



# RESPONSIBLE SOURCING TOOL

## Seafood | Tool 4

### PROTECTIONS AGAINST TRAFFICKING IN PERSONS<sup>1</sup>

## Country-Level Review of Legal Protections Against Human Trafficking

*Understanding the legal frameworks and policies that govern the prevention of human trafficking can help companies assess which source countries in their supply chains may have a heightened risk of trafficking<sup>1</sup> and can provide insight into the types of issues that may arise at worksites in those countries.*

*In addition to assessing laws specifically criminalizing human trafficking, or labor laws prohibiting the activities that can lead to human trafficking, it is helpful to understand broader legal frameworks around fundamental labor rights — and associated issues, such as corruption — that have implications for risks of human trafficking. For example, it is important to look at aspects of labor law such as freedom of association and collective bargaining rights that have implications for human trafficking risk. Although absence of freedom of association and collective bargaining do not indicate instances of human trafficking, together their absence can indicate an overall working climate less favorable to workers, especially vulnerable workers, putting them at greater potential risk for labor exploitation. Similarly, assessing laws around minimum age requirements and mandatory education can help determine the country-specific context for identifying gaps in legal protections for young workers; noting legal requirements regarding worker-provided housing can help ensure that workers are provided accommodations that are consistent with legal standards and in line with those described at the time of contract signing.*

*It is also helpful to identify which sectors, if any, are exempt from laws relating to labor protection as this can help determine potential areas of increased risk. Many types of*

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<sup>1</sup> The United States recognizes two primary forms of trafficking in persons: forced labor and sex trafficking. For the purposes of this and other tools in the set, several terms are used such as “trafficking in persons,” “human trafficking,” and “forced labor.” In relation to these tools, they refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labor.

*worksites in services and construction, for example, are characterized as temporary, casual, part-time, or contracted, resulting in a lack of social and legal protections.*

*The following guiding questions address key topics related to the prevention of human trafficking and the assurance of labor rights. Desk review of freely and publicly available laws and reports can in some cases provide a picture of relevant de jure legal frameworks. There are many good publicly available sources of legal information. For example, the [International Labor Organization's Database of national labour, social security, and related human rights legislation](#) contains records of legislation, including full texts and relevant links, for relevant legislation in many countries. To review a country's legal framework on a particular topic, select "Browse by country," and then choose the relevant subject. Other free and public resources, which can help assess a country's prevention and prosecution efforts, including the reports of the [ILO's Committee of Experts on the Application of Conventions and Recommendations](#), the [U.S. Department of State's Trafficking in Persons Report](#), and the [U.S. Department of State's Country Reports on Human Rights Practices](#).*

*Please Note: While every effort has been made to ensure the accuracy and reliability of information contained in this review (based on publicly-available information and Verité expertise on these matters), the contents herein do not constitute legal advice or guidance, nor are they intended to replace formal consultation with a legal professional.*

## Guiding Questions

### HUMAN TRAFFICKING

*Legal and policy frameworks designed to comprehensively address trafficking are imperative for reducing trafficking risk; frameworks must prevent and combat trafficking and prosecute and punish trafficking perpetrators.*

#### Existing Legal Framework

- Does the government have laws prohibiting all forms of human trafficking, including forced labor, slavery, or related offenses? Does the legal framework establish a specific criminal offense of human trafficking, including forced labor?

#### Government Efforts to Combat Human Trafficking

- Does the legal framework include a national action plan on forced labor?

#### Implementation in Practice

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- Has the government identified victims of forced labor in the past year? Have there been any prosecutions related to human trafficking — including forced labor or forced child labor — in the past year? Have there been any convictions?
- Are there trainings and resources on human trafficking available to the appropriate officials and personnel?

*For additional information on specific forced labor legal frameworks and implementation of such laws, please see the Department of State's annual [Trafficking in Persons Report: Trafficking in Persons Report - United States Department of State](#).*

### CHILD LABOR

*While child labor is not synonymous with trafficking in persons, the drivers for both may be similar, including the demand for cheap, exploitable, unskilled labor; poverty; unequal or limited access to education; and exclusionary social attitudes based on caste, gender, immigration status, ethnicity or other characteristics or factors. Child labor and worst forms of child labor are widespread in informal economic sectors. Moreover, in some countries, the legal minimum age for employment in specific sectors, like the agricultural sector, is lower than in other sectors, creating different legal requirements across sectors. If children are not required to attend school, or if attending school proves too expensive due to enrollment fees and associated costs, there may be many more underage workers in the labor force.*

#### Existing Legal Framework

- Does this country specify a minimum age for employment?
- Does the law define light work and/or hazardous tasks?
- Does the law prohibit the worst forms of child labor?

#### Government Efforts to Combat Child Labor

- Does the legal framework include a national action plan on child labor?

#### Implementation in Practice

- Have there been any civil actions or prosecutions related to child labor (including worst forms of child labor) in the past year in construction, or in the processing or manufacturing of construction materials and products?

## LABOR RIGHTS AND CONDITIONS OF WORK

*Adequate labor laws, inspection systems, and regulations concerning aspects of working conditions such as minimum and living wage levels, hours and overtime pay, occupational safety and health, and employer-provided housing can help reduce trafficking risk in a country. When countries do not comply with labor standards, working environments may be more susceptible to violations of labor rights and trafficking risk.*

### Existing Legal Framework

- What labor practices and protections are established by law (minimum wage, working hours and overtime provisions, occupational health and safety)?
- Are there laws governing housing standards, especially for worker-provided or worker-arranged housing?
- Does the law provide for a system of labor inspection or oversight? If yes, how adequate were the number and frequency of workplace inspections in the past year?
- Are any sectors exempt from labor rights legislation? If so, which ones?

### Implementation in Practice

- Have labor inspections been conducted in the past year?
- What is the ratio of inspectors to workers? What is the total number of labor inspectors, or what is the ratio of inspectors to workplaces?
- At what sorts of worksites have labor inspections been conducted?
- Are labor inspectors trained on or otherwise supported in identifying cases of labor trafficking or indicators of labor trafficking in practice?

## FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

*The degree of protection for workers' rights to freedom of association and collective bargaining provide important information about the potential risk of human trafficking and other labor abuses. Where workers are not able to advocate for themselves, or do not have the right to associate freely or bargain collectively, the risk of adverse and potentially exploitative working conditions may rise.*

### Existing Legal Framework

- Is freedom of association legally guaranteed?
- Are certain types of workers excluded from the right to form or join a union?

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- Is the right to collective bargaining protected?
- Are there restrictions on types of workplaces or sectors where collective bargaining can occur? Are certain types of workers excluded from bargaining collectively?

#### Contracted Workers

Contracted and sub-contracted workers are common throughout manufacturing, services, construction, hospitality and food and beverage supply chains. They may work in mining and quarrying, industrial production, food preparation and service, building maintenance and janitorial services, and hotel housekeeping. In some cases, it can be particularly challenging for contracted and sub-contracted workers to effectively organize, even if they are legally allowed to do so, due to the fact that they are not technically employed by the company or entity ultimately responsible for their working conditions.<sup>1</sup> In some countries, migrant workers may have some protected rights to freedom of association but not be guaranteed the right to bargain collectively or to strike. In addition to facing structural and legal hurdles, contract workers' ability to join unions or otherwise organize can be hampered by the amount of time workers can interact with each other at any one company or employer as their labor provider moves them from assignment to assignment. Finally, migrant workers and guest workers may be barred from full participation in unions or collective bargaining.

#### Implementation in Practice

- What percentage of the national workforce is unionized? What percentage of the workforce in various sectors is unionized?
- What percentage of workers are covered by collective bargaining agreements?

#### MIGRANT WORKERS' RIGHTS

*Countries with immigration policy frameworks that restrict the rights or movements of migrant workers may pose a risk for human trafficking. For example, policies that tie work visas to particular employers may prevent workers from leaving exploitative or abusive employment situations for fear of losing their legal immigration status. Policies that restrict the ability of migrant workers to associate, organize, or collectively bargain similarly weaken protections for migrant workers from potential exploitation or abuse. In the absence of bilateral agreements,*

*migrant workers' home country governments are in a weak position to enforce reasonable limits on recruitment fees or advocate for their citizens' rights in the migrant-receiving country.*

### **Existing Legal Framework**

- Are migrant, domestic, seasonal, and informal economy workers included in the work and labor protections mentioned above?
- Is this country a party to any bilateral or regional agreements about foreign employment or migrant workers? If so, what is the nature of any labor rights provisions included in the agreement(s)?

## **JUSTICE SYSTEM**

*For states to investigate instances of trafficking, apprehend traffickers, and prosecute them, there must be justice systems that function effectively and fairly. Strong justice systems that address the prosecution of perpetrators, protect victims, and ensure equal and fair access for all can contribute to reducing trafficking in persons risks at a country level.*

### **Existing Legal Framework**

- Do justice system institutions and procedures exist to assist victims of human trafficking?
- Do criminal justice institutions have mandates that encompass human trafficking?
- Does this country restrict legal standing or access to justice institutions for marginalized groups, including women, minorities, foreign citizens, and stateless-persons?
- Does this country provide legal aid for indigent parties?

## **ILO CONVENTIONS AND INTERNATIONAL PROTOCOLS & STANDARDS**

*The International Labor Organization (ILO), a UN body, produces conventions that establish international labor standards and determine the legally binding principles that must be upheld by ratifying countries. These conventions can be ratified by member countries which binds them to uphold the principles therein. There are eight core conventions that establish internationally-accepted standards for freedom of association, the elimination of child labor and forced labor, and the elimination of discrimination in the workplace.*

*While the ratification and enforcement of a convention does not guarantee ideal conditions in a country, it does suggest an institutional and legislative commitment to upholding international standards. Conventions, whether ratified in a country or not, can further serve as a benchmark*

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for good practice. *The Information System on International Labour Standards* allows you to search by country or convention for ratifications.

<b>Guiding Question: Have the following ILO core conventions been ratified by this country?</b>	
<b>ILO Convention</b>	<b>Ratified and In Force?</b>
<b>Forced Labor:</b>	
<p><b>C29: Forced Labor</b></p> <p>Obligates countries to suppress the use of forced or compulsory labor “in all its forms” with exceptions for military service, civic or emergency duties, and as the result of a court conviction (so long as the labor is supervised by a public authority and not hired out to private individuals or companies). Forced or compulsory labor is defined as work or service exacted from any person under the menace of penalty and for which the person has not volunteered.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>C105: Abolition of Forced Labor</b></p> <p>Forbids forced labor used “as a means of political coercion” or as punishment for “holding or expressing political views” or for participating in strikes.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Freedom of Association and Collective Bargaining:</b>	
<p><b>C87 Freedom of Association and Protection of the Right to Organize</b></p> <p>Establishes the right of workers and employers to join organizations of their own choosing without prior authorization; and the right of organizations to draw up their own rules and constitutions, elect their own representatives, and organize their own affairs without outside intervention. It calls for protection of workers’ organizations from governmental interference and from being dissolved or suspended by administrative authority; and calls for the right to affiliate with international organizations of workers.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>C98 Right to Organize and Collective Bargaining</b>	

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<p>Grants workers the right to adequate protection against anti-union acts such as dismissals and against business interference; and encourages countries to take measures to promote collective bargaining.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>Equality and Non-Discrimination:</b></p>	
<p><b>C100 Equal Remuneration</b> Establishes the principle of equal remuneration for men and women for work of equal value.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>C111 Discrimination</b> Forbids any distinction, exclusion, or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>Child Labor:</b></p>	
<p><b>C138 Minimum Age</b> Sets the minimum age for work at 15 years of age (although countries with insufficiently developed economies and educational facilities can qualify for “exception” status with a minimum working age of 14). The convention permits light work (defined as work that is not likely to be harmful and does not interfere with schooling) for 13- to 15-year-olds.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p><b>C182 Worst Forms of Child Labor</b> Obligates countries to take effective steps towards eliminating the worst forms of child labor (slavery, debt bondage, work in the sex or drug trades, or any other physically or morally harmful work).</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

<p><b>Guiding Question:</b> <b>Have the following additional international protocols and conventions been ratified by this country?</b></p>	
<p><b>Protocol or Convention</b></p>	<p><b>Ratified and In Force?</b></p>



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<p><b>Trafficking:</b></p>	
<p><b>UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000</b></p> <p>This is one of three protocols to the Convention against Transnational Organized Crime, known as the Palermo Protocols. It is a global, legally binding instrument that defines trafficking in persons and is intended to enable international cooperation for investigating and prosecuting trafficking in persons and to protect and assists trafficking victims.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p><b>Forced Labor:</b></p>	
<p><b>P29: Protocol to the Forced Labour Convention, 1930</b></p> <p>Emphasizing the urgent need to eliminate forced and compulsory labour in all its forms and manifestations, the Preamble explains that the Protocol seeks to address gaps in the implementation of Convention No. 29 by reaffirming that measures of prevention, protection and remedies are necessary to achieve the effective and sustained suppression of forced or compulsory labour.</p> <p>The measures to be taken for the prevention of forced or compulsory labour include:</p> <ul style="list-style-type: none"> <li>a. educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;</li> <li>b. educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;</li> <li>c. undertaking efforts to ensure that:             <ul style="list-style-type: none"> <li>i. the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and</li> <li>ii. labour inspection services and other services responsible for the implementation of this legislation are strengthened;</li> </ul> </li> <li>d. protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;</li> </ul>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

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<p>e. supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and</p> <p>f. addressing the root causes and factors that heighten the risks of forced or compulsory labour</p>	
<p><b>Migrant Workers:</b></p>	
<p><b>C143: Migrant Workers (Supplementary Provisions) Convention, 1975<sup>ii</sup></b></p> <p>Establishes that the “basic human rights of all migrant workers” should be respected by ratifying nations. Requires ratifying nations to “systematically seek to determine whether there are illegally employed migrant workers on its territory” and whether migrants are subjected to employment conditions that contravene national laws or regulations, or other agreements whether international, multilateral, or bilateral. It also outlines that migrants working legally should not be “regarded as in an illegal or irregular situation” and should be treated without prejudice. Requires ratifying nations to establish a “national policy designed to promote and guarantee...equality of opportunity and treatment” regarding employment and occupation, social security, trade union participation, freedoms and cultural rights for migrant workers and their families.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p><b>Working Conditions:</b></p>	
<p><b>C188: Work in Fishing Convention (2007)</b></p> <p>Establishes the minimum requirements for conditions on board commercial fishing vessels covering conditions of service, accommodation and food, occupational safety and health protection, medical care and social security.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

<sup>i</sup> The methodology used to develop this tool is based on the methodology Verité developed with the American Bar Association Rule of Law Initiative for Verité’s Trafficking Risk in Sub-Saharan African Supply Chains subsite.

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ii Defines migrant worker as: “a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.”