



**ELIMINATING  
HUMAN TRAFFICKING:**  
A CASE FOR CORPORATE SELF-REGULATION

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Labor, Immigration & Employee Benefits



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## **Preface**

Human trafficking is a profound humanitarian plight, and the global business community has a key role to play in ameliorating this complex problem. As the business community appropriately shares in the responsibility for eradicating human trafficking, it is critical to ensure that nation states take the lead. An appropriate suite of complementary solutions include targeted government action at the national level, awareness through education and outreach, and corporate initiatives that enable business entities to fashion solutions consistent with the size and context of their own operations.

The U.S. Chamber of Commerce developed the U.S. Chamber Task Force to Eradicate Human Trafficking to help business, government, and civil society fashion responsible and effective measures to eradicate labor trafficking. The business community's unique perspective, voice, and resources lend fundamental value to this discussion.

This white paper represents the Chamber's initial step toward a broader solution to labor trafficking and provides insight into how we hope to achieve a common objective. No business desires to be associated with human trafficking in any manner, and every responsible firm seeks to eliminate the problem from its own operations and, to the extent practicable, from appropriate suppliers and business partners. Every business faces its own distinct challenges to address human trafficking based on the size, complexity, and geographic footprint of its operations.

In addition, this paper addresses certain initiatives that members of the business community have implemented to confront and solve human trafficking. Our efforts serve to frame best practices for employers to consider as they address this ever-changing global problem and demonstrate that the business community has committed substantial resources to help solve it. Legislative solutions should be designed to facilitate these efforts, including ensuring the existence or creation of judicial and political infrastructures aimed at stamping out trafficking's socioeconomic bases or at regulating domestic companies in those jurisdictions and geographies where trafficking is prevalent. To make progress, regulation should not be exclusively aimed at punishing the business community that has taken affirmative steps to solve this problem on its own.

The U.S. Chamber looks forward to continuing a constructive dialogue on this critical issue. Finally, I would like to thank Stefan J. Marculewicz of Littler Mendelson P.C. for his many contributions to this report.



Randel K. Johnson  
Senior Vice President  
Labor, Immigration & Employee Benefits Division  
U.S. Chamber of Commerce



## Human Trafficking and the Challenges It Poses

### *The Problem*

Human trafficking is a global problem that touches all aspects of an economy. Different types of human trafficking exist including sex trafficking, trafficking in children for sex or labor, and labor trafficking.<sup>i</sup> By some estimates, almost 21 million people are victims of trafficking.<sup>ii</sup>

The U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, otherwise known as the Palermo Protocol, provides the commonly accepted definition of “trafficking in persons:”

“Trafficking in persons” shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. ... The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used.<sup>iii</sup>

Although labor trafficking<sup>iv</sup> is defined differently under various laws, it generally includes any kind of forced labor or forced provision of services through any type of coercion or abuse of power.<sup>v</sup> Businesses can unknowingly be involved in labor trafficking when their suppliers, contractors, subcontractors, or partners, often operating in other countries, procure materials, products, or services that are produced by people who are not doing so of their own free will.

Labor traffickers use violence, intimidation, or more subtle means such as manipulated debt, retention of identity papers, or threats of denunciation to immigration authorities.<sup>vi</sup> There are many ways people can be trafficked including situations of debt bondage, forced labor, and involuntary child labor.

Debt bondage is probably the most widely used method of enslaving people today.<sup>vii</sup> Victims become bonded laborers when their labor is demanded as a means of repayment for a loan or service in which its terms and conditions have not been defined or in which the value of the victims’ services as reasonably assessed is not applied toward the liquidation of the debt.

Forced labor is a situation in which victims are forced to work against their own will—under the threat of violence or some other form of punishment—their freedom is restricted, and a degree of ownership is exerted.<sup>viii</sup> Forms of forced labor may include domestic servitude, agricultural labor, sweatshop factory labor, and begging.





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Child labor, a form of work that is likely to be hazardous to the health and/or physical, mental, spiritual, moral, or social development of children and can interfere with their education, can also be considered labor trafficking because of the vulnerability of the children subjected to it.<sup>ix</sup>

The International Labour Organization (ILO) estimates that there are 246 million exploited children between ages 5 and 17 involved in debt bondage, forced recruitment for armed conflict, prostitution, pornography, the illegal drug trade, the illegal arms trade, and other illicit activities worldwide.

### *Challenges*

The strategies of traffickers are constantly evolving. It is an ever-present challenge to identify and eradicate new ways traffickers seek to engage in their activities while avoiding detection. As such, actions that on their face may appear legitimate can merely be fronts that disguise trafficking. For example, one report identified a new way to establish debt bondage. Traffickers who charge recruited workers fees in exchange for jobs have adopted the practice of opening bank accounts into which the workers deposit their paychecks so that traffickers can automatically deduct the value of the fees.<sup>x</sup>

Businesses confront tremendous logistical, financial, legal, and cultural challenges to ensure that they do not contribute to labor trafficking. The challenge is of upmost significance when companies operate in or source from jurisdictions of weak governance or judicial infrastructure. Although most countries have human trafficking laws “on the books” in places where trafficking poses the greatest problem, such laws are disregarded or poorly enforced. The reasons for this lack of enforcement are diverse and include weak government institutions, corruption, and limited resources and capacity.<sup>xi</sup> Companies that source products and services from such countries need to remain vigilant to avoid facilitating the problem—and many do.

### **Legislative and Judicial Efforts to Address Human Trafficking**

There have been myriad attempts to enhance or create anti-trafficking enforcement regimes, principally aimed at broadening legal accountability for companies based on the actions of their often smaller and largely domestic business partners that may be responsible for the problem of trafficking or have a much greater ability to take measures to eradicate it.

### *International Laws*

According to the Office of the United Nations High Commissioner for Human Rights, human trafficking is prohibited as a violation of international human rights and as a type of economic crime.<sup>xii</sup> Prohibitions against human trafficking have long been incorporated into foundational U.N. documents, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.<sup>xiii</sup> The most prominent of international laws prohibiting human trafficking





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is the U.N. Palermo Protocol.<sup>xiv</sup> This widely ratified protocol requires governments to implement the necessary actions to prevent trafficking, protect victims by rescuing them from traffickers, and punish and penalize traffickers.

Similarly, ILO Conventions No. 29 and No. 105 also require ratifying nation states to prevent and punish forced labor.<sup>xv</sup> As mentioned, forced labor is a form of human trafficking.<sup>xvi</sup> In 2014, the ILO adopted a new protocol to Convention No. 29, which emphasizes “trafficking in persons,” a form of forced labor not explicitly addressed under the Convention.<sup>xvii</sup> This protocol provides practical guidance to prevent trafficking and protect victims while ensuring their access to justice and remedies, enforcement, and international cooperation.<sup>xviii</sup> These Conventions bind governments that ratify them. Those governments are required, in turn, to enact and enforce domestic laws to hold corporate actors accountable for human trafficking.

Finally, these laws provide the norms that undergird voluntary guidelines such as the U.N. Guiding Principles on Business and Human Rights (UNGPs) and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises. Those companies that adopt these voluntary guidelines by extension also commit to the principles of these international laws.

Efforts to further expand the scope of international laws regulating human trafficking continue. For example, a U.N. working group is in the process of developing a treaty that seeks to transform certain “soft law” norms found within the UNGPs into “an international legally binding instrument to regulate the activities of transnational corporations and other business enterprises.”<sup>xix</sup> After several meetings of this working group, it is still unclear what the content and scope of the draft treaty will be. However, counterproductively, discussions surrounding the draft treaty began by focusing on only multinational companies and not domestic entities that are often more directly engaged in offending practices.

### *National Laws to Address Human Trafficking*

In the U.S., the basis for the federal prohibition on human trafficking is the 13th Amendment to the U.S. Constitution, which abolished slavery and involuntary servitude and has been construed to apply to private as well as government action.<sup>xx</sup> Pursuant to its obligations under the Palermo Protocol, the U.S. enacted the Trafficking Victims Protection Act (TVPA) of 2000 and its reauthorizations, which extend criminal prosecution and civil liability to perpetrators of fraud in labor contracting and recruitment and also to those benefiting financially from the forced labor-related conditions.<sup>xxi</sup> In 2015, Congress sought to prohibit the importation of goods made with forced and child labor in the Trade Facilitation and Trade Enforcement Act of 2015.<sup>xxii</sup>

All 50 states and the District of Columbia have enacted some form of anti-trafficking legislation, many in the mold of the TVPA that allows for civil and criminal damages against corporate actors.<sup>xxiii</sup> In addition, the California Transparency in Supply Chains Act requires covered companies to publicly disclose their efforts on avoiding, identifying, and eradicating forced labor from their business operations and supply chains, thus bringing market pressure to bear on companies with poor human rights records.<sup>xxiv</sup> Specifically, this act requires that every retailer





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and manufacturer doing business in California with annual worldwide gross receipts exceeding \$100 million must conspicuously disclose on its website the extent to which it conducts due diligence of and training for contractors in their supply chain to address the risk of human trafficking and forced labor.

The California act has inspired other similar mandatory disclosure laws around the world. For example, the UK's Modern Slavery Act 2015 requires certain large companies conducting business in the U.K. to produce a "slavery and human trafficking statement" each financial year, disclosing their efforts to ensure their supply chains are free from slavery and human trafficking.<sup>xxv</sup> Further, the European Union Council adopted and published Directive 2014/95/EU with respect to the disclosure of certain "Corporate Social Responsibility" matters, including corporate efforts to respect human rights and implement ILO Conventions on forced labor.<sup>xxvi</sup> More recently, the legislatures in the Netherlands and France took significant steps to implement mandatory due diligence and reporting rules regarding the impact of an employer's operations and supply chains on human rights.<sup>xxvii</sup> Finally, Australia is in the process of developing similar reporting legislation.<sup>xxviii</sup>

*Attempts for the Extraterritorial Application of Domestic Laws*

Although U.S. courts recognize a presumption against the extraterritorial application of U.S. laws,<sup>xxix</sup> some litigants have attempted to hold companies liable for human trafficking occurring outside the U.S. The Alien Tort Claims Act is the main vehicle for overseas human rights litigation.<sup>xxx</sup> While the U.S. Supreme Court has narrowed its extraterritorial scope,<sup>xxxi</sup> the 9th Circuit Court of Appeals has allowed complaints to proceed past motions to dismiss where corporate defendants were alleged to have "aided and abetted" slavery overseas.<sup>xxxii</sup> Moreover, courts have held that the TVPA applies extraterritorially.<sup>xxxiii</sup>

Cases arising under various state laws have also sought to address human trafficking in the supply chains of companies that operate or sell goods in the U.S. Courts in California have proved to be a fertile testing ground for such litigation. In August and September 2015, six class action cases were brought in California federal courts by consumers alleging that, in violation of California consumer protection and unfair competition laws, companies failed to disclose forced labor in their supply chains. Three of these cases were filed against companies for failing to disclose their alleged use of forced labor in supply chains procuring seafood from suppliers in Thailand.<sup>xxxiv</sup> The other three cases were filed against companies for failing to disclose their alleged use of child labor in supply chains procuring cocoa beans from growers in West Africa.<sup>xxxv</sup>

The legal claims in these cases did not arise from the alleged labor violations themselves but, rather, in the alleged failure by the named companies to disclose to California consumers the use of forced labor or the "likelihood of forced labor" in supply chains. The plaintiffs argued that the companies' various corporate statements, such as their supplier codes of conduct, should have included these disclosures, especially since those corporate statements refer to such norms as the ILO Conventions on child labor. Although all these cases were dismissed for failure to state claims, some dismissals have been appealed. Thus, the viability of these plaintiffs' claims remains an open question.





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Canadian courts have also seen a spate of cases in which litigants have pushed so-called novel tort theories. For example, in November 2014, three Eritrean refugees filed suit in the Supreme Court of British Columbia alleging that a Canadian company “aided, abetted, contributed to and became an accomplice to the use of forced labor, crimes against humanity and other human rights abuses” at an Eritrean mine.<sup>xxxvi</sup> The plaintiffs alleged that the company was negligent because it violated the International Finance Corporation Performance Standards, which the company had publicly represented it would follow. The court refused to dismiss this case, holding that Canadian law allows these plaintiffs to pursue private rights of action against Canadian companies based on violations of customary international law standards (which were based partly on voluntary guidelines like the UNGPs) on forced labor, rather than a violation of a specifically Canadian statute or common law rule.<sup>xxxvii</sup>

As another example, in April 2015, survivors and family members of workers who died in the Rana Plaza factory collapse in Bangladesh filed suit in Toronto against a Canadian retail company seeking nearly \$2 billion in damages.<sup>xxxviii</sup> The plaintiffs claimed that the company was negligent because it knew of a “significant and specific risk” to workers making garments in the factory for the company’s clothing line, but it failed to conduct inspections and audits in accordance with not only its own standards but also voluntary international standards set forth in the UNGPs and OECD Guidelines for Multinational Enterprises.

Litigation surrounding human trafficking in company supply chains continues to be in a developmental stage. However, companies need to remain vigilant of new and creative theories that are being put forth.

### **Efforts to Police and Eliminate Human Trafficking**

Over many years, companies with global operations and business partners have developed detailed and effective programs to address human trafficking. The collective experience of these businesses has proved to be an invaluable resource for combating this problem. The voluntary efforts of companies often go unrecognized by governments, legislators, and civil society. Yet these companies deserve credit not just for their scope and assigned resources but because of their dedication to help solve this complex problem.

Following is a nonexhaustive list of examples describing how companies have sought to identify and eliminate human trafficking in their operations, in the operations of their business partners, and elsewhere in their supply chains:

- Involve company leadership at the highest level to identify and eradicate human trafficking

Many companies have issued public policy statements committing their leadership to respecting human rights, which includes eradicating human trafficking. Such statements reflect the intent of the corporation at all levels to commit to solve this problem. An increasing number of companies have board committees dedicated to social responsibility efforts, including addressing human trafficking in their supply chains.<sup>xxxix</sup> These committees report the companies’ anti-trafficking initiatives to shareholders and other interested parties.





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- Identify business partners and geographies where the risk of human trafficking is present

Companies have used in-house or third-party analysts to identify the areas where their business partners and operations may pose a risk of susceptibility to human trafficking. Identifying these high-risk areas enables companies to focus their scrutiny and resources—for example, by conducting more intensive and targeted due diligence—to help eliminate such risks.

Companies have recognized that a significant way to reduce the risk of forced labor practices is to develop relationships with a limited, consolidated supplier base. These relationships create longer term incentives for the suppliers to comply with company policies to refrain from human trafficking and other forced labor practices.

- Develop and implement policies and programs to prohibit human trafficking

Based on the risks identified, companies have developed clear policies explicitly prohibiting human trafficking, including incorporating a zero tolerance policy for human trafficking in supplier selection procedures. These policies apply to both company operations and the supply chain, including business partners like private employment agencies. These policies have also been integrated into contracts with suppliers and business partners.

- Implement training and awareness programs

Companies have carried out training programs to educate relevant representatives on human trafficking. Such training includes tools to identify situations where trafficking may exist and how to deal with the problem once it is identified. Some firms conduct joint training and awareness-raising exercises with appropriate business partners and external stakeholders. Still, others use posters and other communication devices to make employees, customers, and the general public aware of the problem as well as offer instructions on what to do if a person identifies possible trafficking.

Certain nonprofits and government agencies provide resources that assist with these trainings. For instance, the Department of Homeland Security, as part of its “Blue Campaign,” provides a toolkit to educate employees in the hospitality industry.<sup>x1</sup>

- Monitor and measure impact

Companies have used in-house and third-party consultants to develop goals and key performance indicators and effectively monitor adherence to those goals and indicators by business partners. Monitoring methods range from self-reports from business partners to unannounced site visits by third-party or company auditors. Some companies require auditors to provide country-level reports on the political and socioeconomic situations of the countries in which they operate and how those situations affect workers in those countries.





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- Require suppliers to certify compliance with company policies

Companies often require business partners to periodically certify that they have complied with the companies' requirements on identifying and eradicating human trafficking from their operations. These certification requirements are integrated into the companies' contracts.

- Offer a confidential helpline for suppliers' employees

Some companies have required business partners to provide access to a confidential helpline directly connecting the suppliers' employees with the companies. These helplines allow workers to complain to the companies without fear of retaliation from suppliers.

- Examine production planning and order placement practices

Companies that rely on business partners to manufacture and fulfill orders have recognized that certain business conditions may create additional risks of involving entities that are susceptible to forced labor. As such, businesses have sought to manage their demand to ensure that products are produced by known and trusted partners. Short deadlines, for example, for large amounts of product may exceed the capacity of a known and trusted business supplier. This may force the supplier to look outside its own operations for additional capacity, possibly to unknown tertiary suppliers that may be more susceptible to the risks of using trafficked labor.

- Implement policies prohibiting workers from paying recruitment fees

Recruiters function as a bridge between workers and employers and, at their best, can provide guidance and assist in matching workers with open positions. However, certain recruiters charge recruited workers fees they cannot reasonably be expected to repay. This leads to debt bondage in which the worker is forced to give up most or all of his or her salary until the fees are repaid. To combat this situation, companies have instituted policies prohibiting recruiters from charging prohibited or inappropriate recruitment fees or any related costs to the workers.<sup>xli</sup>

- Take action in the community

Companies have increasingly launched global, national, or local campaigns in cooperation with the media to promote awareness of human trafficking and support prevention programs in the communities in which they operate. Companies have also worked with international organizations, nonprofits, and business or trade associations in establishing industrywide or countrywide task forces on human trafficking dedicated to raising awareness.

Some companies have been involved with the ILO's Special Action Programme to Combat Forced Labour, which raises awareness of and assists governments in combating forced labor, and the ILO's "Better Work





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Program,” which among other things, trains apparel workers and managers on rights and responsibilities in the workplace.<sup>xlii</sup>

## **Conclusion**

Despite the daunting challenges posed by controlling the labor practices of business partners in far-flung locales, companies have made meaningful strides in solving human trafficking. The U.N. has correctly and repeatedly emphasized that the primary duty in protecting citizens from human rights abuses, like those associated with trafficking, lies with nation states, not individual companies.<sup>xliii</sup> These responsibilities lie, most fundamentally and critically, in ensuring the existence of socioeconomic conditions that blunt trafficking. Companies are not equipped to provide that sort of governance or capacity building. Instead, and consistent with the UNGPs, the business community is developing human rights and anti-trafficking infrastructures to make the geographies where they do business better places for those that provide products and services. Policymakers should recognize this reality.

For true and meaningful progress to be made, a more honest assessment of the ongoing efforts of business and how those efforts can be complemented by nation states, is necessary. Rather than seeking to impugn the community that has taken the lead on this issue, stakeholders, and most importantly policymakers and members of civil society, should seek to collaboratively work with the business community on human trafficking. The U.S. Chamber Task Force to Eradicate Human Trafficking stands ready to work with policymakers, government, and members of civil society to eliminate the scourge of human trafficking.





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**Endnotes**

<sup>i</sup> A comprehensive listing of the different types of human trafficking or modern-day slavery can be found on the U.S. Department of State’s Office to Monitor and Combat Trafficking in Persons website.  
<https://www.state.gov/j/tip/what/index.htm>

<sup>ii</sup> The International Labour Organization has been tracking the number of estimated victims of human trafficking for some time. See 2016 Global Estimates of Modern Slavery.  
<http://www.ilo.org/global/topics/forced-labour/statistics/lang--en/index.htm>

<sup>iii</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2237 U.N.T.S. 319 (November 15, 2000); Supplementing the United Nations Convention Against Organized Crime, 2225 U.N.T.S. 209 (November 15, 2000).

<sup>iv</sup> For purposes of this white paper, we will focus our attention on labor trafficking, but much of the discussion here lends itself to other forms of trafficking.

<sup>v</sup> The Trafficking Victims Protection Act of 2000 - §102(b)(3) emphasizes that “[t]rafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.”

<sup>vi</sup> International Labour Organization, *What Is Forced Labour, Modern Slavery and Human Trafficking*.  
<http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>

<sup>vii</sup> U.S. Department of Health Human Services, Office on Trafficking in Persons, *Fact Sheet: Labor Trafficking*.  
<https://www.acf.hhs.gov/otip/resource/fact-sheet-labor-trafficking-english>

<sup>viii</sup> *Id.*

<sup>ix</sup> *Id.*

<sup>x</sup> Gillian B. White, *The Atlantic*, “All Your Clothes Are Made With Exploited Labor” (June 3, 2015).  
<https://www.theatlantic.com/business/archive/2015/06/patagonia-labor-clothing-factory-exploitation/394658/>

<sup>xi</sup> Jana von Stein, *Making Promises, Keeping Promises: Democracy, Ratification and Compliance in International Human Rights Law*, 46 *British J. Political Science* 655, 658-59 (July 2016); Oona Hathaway, *Do Human Rights Treaties Make a Difference?* 111 *Yale L.J.* 1935, 2005-2007 (2002).

<sup>xii</sup> U.N. Office of the High Commissioner, *Human Rights and Human Trafficking – Fact Sheet No. 36*.  
[http://www.ohchr.org/Documents/Publications/FS36\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS36_en.pdf)

Federal Bureau of Investigation, FBI Law Enforcement Bulletin, *Human Sex Trafficking*.  
<https://leb.fbi.gov/2011/march/human-sex-trafficking>  
 (“Not only is human sex trafficking slavery but it is big business. It is the fastest-growing business of organized crime and the third-largest criminal enterprise in the world.”)





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<sup>xiii</sup> Universal Declaration of Human Rights, Arts. 1-4, 23, 24.

<http://www.un.org/en/universal-declaration-human-rights>

International Covenant on Civil and Political Rights, Arts. 2, 8, 999 U.N.T.S. 171 (December 1966).

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

International Covenant on Economic, Social and Cultural Rights, Art. 6, 993 U.N.T.S. 3 (December 16, 1966).

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>xiv</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Art. 3(a), 2237 U.N.T.S. 319 (November 15, 2000); Supplementing the United Nations Convention Against Organized Crime, 2225 U.N.T.S. 209 (November 15, 2000).

<sup>xv</sup> International Labour Organization, Forced Labour Convention, no. 29 (1930).

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029)

International Labour Organization, Abolition of Forced Labour Convention, no. 105 (1957).

[http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C105](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105)

<sup>xvi</sup> The Trafficking Victims Protection Act of 2000 - §102(b)(3) (“Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.”)

<sup>xvii</sup> International Labour Organization, Protocol to the Forced Labour Convention (1930) adopted by the International Labour Conference at its 103rd Session (Jun. 11, 2014).

<sup>xviii</sup> International Labour Organization, Brief on the Protocol to the Forced Labour Convention (1930).

[http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_321414/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_321414/lang--en/index.htm)

<sup>xix</sup> United Nations Human Rights Office of the High Commissioner, *Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises With Respect to Human Rights*.

<http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>

<sup>xx</sup> *See, e.g., Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454, 459-60 (1975).

<sup>xxi</sup> Victims of Trafficking and Violence Protection Act of 2000 (TVPA) (P.L. 106-386).

<sup>xxii</sup> Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125).

<sup>xxiii</sup> *See, e.g., Illinois Justice for Victims of Sex Trafficking Crimes Act*, Public Act 097-0267 (725 ILCS 5/116-2.1); Washington State Law on Trafficking, RCW 9A.40.100 *et seq.*

<sup>xxiv</sup> Calif. Civil Code Section 1714.43.

<sup>xxv</sup> United Kingdom Modern Slavery Act 2015.

<http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

<sup>xxvi</sup> European Union Directive 2014/95/EU: Disclosure of Non-financial and Diversity Information.

<http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0095>





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<sup>xxvii</sup> See Wet zorgplicht kinderarbeid (“Child Labor Due Diligence Law”), No. 34 506 (2016-2017).  
[https://www.eerstekamer.nl/behandeling/20170207/gewijzigd\\_voorstel\\_van\\_wet/document3/f=/vkb](https://www.eerstekamer.nl/behandeling/20170207/gewijzigd_voorstel_van_wet/document3/f=/vkb)

Proposition de loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre (Texte Adopté no. 924).  
<http://www.assemblee-nationale.fr/14/ta/ta0924.asp>

<sup>xxviii</sup> <https://www.ag.gov.au/Consultations/Pages/modern-slavery-in-supply-chains-reporting-requirement-public-consultation.aspx>

<sup>xxix</sup> See *EEOC v. Arabian American Oil Co.*, 499 U.S. 244 (1991).

<sup>xxx</sup> 28 USC § 1350.

<sup>xxxi</sup> *Kiobel v. Royal Dutch Petroleum Co.*, 133 S. Ct. 1659, 1669 (2013).

<sup>xxxii</sup> *Doe v. Nestle U.S.A., Inc.*, 766 F.3d 1013 (9th Cir. 2014), *cert denied* 136 S. Ct. 798 (2016).

<sup>xxxiii</sup> *Chowdhury v. Worldtel Bangladesh Holding, Ltd.*, No. 09-4483, 2014 U.S. App. LEXIS 2507 (2d Cir. Feb. 10, 2014), *cert. denied* 135 S. Ct. 401 (2014).

<sup>xxxiv</sup> *Wirth v. Mars, Inc.*, No. 15-cv-1470, 2016 U.S. Dist. LEXIS 14552 (C.D. Cal. Sept. 10, 2015); *Sud v. Costco Wholesale Corp.*, No. 15-cv-03783 (N.D. Cal. Aug. 19, 2015); *Barber v. Nestle USA, Inc.*, 154 F. Supp. 3d 954 (C.D. Cal. Aug. 27, 2015).

<sup>xxxv</sup> *Hodsdon v. Mars, Inc.*, 162 F. Supp. 3d 1016 (N.D. Cal. Sept. 28, 2015); *Dana v. The Hershey Co.*, No. 15-cv-04453, 2016 U.S. Dist. LEXIS 41594 (N.D. Cal. Sept. 28, 2015); *McCoy v. Nestle USA, Inc.*, No. 15-cv-04451, 2016 U.S. Dist. LEXIS 41601 (N.D. Cal. Sept. 28, 2015).

<sup>xxxvi</sup> See *Arraya v. NevSun Resources, Ltd.*, Notice of Claim S 148932 (Supreme Court of British Columbia, Nov. 20, 2014).

<sup>xxxvii</sup> *Arraya v. NevSun Resources, Ltd.*, 2016 BCSC 1856 (Supreme Court of British Columbia, Oct. 6, 2016).

<sup>xxxviii</sup> See *Das v. Loblaw's, Inc.*, Notice of Claim cv-15-526628 (Superior Court of Justice – Ontario, April 22, 2015).

<sup>xxxix</sup> A 2010 survey suggested increased attention to corporate social responsibility issues among boards of directors of major U.S. corporations, finding that that “sixty-five percent of S&P 100 and 28 percent of S&P 500 companies have board committees dedicated to social responsibility.” David Millon, *Human Rights and Delaware Corporate Law*, 25 Pac. McGeorge Global Bus. & Dev. L.J. 173, 187 (2012).

<sup>xl</sup> U.S. Department of Homeland Security, *Blue Campaign Toolkits*.  
<https://www.dhs.gov/blue-campaign/materials/toolkits>

<sup>xli</sup> See U.S. Department of State, *Paying to Work: The High Cost of Recruitment Fees*.  
<https://www.state.gov/documents/organization/272409.pdf>

United Nations Office on Drugs and Crime, *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons*.  
[https://www.unodc.org/documents/human-trafficking/2015/Recruitment\\_Fees\\_Report-Final\\_22\\_June\\_2015\\_AG\\_Final.pdf](https://www.unodc.org/documents/human-trafficking/2015/Recruitment_Fees_Report-Final_22_June_2015_AG_Final.pdf)

<sup>xliii</sup> U.N. Office of the High Commissioner on Human Rights, *Eliminating Human Trafficking from the Global Business Landscape*.  
<http://www.ohchr.org/EN/NewsEvents/Pages/Trafficking.aspx#sthash.yL1wYkpt.dpuf>

U.N. Human Rights Council Human Rights, Thirty-second session, Agenda item 3 (6/29/16) (“[T]he primary responsibility to promote and protect human rights and fundamental freedoms lie with the State ...”).





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