

Study on Forced Labour

Introduction

Forced labour means all work performed involuntarily and under the menace of any penalty. ILO estimated in 2017 that 24.9 million men, women, and children are in forced labour around the world – trafficked, held in debt bondage, or working in slavery-like conditions. Of these 24.9 million, 16 million were victims of forced labour exploitation in economic activities such as agriculture, construction, manufacturing, and domestic work; 4.8 million were victims of forced sexual exploitation and 4.1 million were victims of forced labour by the state authorities.¹ More than 4 million of these 24.9 million are children engaged in forced labour. A 2014 ILO report estimated that the total illegal profits obtained from the use of forced labour worldwide amount to **US\$150.2 billion per year**.² More than one-third of the profits – **US\$51.2 billion** – are made in forced labor exploitation, including nearly **US\$8 billion** generated in domestic work by employers who use threats and coercion to pay no or low wages.³

What is Forced Labour?

Elimination of all forms of forced and compulsory labour is one of the fundamental rights at work. ILO has adopted two fundamental conventions: the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). In 2014, the ILO adopted two new instruments on forced labour: the Protocol to the Forced Labour Convention, 1930, and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Protocol supplements Convention No. 29 since the context and forms of forced or compulsory labour have changed (at the time of adoption of Convention 29, forced labour was used mainly by colonial administrations and some independent states) and trafficking in persons for forced labour, which may involve sexual exploitation, is a growing concern.

Article 2(1) of Convention No. 29 defines “forced or compulsory labour” as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

There are three key elements in this definition:

- I. **Work or service:** “All work or service” refers to all types of work, service, and employment, occurring in any activity, industry, or sector, including in the informal economy. Forced labour can occur in both the public and private sectors.

¹ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2017

² An estimated **US\$99 billion of this amount is generated by forced sexual exploitation**.

³ Profits and Poverty: The Economics of Forced Labour, (2014)

2. **Menace of any penalty:** The “menace of any penalty” refers to a wide range of penalties used to compel someone to perform work or service, including penal sanctions and various forms of direct or indirect coercion, such as physical violence, psychological threats or the non-payment of wages. The “penalty” may also consist of a loss of rights or privileges (such as a promotion, transfer, or access to new employment).
3. **Involuntariness:** The terms “offered voluntarily” refer to workers’ free and informed consent to enter an employment relationship and his or her freedom to leave the employment at any time. If a worker is unable to terminate an employment contract, without fear of suffering a penalty such as the seizure of a worker’s identity documents or withholding of salary, this indicates involuntariness and thus can be considered forced labour.

However, Article 2(2) of Convention No. 29 describes several limited exceptions to the “forced labour” definition. According to this provision of the Convention, the following five situations do not constitute forced labour:

- Work exacted under **compulsory military service** for the necessity of national defense, provided that the work imposed on conscripts is of a purely military character.
- **Normal civic obligations** of a fully self-governing country, such as compulsory jury service, or the duty to assist a person in danger.
- **Prison labour** as a consequence of a conviction in a court of law, provided it is carried out under the supervision and control of a public authority and the convicted person is not hired to or placed at the disposal of private individuals, companies, or associations.
- **Work exacted in cases of emergency**, such as war, calamity, or threatened calamity (e.g. fire, flood, famine, earthquake) or any circumstance that would endanger the lives or well-being of the whole or part of the population.
- **Minor communal services** performed by the members of a community in the direct interest of that community, provided that the community or its direct representatives are consulted regarding the need for such services.

The Abolition of Forced Labour Convention, 1957 (No. 105) further supplements Convention No. 29 by prohibiting member States from having recourse to any form of compulsory labour in five specific circumstances:

- as a means of political coercion or as a punishment for expressing political views
- as a sanction for participating in strikes
- as a means of labour discipline

- as a means of racial, social, national, or religious discrimination
- as a method of mobilizing labour for economic development purposes.

Forced labour is not merely limited to slave wages or atrocious working conditions, neither does it enfold purely economic necessity such as a person being unable to leave their job due to a factual and perceived absence of other employment opportunities; it is an abhorrent violation of human rights and freedom.⁴

Forced labour essentially encompasses exploitation in the place where work or service is rendered. It can compromise abusive recruitment practices which can invalidate freedom of choice by the worker or a person serving as a medium who purposely carries out such practices with the conscientious objective of placing people in situations in which they are subjected to forced labour can surely be considered as abettors to forced labour.⁵

Forced Labour can victimize people of any age, gender, or origin but is likely to have the most harmful effects on children since children are not seen as independent entities, conscious of giving legal consent. Forced Labour of children enunciates the work extracted by a child (under the age of 18) by a third party (other than his or her parents) under the threat of a punishment either directed towards the child or their parents; or work performed with or for his or her parents, under threat or menace of any penalty applied by a third party either on the child directly or the child's parents; or work performed with or for his or her parents where one or both parents are themselves in a situation of forced labour⁶. Forms of child labour as set out in the Worst Forms of Child Labour Convention, 1999 (No. 182) define child labour as:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom, [as well as forced or compulsory labour], including forced or compulsory recruitment of children for use in armed conflict
- (b) the use, procuring, or offering of a child for prostitution, for the production of pornography, or pornographic performances
- (c) the use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of drugs.⁷

The worst forms of child labour also include hazardous work, which does not constitute forced labour per se but is detrimental to the moral, social, and physical health of the child and is considered one of the worst forms of child labour.

⁴ The Cost of Coercion: Report of the Director-general Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, (2009)

⁵ The Cost of Coercion: Report of the Director-general Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, (2009)

⁶ Eliminating Forced Labour- Handbook for Parliamentarians No. 30, (2019)

⁷ Worst Forms of Child Labour Convention, 1999 (No. 182), (Article 3)

In terms of statistics, forced labour has three distinct parts: forced labour in the private economy except for the commercial sex industry, forced sexual exploitation of adults commercial sexual exploitation of children, and state-imposed forced labour. The three parts further summarize forced labour as:⁸

- Forced labour imposed by the state covers all forms of work exacted by public authorities, military or paramilitary, compulsory participation in public works and forced prison labour;
- Forced labour imposed by private agents for sexual exploitation covers any commercial sexual activity, including pornography, exacted from the victim (both adults and children) by fraud or force; and,
- Forced labour imposed by private agents for labour exploitation includes bonded labour, forced domestic work, forced labour of migrants in many economic sectors and work imposed in the context of slavery or vestiges of slavery. Forced illicit activities such as forced begging for gangs for example are also included in this category.

⁸ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2017

The table below summarizes the threats and penalties used to coerce persons into forced labour:⁹

- Physical abduction or kidnapping
- Birth/descent into “slave” or bonded status
- Sale of a person into the ownership of another
- Physical confinement in the work location– in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions
- Physical violence against worker or family or close associates
- Sexual violence
- (Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

⁹ Combating Forced Labour- A Handbook for Employers & Business, (2015)

Regional Estimates

On any given day in 2016, an estimated 9.2 million men, women, and children were living in modern slavery in Africa.¹⁰ The region has the highest prevalence of modern slavery in the world with 7.6 per 1,000 people. When considering the forms of modern slavery, the rate of forced marriage (4.8 victims per 1,000 people in the region) was higher than the rate of forced labour (2.8 victims per 1,000 people).¹¹

Over half of all victims of forced labour exploitation (54 percent) were held in debt bondage, with similar proportions of men and women in the region trapped through debt. An estimated 400,000 people in Africa were victims of forced sexual exploitation, accounting for eight percent of all victims of forced sexual exploitation and commercial sexual exploitation of children worldwide.¹²

The current report is an overview of forced labour in **Malawi, Mozambique, and South Africa**. The table below showcases the status of ratification of ILO Conventions¹³:

ILO conventions

Country	Forced Labour Convention, 1930 (No. 29)	Abolition of Forced Labour Convention, 1957 (No. 105)	Protocol of 2014 to the Forced Labour Convention, 1930 (P029)	Worst Forms of Child Labour Convention, 1999 (No. 182)
Malawi	Ratified (1999)	Ratified (1999)	Ratified (2019)	Ratified (1999)
Mozambique	Ratified (2003)	Ratified (1977)	Ratified (2018)	Ratified (2003)
South Africa	Ratified (1997)	Ratified (1997)	Not ratified	Ratified (2000)

¹⁰ Modern slavery includes both forced labour and forced marriages. In line with ILO estimates 3.42 million persons are engaged in forced labour while another 5.82 million are trapped in forced marriages.

¹¹ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2017

¹² Global Slavery Index Report, 2018

¹³ ILO, Normlex

Comments by CEACR

Once a country has ratified an ILO Convention, it has to report regularly on the measures it has taken for its implementation. Every three years, governments must provide reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four governance Conventions they have ratified. For all other Conventions, reports must be provided every six years. For this purpose, the Committee of Experts on the Application of

Conventions and Recommendations (CEACR) was formed in 1926 to observe and examine the response of governments after the ratification of conventions and protocols. The status of comments for, in the form of observation or direct request¹⁴, the countries is as follows¹⁵:

Comments by CEACR

	Convention No. 29	Convention No. 105
Malawi	Direct Request and Observation (2018)	Direct Request (2019)
Mozambique	Direct Request (2018)	Direct Request and Observation (2019)
South Africa	Direct Request (2016)	Observation (2016)

¹⁴ When examining the application of international labour standards, CEACR makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular Convention ratified 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.

¹⁵ ILO, Labour Standards- CEACR

Malawi



Labour force statistics¹⁶

Total population	Labour force total	Labour force participation rate (aged 15-64)		Employment of children rate (aged 7-14)		Vulnerable employment rate	
		Female	Male	Female	Male	Female	Male
18 M (2020)	8.3 M (2020)	74.0% (2020)	81.8% (2020)	47.0% (2015)	50.8% (2015)	65.1% (2020)	53.4% (2020)

Relevant legislation concerning Forced Labour¹⁷

Law	Section
Republic of Malawi (Constitution) Act, 1994 (No. 20 of 1994)	Article 27. (1,2,3,4)
Employment Act 1999 (No. 6 of 2000) (Cap. 55:02)	Section 4. (1,2)
Penal Code [as amended to Act No. 8 of 1999]	Chapter 269.
Trafficking in Persons Act, 2015 (No. 3 of 2015)	Section 2. (a,b,c,d,e,f,g) and Part-III Offences
Child Care, Protection and Justice Act, 2010 (No. 22 of 2010)	Section 82. (a,b,c)
Employment (Prohibition of Hazardous Work for Children) Order 2012	Section 6. (2(a,b,c])

The World Bank classifies Malawi as a low-income country with an expected increase of 4.4% in economic growth in 2019. However, the fiscal deficit of 6.4% of the country's GDP remains. The

¹⁶ World Bank Data

¹⁷ ILO- Natlex

agriculture sector of Malawi comprises 80% of the total export, which is why a large number, around 76.9% of the total labour force of Malawi is employed in the agriculture sector. Yet, Malawi's Human Development Index score for 2018 was 0.485, ranking the country 172 out of 189 countries. Malawi's top exports in 2018 included tobacco, coffee, tea, maté, spices, oil seeds, vegetables, sugar, residues, and prepared animal fodder.¹⁸

Current national statistics on forced labour for Malawi are unavailable but the “**Global Slavery Index, 2018**”¹⁹ ranks Malawi as 35/167 on the Prevalence Index Rank. The prevalence of modern-day slavery for Malawi can be tabled as:

Global Slavery Index, 2018 estimates

Estimated number of people living in modern slavery	Estimated proportion of population living in modern slavery	Vulnerability to modern slavery	Population
131,000	7.47/1000	63.38/100	17,573,607

“**U.S Department of Labour’s List of Goods produced by Child labour or Forced labour, 2020**” states that the sectors in Malawi under which goods are produced with the highest concentration of forced labour and child labour are the tea, sugar, tobacco manufacturing sectors and the garment manufacturing sector.²⁰

Forced labour in Malawi is personified mostly through child labour and through trafficking. Trafficking as modern form of slavery occurs when persons kidnapped, illegally migrated and trafficked for illicit, forced and exploitative activities.²¹

Malawi has the world's most tobacco-dependent economy and is a top producer of Burley tobacco. Most tobacco farmers depend on the crop for their household's livelihood. Most of the workforce on tobacco farms is family labour, but also hired labour is utilised.²²

“**The U.S. Department of State 2020 Trafficking in Persons Report**” notes trafficking or trafficking vulnerability in tobacco production in Malawi. The U.S. Department of Labour also reports that tobacco is produced with forced labour and child labour in Malawi. The risk of human trafficking in Malawi occurs in the context of tenant farming. As indicated in the report, families make agreements with landowners whereby they receive a share of the profit (in cash or kind)

¹⁸ VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

¹⁹ Modern slavery is used as an umbrella term that focuses attention on commonalities across different legal concepts including forced labour, debt bondage, forced marriage, slavery and slavery-like practices, and human trafficking.

²⁰ U.S Department of Labour's List of Goods produced by Child labour or Forced labour, 2020

²¹ Specific data on forced labour for Malawi is lacking and the concentration of modern forms of slavery is through child labour and trafficking in persons.

²² VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

from the tobacco harvest in exchange for their services in growing and harvesting tobacco crops. The tenants employed are expected to pay for seeds and other expenses. This system creates an exploitative environment for the tenant as it rarely results in absolute profit for the tenant, in return making them indebted to the landowner. Also, it was suggested through a study that estate owners in Malawi are less likely to employ workers through proper channels such as labour offices but instead rely on aggressive recruitment strategies, employing the workforce through third-party labour brokers and middlemen. The returning tenants may also contribute to the exploitative system by acting as labour brokers to recruit new tenants.²³

According to the **“U.S. Department of Labour 2020 List of Goods Produced by Child Labour or Forced Labour”**, tea is produced using child labour in Malawi. Work in the tea sector is low-paid for all hired workers but is particularly damaging to contractual and seasonal workers due to a lack of provisions regulating the agriculture sector. Although child labour on plantations and estates has not been well documented, a study noted the lack of a widespread age registration system in Malawi allowed workers under age 18 to be hired. Child labour in Malawi is often exacted on family farms where farmers depend on agriculture for livelihood. Most of those workers are contractual or temporary workers and as reported, the plucking rate for seasonal/casual workers can be as low as USD .0016 (MK 2.29) per kilogram of green leaf plucked. Furthermore, in addition to job insecurity, the workers lack access to social benefits (housing, social security).²⁴

Child labour in Malawi continues to affect an estimated 2.1 million children aged 5–17 years, 38% of this age group. Some 1.7 million children aged 5–13 years, and more than 400 thousand aged 14–17 years are in child labour. Summing these two groups yields a total of almost 2.1 million children aged 5–17 years involved in child labour. These overall estimates mask important differences by residence and region. Urban areas feature a lower level of child labour: for the 5–17 years age range, the rate of child labour in rural areas (39%) is substantially higher than in urban areas (30%).²⁵

A research paper presented at the 17th World Conference on Tobacco or Health, 2018 highlighted the representative trafficking case of a family who received from an illegal labour recruiter a promise of paid work. Labourers are transported over 800 kilometers. Ultimately, parents send their children to the fields instead of schools and the family remains indebted to the farm owners due to insufficient or non-payment of earnings. Farm owners sell their tobacco to global leaf buyers who, in turn, sell to big tobacco companies such as Philip Morris. Most study participants indicated they have no finances to exit tobacco farming or return home. Some

²³ The U.S. Department of States Trafficking in Persons Report, 2020

²⁴ VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

²⁵ Understanding Child Labour and Youth Employment in Malawi, 2018

individuals acknowledge their workplace dissatisfaction while others are determined to stay on with plans to be independent tobacco farmers.²⁶

Although the traditional means of protecting workers' rights in the form of labour law and trade unions exist in Malawi, their effectiveness is brought into question by the stark reality of workers who earn very low wages and are treated without respect. **According to a study conducted on the garment sector in Malawi (SOMO, 2003)**, it was brought to light that workers employed in the garment and textile sector are verbally and physically abused and, in some instances, beaten by supervisors. The workers not only complete their normal working weeks of 48 hours but often have to meet their targets by working overtime and not being paid for overtime work. There is severe punishment for making mistakes including fines and dismissals. There seems to be a lack of interference from the union labours and inspectors largely due to weak negotiating abilities and power with the unions.

The same study quoted interviews from the workers employed at garment manufacturing factories. The interviewed workers quoted that most garment workers are the sole breadwinners in their families. On average, these workers support four dependents. Workers earn between 12US\$ and 34US\$ a month. The cheapest housing is 5US\$ per month for one room with a grass roof, without electricity and water. They will pay about 1US\$ per day for food for a family of four consisting of morning tea and a bun, potato or cassava for lunch, and fish and vegetables in the evening. Some workers must pay 1US\$ a month to the factory for a bread roll at lunch. School fees are about 5US\$ a month. The workers interviewed do not use transport to get to work as a short distance can cost 4US\$, and 10US\$ for longer distances, a month so they walk, sometimes very long distances as workers live between 8 km and 30 km from their place of work. Transport could cost up to 50 MK. The workers buy second-hand clothes, which cost about 1.50US\$ per item. Most participants say they are in debt to survive and they must pay the debt back with 50% interest.²⁷

In 2017, the Government of Malawi drafted a pledge to combat child and forced labour for the years 2017–2021 which included:

- a) Ratify and domesticate other relevant international labour standards on child and forced labour such as the Safety and Health in Agriculture Convention, 2001 (No. 184), Domestic Workers Convention, 2011 (No. 189), and Protocol of 2014 to the Forced Labour Convention, 1930²⁸
- b) Finalize the national child labour/forced policy

²⁶ "An Abstract Book on the 17th World Conference on Tobacco or Health, 2018" <http://www.tobaccoinduceddiseases.org/Human-trafficking-and-forced-labour-in-Malawi-s-tobacco-growing-sector.84669,0,2.html>

²⁷ Garment Sector in Malawi (SOMO, 2003)

²⁸ Malawi already ratified the Protocol

- c) Review the National Action Plan on Child Labour to take into account the findings from the Committee of experts
- d) Review and update the hazardous child labour list
- e) Adopt and implement a school-to-work transition programme allowing disadvantaged young people access to education, skills, and quality jobs
- f) Take action on national social protection policy, including the development or revision of existing social protection policies and programmes to include and/or better protect victims of child labour and forced labour and their families.²⁹

Malawi has since then made efforts to combat forced labour (including child labour as an extension), where Malawi renewed its commitment towards International Labour Standards helping them to ratify the Forced Labour Protocol, Malawi is also reinforcing its formal dedication to eliminating all forms of forced or compulsory labour including trafficking in persons³⁰. Malawi enacted its Trafficking in Persons Act in 2015.

However, according to the “**Trafficking in Persons (TIP) report of 2020**” concerning efforts to eradicate trafficking (especially for forced labour), the Government of Malawi does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included increased prosecutions and convictions of traffickers. The government identified more trafficking victims and referred them to protective services, launched standard operating procedures (SOPs) and a national referral mechanism (NRM) for victim identification and assistance, and allocated money to the anti-trafficking fund. It coordinated with a foreign government and used the anti-trafficking fund to repatriate victims, and it also used the fund to support training for frontline officials and awareness campaigns.

The government launched the second district-level anti-trafficking coordination structure in Phalombe, a district bordering Mozambique where trafficking risks are high. In coordination with an international organization, the government launched an awareness campaign at the national level, increased funding and hired more labour inspectors, and approved new labour recruitment regulations in alignment with the Trafficking in Persons Act.³¹

Since Malawi has ratified the two most important instruments by the International Labour Organization combating forced labour i.e. C029 Forced Labour Convention, 1930 (No. 29) and C105- Abolition of Forced Labour Convention, 1957 (No. 105), the Committee on Conventions

²⁹ Malawi Government Document

³⁰ Malawi ratified three major occupational safety and health ILO Conventions Nos 155, 187 and 184 in November 2019

³¹ The U.S. Department of States Trafficking in Persons Report, 2020

and Recommendations regularly report on the issue of forced labour. Current comments for the conventions by CEACR include³²:

- The Malawi Government has taken a stance to abolish the tenancy system as it was deduced as a gross violation of human rights. Consultations are being held in this regard to include tenancy farming in the revised Employment Act (under process)
- The Malawi Government adopted the Trafficking in Persons Act in 2015. The Act covers in its definition forced labour, as well as the forced participation of a person in all forms of commercial sexual activity. Temporary shelters for victims before hearings in police stations have also been set up.
- The Committee (CEACR) requested the government of Malawi to provide information on the activities of the National Coordination Committee against Trafficking in Persons, as well as on the measures taken to assist victims of trafficking.

³² ILO- Normlex

Mozambique



Labour force statistics³³

Total population	Labour force total	Labour force participation rate (aged 15-64)		Employment of children rate (aged 7-14)		Vulnerable employment rate	
		Female	Male	Female	Male	Female	Male
30 M (2019)	13 M (2020)	77.5% (2020)	79.0% (2020)	No data available	No data available	92.6% (2020)	72.6% (2020)

Relevant legislation concerning forced labour³⁴

Law	Section
Constitution of the Republic of Mozambique	Article 84. (1,2,3) Article 85. (1,2,3) Article 112. (1,2,3) Article 121. (4)
Law no. 23/2007 of Labor	Article 3. (1(a-i]) Article 23. (1,2,3) Article 30. (1,2,3,4) Article 38. 1(a-h] & 4. (a-i)
Decree of September 16, 1886, which dictates the Penal Code	Section 196 & Section 198
Law no. 6/2008, of July 9, which establishes the legal regime applicable to the prevention and combat of human trafficking	Chapter II, Section(s) 10–18
Decree no. 69/2017, of October 17, which approves the list of jobs considered dangerous for minors	

³³ World Bank Data

³⁴ ILO- Natlex

World Bank classifies Mozambique as a lower economy country with a slow GDP growth of an average of 3.7% between 2016–2018 and a slight increase to 4% by 2019. Possible hurdles to Mozambique’s economic growth include natural disasters such as severe droughts, cyclones, floods, underdeveloped financial institutions, poor infrastructure, and operating costs as factors that might serve to challenge foreign investment. Despite these challenges, Mozambique demonstrated significant potential for investment in natural resource extraction and infrastructure development.³⁵

The Constitution of Mozambique prohibits forced labour.³⁶ While child labour is prohibited under the 2007 Labour Law, forced labour is proscribed under the Law on Preventing and Combating the Trafficking of People 2008.

The “**Global Slavery Index, 2018**” ranks Mozambique as 67/167 on the Prevalence Index Rank. The prevalence of modern-day slavery in Mozambique can be tabled as:

Global Slavery Index, 2018 estimates

Estimated number of people living in modern slavery	Estimated proportion of population living in modern slavery	Vulnerability to modern slavery	Population
152,000	5.41/1000	56.96/100	28,010,691

According to the “**U.S. Department of Labour 2020 List of Goods Produced by Child Labour or Forced Labour**” the sector under which goods are produced with the highest concentration of child labour is tobacco manufacturing.³⁷ The report has not identified any products from Mozambique produced with forced labour.

Forced labour in Mozambique is prevalent through child labour and the trafficking of persons in vulnerable positions such as women and children of migrant status.³⁸

The minimum wages prescribed by the government are above the official line of poverty. Total working hours per week are mandated as 40 hours a week but can be increased up to 48 hours a week. Any work rendered over 48 hours a week is considered overtime and must be complemented with overtime pay of at least 50% of the base hourly salary. Workers have the right to information regarding any hazardous conditions and to improve those conditions through

³⁵VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

³⁶ Article 84(3) of the Constitution of Mozambique

³⁷U.S Department of Labour’s List of Goods produced by Child labour or Forced labour, 2018

³⁸ All these forms of exploitation (forced and child labour; trafficking in persons) constitute as modern forms slavery and are interchangeable terms in definition of exploitative and harmful practices

improved health and safety measures on the part of the government. These regulations can apply to foreign workers with legal work permits but do not cover the informal economy which comprises approximately 95 percent of the labour force.³⁹

Concerning the work of children, Mozambique laws mandate the legal minimum age for work as 18 years. However, children between the ages of 15–17 can work if they obtain a work permit from the Ministry of Labour of Mozambique. Minors (children under 18) cannot work more than 7 hours a day and 38 hours total a week. Minors are prohibited from working in hazardous working conditions. There is an exhaustive list of activities under 14 occupational categories including domestic work, mining, and tobacco production. Education is compulsory for primary school (grades 1–7) and secondary school (grades 7–9). Although the law has provisions regarding child labour and the work of children, the law does not regulate the work of children employed in the informal sector.⁴⁰

Reports show the widespread practice of Mozambican men and boys migrating to South Africa to seek employment opportunities; there are reported cases of some being detained and forced to work until they are eventually turned over to the police as illegal migrants. It also happens that children are subjected to forced labour, often impelled by their own families. Official data shows that 14% of children work as a means of supporting their family.⁴¹

For five consecutive years, the US Department of State has reported Mozambique to be “a source, transit, and destination for men, women, and children subjected to forced labour and sex trafficking”, with the southern transport corridor linking Maputo with Eswatini (former Swaziland) and South Africa. Girls, boys, women, and persons with albinism have been identified as the most vulnerable population groups.⁴²

There are reports of girls and women from rural areas being persuaded to move to bigger cities, for education and employment opportunities, but where they find themselves subjected to trafficking networks. The areas of greatest concern are Maputo, Beira, Chimoio, Tete, and Nacala, while Tete and Cabo Delgado show an increase in this practice. Since 2012, sources have raised concerns regarding the rise of human trafficking. Girls and women from rural areas are also subjected to sex trafficking and domestic servitude. NGOs have reported that girls are sent to urban areas as domestic help for relatives as a form to settle debts; a job which increases their vulnerability to sexual abuse, exploitation, and trafficking.⁴³

Unaccompanied and separated children (UASC) are vulnerable to abuse and different forms of exploitation. Some reports have remarkable fear about young unaccompanied girls securing a

³⁹VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

⁴⁰ Ibid

⁴¹ Child Protection Risks and Needs in Mozambique, 2019

⁴² Ibid

⁴³ Ibid

livelihood, possibly leading to abduction and trafficking: “Girls are subjected to forced labour and sex trafficking in Angola, Italy, and Portugal.”⁴⁴

In addition to the southern provinces of Mozambique, Nampula is another main site of recruitment of young women for the sex industry. Prostitution is common, largely as a result of the pre-independence occupation by the Portuguese army. Girls are also sexualized at an early age and prostitution, as elsewhere, becomes a survival strategy. Little is known of how they are recruited, or whether both established sex workers and those with no experience of sex work are included. It is also suspected that Mozambicans from the north of the country are trafficked via Zimbabwe into South Africa.⁴⁵

Efforts on the part of the Mozambique government to eradicate forced labour whether in the form of child labour or trafficking included a National Action Plan designed to Combat the worst forms of child labour leading to mapping 70 percent of incidents of worst forms of child labour by province and activity by 2019, and to remove 20,000 children from the worst forms of child labour and register them in the Basic Social Subsidy program. Authorized the coordination of various important government agencies, including the Attorney General's Office and MGCAS (Ministry of Gender, Child and Social Action of Mozambique).⁴⁶

The national police force was required to enforce all criminal laws, including those related to the worst forms of child labour. The criminal investigation branch includes a seven-person unit determined to combat human trafficking and violence against women and children.⁴⁷ Besides working to prevent macroeconomic fluctuations, the Government has promoted childhood poverty reduction by focusing on public expenditures towards priority public services through the State Budget.⁴⁸

Although ratified and enforced 18 conventions, Mozambique has a long way to go specifically focusing on practical implementation of the conventions.⁴⁹ The Mozambican Ministry of labour has recently started drafting a list of hazardous occupations for children as part of a plan to combat child labour.⁵⁰ Mozambique launched a National AIDS Strategic Plan, a National Education Strategic Plan, and an Operational Plan for AIDS, which all involve sections devoted to youth to help fight child trafficking to keep them protected with their parents.

However, according to the “**Trafficking in Persons (TIP) report of 2020**” concerning efforts to eradicate trafficking (especially for forced labour), the Government of Mozambique does not fully meet the minimum standards for the elimination of trafficking, but it is making significant efforts to do so. These efforts included significantly increasing national awareness-raising efforts,

⁴⁴ Human Trafficking in Mozambique: Root Causes and Recommendations, UNESCO (2006)

⁴⁵ Ibid

⁴⁶ <https://www.dol.gov/agencies/ilab/resources/reports/child-labour/mozambique>

⁴⁷ U.S. Embassy- Maputo. Reporting. January 14, 2019

⁴⁸ Unicef (https://www.unicef.org/media/files/Final_SITAN_English_summary.pdf)

⁴⁹ https://www.ulandssekretariatet.dk/wp-content/uploads/2020/03/Mozambique_imp_2017.pdf

⁵⁰ Club of Mozambique, Child Labour: Mozambican Government produces list of hazardous work for children, may 23rd 2017

specifically addressing vulnerable populations; training more front-line responders across the country, and prosecuting all confirmed trafficking cases. However, the government did not meet the minimum standards in several key areas. The government did not proactively identify trafficking victims other than those 361 represented by criminal cases. The government did not adopt its national action plan, hindering the implementation of regulations for trafficking victims and witness protection. Neither did the government finalize a draft national referral mechanism for a third consecutive year, which may have limited victims' access to protective services. Mozambican officials remained without effective policies or laws regulating foreign recruiters and holding them civilly and criminally liable for fraudulent recruiting.

The forestry sector is an important source of employment for rural people. About 13 million workers worldwide are employed in formal sector forest-related businesses. Another 41 million people are employed in the informal forestry sector. Community and small-scale enterprises represent a key source of livelihood and income for rural people, accounting for the vast majority of forest enterprises in many countries.⁵¹ Institutional investment in forestry has grown significantly from an estimated US\$10-15 billion in the early 2000s to over US\$100 billion today.⁵²

However, most of the employment and business activity in the forestry sector is characterized by poor pay and low profitability. The rural poor typically cannot engage in higher value-added activities, like those associated with timber and tree planting, given the requirements for capital, technologies, and skills. Women tend to be more involved in lesser-paid, labour-intensive activities related to collecting and commercializing non-wood forest products. Due to its informal nature and the remoteness of worksites, forestry employment is seldom covered by national labour legislation, and access to social protection is limited. These factors make labour inspections and access to proper medical services difficult.

Migrant workers are particularly vulnerable because they are generally less protected and more exposed to exploitation and dangerous working conditions than locally based workers. Moreover, employment in forestry is usually characterized by harsh working conditions, physically demanding tasks, and poor unionization or collective organization of workers. Work in forestry is highly hazardous, particularly logging. Workers are exposed to heavy physical workloads, dangerous chemicals, extreme weather conditions, and high levels of noise and vibration. Accidents are often caused by lack of training, limited supervision, and inadequate tools and equipment. Increasingly, forestry operations, and notably harvesting, are carried out by small enterprises of contractors, leading to precarious employment practices in many countries.⁵³

⁵¹ Decent Rural Employment: Forestry- FAO

⁵² Investor Snapshot Forced Labor in Forestry- KnowtheChain

⁵³ Decent Rural Employment: Forestry- FAO

In producing countries in the Amazon basin, Central Africa, and Southeast Asia, it is estimated that 50-90% of forestry activity is carried out illegally. Globally, estimates indicate that up to half of illegal logging is dependent on forced labour.⁵⁴

A report by **Verité (2020)** which conducted on-ground case studies concerning the prevalence of forced labour in Tete, Mozambique in the wood and forestry sector, found that workers may have experienced deceptive recruitment around several work features. To some degree, this deceptive recruitment was incentivized by the need to staff up quickly to capitalize on consumer demand for Nkula⁵⁵. Some timber workers reported deception around the legality of work, noting that they had been told that Nkula was a legal species, and they should not be afraid to work. The impact of this deception was compounded if the illicit status of work was used to silence worker grievances.

Other reported cases explained how the operators of the commercial company with a legal concession elsewhere in Mozambique reportedly used deception to transfer some workers from that concession to the illicit operations in Tete. In addition to deception around the legality of logging activities, workers interviewed reported consistent deception around other working conditions, most notably around levels of earnings and how earnings would be calculated.

Multiple types of timber workers reported that they were not fully informed that their wage rate would depend on the size of the harvested log. For some – particularly transnational migrants – this led to wage rates that were so low on average that workers could not afford necessities like food. Seasonal timber workers employed by the commercial company with a legal concession elsewhere in Mozambique stated that they feared retaliation from supervisors if they were to bring a payment dispute. Typical hours for general laborers and timber workers were reported at 10–14 hours per day, rising to 17 hours per day during peak periods. In busy periods, work could be required overnight. Refusal to work the required overtime could result in termination.

Concerning health and occupational safety measures, except for workers with a formal employment relationship with the commercial logging company, workers were not provided with adequate protective equipment.

There were also prevalent threats of denunciation and coercion to the workers. Workers engaged in logging were sometimes threatened with denunciation to the police. It was particularly leveraged against migrant workers, who feared deportation. In some cases, workers were reportedly physically assaulted by police or threatened with arrest. Abuse and harassment of workers were also not uncommon, particularly to suppress grievances. Interviewees who worked for traders reported that any expression of disagreement, particularly around earnings, could be

⁵⁴ An introduction to responsible investment in forestry- PRI (2019)

⁵⁵ Local name of “Pterocarpus Tinctorius”

met with a suggestion to quit the job. Workers for the commercial logging company reported some instances of physical abuse from a supervisor as a form of discipline for being late. One interviewee reported being aware of a case of sexual harassment.⁵⁶

Since Mozambique has ratified the two most important instruments by the International Labour Organization combating forced labour i.e. C029 Forced Labour Convention, 1930 (No. 29) and C105 Abolition of Forced Labour Convention, 1957 (No. 105), the Committee on Conventions and Recommendations regularly reports on the issue of forced labour. Current comments for the conventions by CEACR include⁵⁷:

- ILO Committee of Experts, in its latest report has observed that no amendments have been made in the Ministerial Directive of 15 June 1985 on the evacuation of towns, under which persons identified as “unproductive” or “anti-social” may be arrested and sent to re-education centers or assigned to productive sectors.
- The Committee also observed that no amendments in sections 10–14 of the Act No. 5/82 of 9 June 1982 have been made which prescribe prison sentences that may involve compulsory labour, for repeated cases of failure to fulfil the economic obligations outlined in instructions, directives, procedures, etc., governing the preparation or implementation of the national State plan

⁵⁶ Exploring Intersections of Trafficking in Persons Vulnerability and Environmental Degradation in Forestry and Adjacent Sectors Case Studies on Illicit Harvesting of *Pterocarpus Tinctorius* and Road Construction in Mozambique- Verité (2020)

⁵⁷ ILO- Normlex

South Africa



Labour force statistics⁵⁸

Total population	Labour force total	Labour force participation rate (aged 15-64)		Employment of children rate (aged 7-14)		Vulnerable employment rate	
		Female	Male	Female	Male	Female	Male
58 M (2019)	23 M (2020)	54.2% (2020)	66.2% (2020)	No data available	No data available	10.2% (2020)	10.3% (2020)

Relevant legislation concerning forced labour⁵⁹

Law	Section
Constitution of the Republic of South Africa [No. 108 of 1996]	Article 13. and Section 48(1)].
The Prevention and Combating of Trafficking in Persons Act, 2013 [No. 7 of 2013]	-
National Child Labour Action Programme for South Africa	-
BCEA Regulations on Hazardous Work by Children (No. R 7)	Section 3. (1,2,3,4) & Section 4 (1) (a-i]

South Africa is classified as an upper-middle-income economy by the World Bank. The South African economy grew by 1.4 percent in 2017, 0.8 percent in 2018, and 0.2 percent in 2019, but is projected to retract by 7.1 percent in 2020. State-owned enterprises (SOEs) play a significant role in the South African economy in key sectors like electricity, transport, and telecommunications, to the extent that the government's interest in these sectors discourages foreign investment.⁶⁰

⁵⁸ World Bank Data

⁵⁹ ILO- Natlex

⁶⁰ VERITE- Trafficking Risks in Sub-Saharan African Supply Chains, 2020

The Constitution of South Africa declares that “No one may be subjected to slavery, servitude or forced labour.⁶¹” Child labour and forced labour are prohibited under Basic Conditions of Employment Act.⁶²

The “**Global Slavery Index, 2018**” ranks South Africa as 67/167 on the Prevalence Index Rank. The prevalence of modern-day slavery in South Africa can be tabled as:

Global Slavery Index, 2018 estimates

Estimated number of people living in modern slavery	Estimated proportion of population living in modern slavery	Vulnerability to modern slavery	Population
155,000	2.8/1000	53.76100	55,291,225

In South Africa, the Employment Equity Act protects all workers against unfair discrimination on the grounds of race, age, gender, religion, marital status, pregnancy, family responsibility, ethnic or social origin, color, sexual orientation, disability, conscience, belief, political, opinion, culture, language, HIV status, birth, or any other arbitrary ground. However, discrimination in employment and occupation has been reported to occur in practice in relation to gender, disability, race sexual orientation, HIV status, and country of origin.⁶³

The first national minimum wage was put into effect on January 1st, 2019, and is set above the official poverty line. The standard workweek is 45 hours and provides time-and-half pay for overtime. However, overtime may not be more than 10 hours per week and is only allowed via permit by agreement between employer and employee. The law applies to all workers, including workers in 6 informal sectors, foreigners and migrant workers. However, the government does not prioritize labour protections in the informal economy.⁶⁴

The mining sector has separate legislation to ensure miners’ occupational health and safety. However, the law stipulates that employers cannot retaliate against employees who disclose poor workplace conditions.⁶⁵

The law in South Africa prohibits all forms of forced or compulsory labour, although the U.S. Department of State has reported that the government has not upheld the law effectively, with

⁶¹ Article 13 of the Constitution of South Africa

⁶² Section 43-49 and 93 of the Basic Conditions of Employment Act

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ibid

reports of forced labour involving foreign children and men and women in the fishing and agricultural sectors. Children under the age of 15 are not allowed to work, however, exceptions are made for the performing arts with permission from the Department of Labour and agreement to specified guidelines. Further, children between 15 and 18 are prohibited from work that “threatens a child’s wellbeing, education, physical or mental health, or spiritual, moral, or social development. Child labour laws are inconsistently enforced in the informal and agricultural sectors.⁶⁶

According to the U.S. Department of State Trafficking in Persons Report, “Forced labour is reportedly used in some fruit and vegetable farms across South Africa”. Workers in South African agricultural production are frequently exposed to pesticides and can develop health problems due to exposure. Most seasonal or casual workers are women – as opposed to permanent workers who receive greater protection and are more likely to be men. The migrant labour force in the fruit sector is reportedly growing in South Africa. These workers come from other regions in South Africa, Zimbabwe, Lesotho, and Mozambique. Some analysis notes that migrant workers living in on-plantation housing is attractive to producers/farm owners because workers living on farms improve worker attendance, particularly during the labour-intensive harvest season when inadequate labour can lead to rotten fruit and lost profits. These migrants reportedly bring their 14 family members with them eventually. Some of these migrants seek work directly and use social networks while others are recruited by third-party labour brokers. These brokers may be individuals acting as informal recruiters or registered labour agencies.⁶⁷

Although South Africa has ratified and integrated all ILO Conventions listed above relating to anti-child labour practices into national legislation, it is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking. South Africans constitute the largest number of victims within the country. South African children are also recruited from poor rural areas to urban centers, such as Johannesburg, Cape Town, Durban, and Bloemfontein, where girls are subjected to sex trafficking and domestic servitude, and boys are forced to work in street vending, food service, begging, criminal activities, and agriculture. Large numbers of children, including those with disabilities, are exploited in forced begging. The tradition of Ukuthwala, the forced marriage of girls as young as 12 to adult men, is practiced in some remote villages in Eastern and Western Cape provinces, leaving these girls vulnerable to forced labour and sex slavery. Reports indicate that orphaned children in South Africa are especially vulnerable to human trafficking. It is widely recognized that addressing the social and economic conditions, that give rise to child labour, is crucial to eliminating child labour practices.⁶⁸

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ibid

The National Prosecution Authority prosecutes criminal cases, including human trafficking and other worst forms of child labour cases.⁶⁹ Tenancy (wine) farming is also a form of forced labour that can sometimes lead to eviction in South Africa.

The South Africa programme received funding from the UK Home Office Modern slavery innovation fund in November 2017. This will aid in dealing with forced labour, including in the wine industry to support and guide them.⁷⁰ Sectoral Determination 13 requires employees to be paid minimum wage and must be able to have paid annual leave, sick leave, and maternity leave.⁷¹ It also forbids child labour, forced labour⁷² and also modulates employee termination.⁷³

Although the South African government has made efforts to curb forced labour because of trafficking, The U.S. Report on Trafficking in Persons, 2020 concludes that the Government of South Africa does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included increased investigations, prosecutions, and convictions of traffickers, including within organized criminal syndicates that facilitated the crime. The government also increased the training of national and provincial frontline responders. The government identified more trafficking victims and referred all to care, providing protective services in partnership with NGOs and international organizations, and increased protective services for victims who assisted ongoing law enforcement investigations.⁷⁴

Yearly, millions of consumers worldwide indulgently enjoy the renowned wines and fruits from South Africa, yet the farmworkers who produce these goods for consumption are among the most vulnerable groups working in South African society.⁷⁵ An estimated 20-25% of all wines sold in the Netherlands come from South Africa. In addition, 80% of these wines are sold in and through supermarkets, mostly as private-label wines. A lot of South African wine is sold cheap: the price per hectoliter for bulk wine is among the lowest in the world and South Africa is at the bottom of the pile as far as profits are concerned.⁷⁶

Human Rights Watch's study on the South African wine industry (2011) concluded that prolonged hours of work, harsh weather conditions, no access to drinking water and toilets, and often exposure to pesticides and harmful toxins are common malpractices the South African wine farmers have to deal with. Out of South Africa's nine provinces the greatest number of farm workers, 121,000, live in the wealthy and fertile Western Cape. Despite their critical role in the success of the country's valuable fruit, wine, and tourism industries, farm workers benefit very

⁶⁹ Ibid, 30

⁷⁰ (<https://www.gov.uk/government/news/home-office-awards-millions-to-help-tackle-worldwide-slavery>).

⁷¹ Human Rights Watch interview with a farmer, Stellenbosch, December 6, 2010.

⁷² Human Rights Watch interview with a farmer, New York, April 27, 2011.

⁷³ <http://www.labour.gov.za/legislation/sectoral-determinations/sectoral-determination-13-farm-worker-sector>.

⁷⁴ The U.S. Department of States Trafficking in Persons Report, 2020

⁷⁵ Ripe with Abuse: Human Rights Conditions in South Africa's Fruit and Wine Industries, Human Rights Watch (2011)

⁷⁶ Labour conditions in South African wine industry remain appalling, SOMO (2020)

little, largely because they are subject to exploitative conditions and human rights abuses without sufficient protection of their rights.

Along with disturbing working conditions, evictions from farms are commonplace. A 2005 study estimated that over 930,000 people were evicted from South African farms between 1994 and 2004. Workers also often have no access to drinking water, hand washing facilities, or toilets as required by labour regulations. When farm workers are ill or injured, as is fairly common, they are often refused legally required sick leave; they also struggle to obtain timely or affordable health care given their remote locations and low income.⁷⁷

The Covid-19 pandemic has only made matters worse. Per reports by Mail & Guardian (2020), African women are increasingly forced into domestic servitude situations where they do unpaid housework, and are unable to leave the property unsupervised. In the case of foreign nationals, their documents are withheld. To a lesser extent, foreign shop owners have been found to force co-nationals into working in their shops with no pay. Forced begging syndicates are also considered a form of forced labour. Within the context of Covid-19, rising employer distress and new economic vulnerability have exposed people to a greater risk of being fraudulently recruited and coerced into labour and traffickers may be able to expand their operations.⁷⁸

Apart from the legislative efforts and provisions made on the part of the South African government, other organizations such as Stronger Together, the Wine and Agricultural Ethical Trade Association (WIETA), and the Sustainability Initiative of South Africa (SIZA) have launched a new programme to help South Africa's wine and fruit growing businesses address forced labour and hidden labour exploitation. Businesses will be supported to take proactive measures to detect, deter and deal with forced labour within their operations and supply chains, and have a platform for sharing challenges and good practices. The programme will facilitate dialogue between fruit and wine companies and the international markets they supply to. Producers, their staff, and other stakeholders from both industries will be able to access pragmatic yet practical advice through a free downloadable toolkit, guidance and resources, and face-to-face interactive training workshops beginning in January 2018.⁷⁹

South Africa has ratified the two most important instruments by the International Labour Organization combating forced labour i.e. C029- Forced Labour Convention, 1930 (No. 29) and C105- Abolition of Forced Labour Convention, 1957 (No. 105), the Committee on Conventions and recommendations regularly reports on the issue of forced labour. Current comments for the conventions by CEACR for South Africa are unavailable.⁸⁰

⁷⁷ Ripe with Abuse: Human Rights Conditions in South Africa's Fruit and Wine Industries, Human Rights Watch (2011)

⁷⁸ Rise in forced labour expected amid the Covid-19 economic crisis, Mail & Guardian (2020)

⁷⁹ New programme to address modern slavery in SA's wine and fruit industries, BizCommunity (2017)

⁸⁰ ILO- Normlex

Conclusion

Forced labour is the most common element of modern slavery. It is the most extreme form of people's exploitation. Although many people associate forced labour and slavery with physical violence, the ways used to force people to work are more insidious and ingrained in some cultures.

Forced labour often affects the most vulnerable and excluded groups. Women and girls are more at risk than boys and men, and children make up a quarter of people in forced labour. Migrant workers are targeted because they often don't speak the language, have few friends, have limited information on rights, and depend on their employers.

Forced labour happens in the context of poverty, lack of sustainable jobs and education, a weak rule of law, corruption, and an economy dependent on cheap labour.

Most countries have legislation that deals with forced labour as a serious criminal offense, but it still survives. The systemic factors behind such serious human rights abuse in the world's labour markets have to be clarified further. Governments, law enforcement agents, labour authorities, employers' and workers' organizations, recruiters, consumers, and others must assume their responsibilities for eradicating forced labour. Knowledge must be shared about good practices that can guide future efforts. Progress can be made through a multi-pronged strategy, attacking the criminal practices of forced labour at the lowest rung of the ladder, rescuing and rehabilitating its victims, tackling other aspects of labour exploitation, and promoting opportunities for decent work for all women and men.