.	
Worker has multiple dependencies on the employer that go beyond the job	 Possible	 Employer	 Abuse of vulnerability	Involuntariness	While it is only a possible indicator of forced labour risks, it is likely to be a non-compliance as many supplier and buyer codes require management systems, and management systems are critical to ensuring compliance with the law. Worker testimony and lack of documentation can often be cited in support.	
No systems in place to identify and prevent forced labour in their wage and termination practices and/or to ensure compliance with local, national or international laws on employment is freely chosen labour	 Possible	 Employer		Involuntariness and/or Menace of Penalty		

WHAT ARE KEY CONSIDERATIONS WHEN FORCED LABOUR IS FOUND OR SUSPECTED?

The specifics surrounding the nature of the exploitation discovered in the audit process will necessarily dictate what action to take. However, good business practice in dealing with forced labour – or with suspicions of forced labour – requires at a minimum actions by auditors to (1) capture and protect evidence in the audit report, and (2) protect at risk individuals. Protecting possible victims and capturing and documenting evidence for follow-up should be paramount to any key steps to be taken when forced labour is suspected or found.



1. Protect Workers

As a guiding principle, auditors' immediate actions, and the ongoing corrective actions taken by facility management and/or the brands that buy from them, should focus on what is best for any possible victims in question. The primary responsibility when dealing with a potential victim is to ensure their safety and welfare. This is at the core of most legislation and is fundamental to the approach taken by law enforcement agencies, the voluntary sector and any other organisation involved in the support of potential victims.

Running through all of this is the risk to the victim, anyone associated with them, and the auditor who is investigating and reporting these issues. For that reason authorities (such as investigating and enforcement authorities) may need to be engaged in order to provide the auditor and victim with the necessary guidance, support, assistance and protection. It is recommended that audit companies, and companies that hire them, develop and have in place clear communication guidelines that guide auditors on whether, how and when to refer matters to the appropriate governmental authorities. Guidelines should consider the effects of the involvement, or lack thereof, on the facility, possible victim, any other affected employees, and/ or auditing body. The protection of these at risk individuals must take precedence over all other considerations. Not doing so runs the risk that any necessary criminal investigation will be undermined, and the possible victim are left unprotected. In environments where law enforcement officials may not be fully trained in handling severe cases of abuse, auditors might need to also be aware of local resources and organisations that provide victim services, which can act not only as a support to the victim, but the auditor. Organisations include those that support the worker's rehabilitation (including physical and mental health), repatriation (if desired by the worker),

and/or their reintegration into the labour market and community.

Auditors may feel the need to share the report with any known brands purchasing from the facility in order to protect workers, particularly when reporting any suspicions to a facility that is complicit in exploitation can place either the auditor or the worker at risk. This will present issues with audits that are owned by the facility; legal (and perhaps ethical) concerns may arise regarding disclosure to a third party who has not paid for and is therefore not the owner of the report. It is recommended that auditors (and companies who hire them) review all contractual terms for commissioned audits to identify and remove any limits to sharing in these limited cases where the auditor, in his/her experience and judgment, believes that there is an actual or a strong indication of a likely forced labour exploitation case.

Auditors can also visit the Sedex Members Ethical Trade Audit (SMETA)'s *Supplementary Guidance for Dealing with Sensitive issues Raised at Audit* for additional guidance on possible communication vehicle options.

2. Capture and Protect Evidence

Any of the risks listed in this Guide, if identified, should be documented in the audit report to allow for corrective action planning by buyers and suppliers, or more importantly victim protection, where warranted. It is also important to make a record of any concerns and information which may be useful at a later stage should an investigation be appropriate.

Many issues raised by workers (related to some of the indicators in the Guide) will not have any supporting documentation or written evidence and so auditors traditionally have been reluctant to include the issues in the audit report. Auditors are encouraged, in order to capture evidence of risks for follow-up, to use their judgement on the type of non-compliance raised, such as citing management systems as a basis, whereby other items (such as lack of documentation) in addition to worker testimony can also be cited in support. Auditors can visit SMETA's *Supplementary Guidance for Dealing with Sensitive issues Raised at Audit* for a 'good practice approach' on how these issues could be handled.

Moreover, not all the indicators proposed are definite signs of non-compliance and warrant a finding of forced labour exploitation. Forced labour are very difficult to identify in a definitive manner, especially based off of the ILO definitions, as multiple factors need to be in place to definitively identify a situation as forced labour. In fact, many of the indicators in the Guide are suggested as they may – only in various combinations – increase the risk of forced labour through the employment cycle. Current practice is to cite the non-compliance (if there is one) under other content areas (e.g. wages, working hours, accommodation, harassment, etc.) but not as a forced labour risk. Auditors are encouraged to, in order to ensure the proper follow-up (investigation, remediation, victim protection, etc.) can be taken, also record the risks in the audit report under 'Employment is Freely Chosen.' Some sites are not aware that some non-compliances have knock on effects onto forced labour (e.g. non-payment of wages means workers do not feel they can leave employment). Therefore it is useful also for the facility (through raising observations) to understand their own risk.

The following table suggests how to record evidence in the audit report:

Strength	Documentation
Definite	A finding of any of the indicators listed as “definite” in this Guide during the audit should be recorded in the audit report as a non-compliance under ‘Employment is Freely Chosen’ issue titles. (This is the current state of play for forced labour findings during audits)
Strong	<p>If one or more strong indicators appear (e.g., workers have to work more overtime for fear of some detriment) and</p> <p>Either</p> <ul style="list-style-type: none"> ● workers have a dependency relationship with the employer that go beyond the job (e.g. dependency on the employer for family member’s employment; dependency for basic accommodation and food needs), <p>Or</p> <ul style="list-style-type: none"> ● practices prevent them from leaving (e.g. ‘delayed or withheld wage payments’) <p>Then auditors should raise the issues as non-compliance by making greater use of existing Employment is Freely Chosen issue titles.</p> <p>Auditors will also use their experience and judgement to make a determination whether an aggregation of findings of strong and/or possible indicators warrants a finding of non-compliance.</p>
Possible	<p>Possible indicators are not strong enough to suggest forced labour in themselves, but an aggregation of findings of possible indicators could warrant further investigation.</p> <p>In cases where there is insufficient evidence to raise a forced labour non-compliance, either through a lack of definitive signs or the combination of findings of strong and/or possible indicators are inconclusive, then auditors should raise them as observations under Employment is Freely Chosen by making greater use of existing Employment is Freely Chosen issue titles.</p>

Evidence should always be documented for follow-up. It should be remembered that forced labour flourishes in an environment when reporting is unlikely. Non-reporting allows it to continue unabated and allows actual, likely or possible exploitation to flourish or to be hidden, thereby preventing future identification and increasing the control of and threats to workers. Non-reporting also prevents a whole picture of forced labour to be seen and understood, preventing facilities to understand their own risk. Auditors are encouraged to, in order to ensure the proper follow-up (investigation, remediation, victim protection, etc.) can be taken, to record all non-compliances and all risks in the audit report under ‘Employment is Freely Chosen.’

RESOURCES

Delphi Indicators (<http://www.ilo.org>): presents lists of operational indicators which can be used to assess the situation of a potential victim of trafficking with respect to each of the six main elements of the definition of trafficking in human beings, as found in the Palermo Protocol.

Institute for Human Rights and Business Dhaka Principles for Migration with Dignity (<http://www.dhaka-principles.org/>): a roadmap that traces the worker from recruitment through employment and the end of contract and that provides key principles employers and migrant recruiters should respect at each stage in the process to ensure migration with dignity.

International Labour Organization (<http://www.ilo.org/global/topics/forced-labour/>): guidance material and tools for employers and business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains.

Sedex Supplier Workbook (<http://www.sedexglobal.com/>): an in-depth guide offering practical guidance, case studies and good practice to help suppliers around the world drive ethical improvements in their businesses.

SMETA (Sedex Members Ethical Trade Audit) (<http://www.sedexglobal.com/>): an audit methodology that engages supply chain monitors, buyers and suppliers in one common audit approach, thereby reducing duplication and increasing convergence.

Sedex Modern Slavery Briefing (<http://www.sedexglobal.com/>): a generalised introduction into the challenging issues of human trafficking and forced labour, with recommendations on what businesses can do. Includes a case study on how workers are affected as well as a spotlight on migrant workers & labour brokers.

Sedex Modern Slavery Flyer (<http://www.sedexglobal.com/>): a generalised introduction into the transparency clause of the United Kingdom's Modern Day Slavery Act, what it means for business, and how Sedex helps its members with compliance.

Stronger Together Tool Kit (<http://stronger2gether.org/>): offers an anti-human trafficking/forced labour video, a toolkit to tackle hidden labour exploitation, multi-language posters, worker leaflets and other resources.

The Joseph Rowntree Foundation (<https://www.jrf.org.uk>): commissioned a paper that examines how forced labour is currently framed within national legislation and explores a continuum of exploitation and interventions between decent work and forced labour.

UK Gangmasters Licensing Authority 'How to Spot the Signs': (<http://www.gla.gov.uk/>): defined the term modern day slavery and provides guidance on how to spot the signs.

Verité Fair Hiring Toolkit (www.verite.org): offers tools, guidance and approaches to support the responsible recruitment and hiring of migrant workers in global supply chains.

Walk Free Tackling Modern Slavery in Supply Chains (<https://www.walkfree.org>): provides companies guidance on how to reduce or eliminate the risk of modern slavery occurring in their supply chains, either as a direct or indirect result of their procurement practices.

USEFUL TERMS

Bonded Labour or Debt Bondage: Debt bondage is a worker pledging their labour or the labour of others under their control as security for a debt; when either the real value of the work undertaken is never applied to repayment of the debt, or the length and nature of the work that has to be undertaken is never fully defined or limited. The labour is not necessarily forced by violence or threats; instead it is enforced by the worker's forced acceptance of the obligation to repay the artificial debt. It is included as a form of exploitation related to trafficking in the United Nations protocol on trafficking in persons.

Forced Labour: Article 2.1 of [The Forced Labour Convention No. 29](#) states that forced labour “shall mean *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 [or herself] voluntarily.*”

Human Trafficking: Article 3, paragraph (a) of the [Protocol to Prevent, Suppress and Punish Trafficking in Persons](#) defines trafficking in persons as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Where the victim is a child under 18 years of age, there is no requirement of coercive means. It is sufficient if the child is both recruited and exploited through one of the recognized forms of exploitation (e.g. slavery, organ removal, sexual exploitation, etc.).

Although they are interconnected, forced labour and human trafficking are not the same in international law or in practice. Forced labour can result from internal or cross-border movement which renders some workers particularly vulnerable to deceptive recruitment and coercive labour practices. However, whilst trafficked people are often exploited through forced labour, not everyone who experiences forced labour has been trafficked. An unknown number of people voluntarily enter into employment in farms, factories and homes and, once in the door, are unable to leave because the employer/enforcer holds them in forced labour. They may work alongside persons who were recruited and brought into the same situation (i.e., trafficked). But, they are not defined as ‘trafficked’ and so are not eligible for the legal protections offered to trafficked workers. The movement of people for the purpose of forced labour and services usually involves an agent or recruiter, a transporter, and a final employer, who will derive a profit from the exploitation of the trafficked person. In some cases, the same person carries out all these trafficking activities.

Modern Day Slavery: Often used as a “catch all term” to denote human trafficking, forced labour and slavery-like practices such as debt bondage, and the sale or exploitation of children. All of these crimes have a common feature – they involve one person depriving another person of their liberty in order to exploit them for personal or commercial gain.

Slavery: Art 1(1) of the [UN Slavery Convention](#) defines 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.” Slavery is much more than forced labour; all slavery involves forced labour but not all forced labour involves slavery.

This Guidance on Operational Practice & Indicators of Forced Labour is a work in progress. We at Sedex hope it is a step forward, albeit perhaps a small one, in broader identification and reporting of forced labour risks in modern supply chains. We also understand that there may be challenges and we hope to learn from the experiences of others and gather feedback on what else Sedex can do to best facilitate adoption of this guidance into practice as well as what other tools may be needed to facilitate broader identification and reporting of forced labour risks. We also recognize that there are some auditors and companies that are doing significantly more today and we expect as they and others adopt this guide they will naturally innovate and significantly improve on the recommended indicators. We therefore encourage broad feedback on the document. As we learn from experience, we will review and improve the guidance and expand our tool set for members. Please forward your comments to auditing@sedexglobal.com.



Sedex has developed a suite of publications and multi-media resources to help drive improvements in ethical and responsible business practices.

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