



RESPONSIBLE SOURCING TOOL

Mining
Sector |
Tool 11

PROTECTIONS AGAINST TRAFFICKING IN PERSONS

Worker Engagement: Enabling Workplace Communication, Worker Agency, and Grievance Management

Mining work is often done by individuals with a high level of vulnerability, including people in extreme poverty, socially marginalized groups, immigrants, and minorities. Because they have little choice, these workers are more likely to accept terms that ultimately compel them to continue working, despite exploitive and abusive practices that may violate their rights. Workers' ability to gain awareness of and advocate for their rights, to discuss workplace issues of concern and interest, to have channels for individual and collective advocacy and to communicate grievances is essential to preventing, mitigating and remediating human trafficking, including forced labor.¹ When workers know their rights and are able to participate in safe forms of workplace dialogue—both as individuals and collectively—they are better positioned to protect themselves against coercion, deception, discrimination, and other forms of exploitation.

This document provides a description of principles and a recommended process to follow for conducting due diligence and does not attempt to ensure compliance with any applicable legal requirements, such as Section 307 of the Tariff Act,² the Uyghur Forced Labor Prevention Act (UFLPA),³ Section 1502 (Conflict Minerals) of the Dodd-Frank Act,⁴ the EU Conflict Minerals Regulation,⁵ the Buy American Act (BAA),⁶ the Build America, Buy America Act (BABA),⁷ and the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons,⁸ nor legal requirements outside of the United States.

¹ **Note: 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.**

² [Tariff Act of 1930 \(19 U.S.C § 1307\).](#)

³ [U.S. Customs and Border Protection. “Uyghur Forced Labor Prevention Act.”](#)

⁴ [U.S. Securities and Exchange Commission. “Fact Sheet: Disclosing the Use of Conflict Minerals.” June 28, 2024.](#)

⁵ [European Commission. “Conflict Minerals Regulation: The regulation explained.” 2021.](#)

⁶ [Congress.gov. “H.R.3684 – Infrastructure Investment and Jobs Act.” 2021.](#)

[Made in America Office. *What Is Build America, Buy America?* 2022.](#)

⁷ [Congress.gov. “The Buy American Act and Other Federal Procurement Domestic Content Restrictions.” 2022.](#)

⁸ For guidance on complying with the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons, please review Tool 12, RST's Sample Compliance Plan Template.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

An environment in which workers can raise issues of concern promotes a general atmosphere of collaboration and trust, allowing potential issues to be addressed before they escalate. It can also serve to provide companies with effective means for information exchange on workplace conditions and potential risk areas. Workers themselves are often the best source of information regarding labor conditions.

However, in sectors and operating environments in which vulnerable workers are employed, issues are often underreported because of the factors that make them vulnerable in the first place. Reversing this trend is challenging. This tool has been developed to help companies develop and implement an engagement strategy, with these basic considerations in mind.

- ✓ **Communication with workers is one of the surest ways to prevent forced labor and broader labor rights abuses.**
 - While effective worker engagement and communication is preventative and best practice for effective due diligence systems, achieving robust and reliable communication channels can be hard. One size does not fit all situations, but there are models rooted in broadly accepted principles that can serve as a starting place.
- ✓ **All workplaces can face problems. The surfacing of complaints or issues is a sign of healthy communication and trust; to maintain that trust, responding in a meaningful way to the issues surfaced is imperative.**
 - If workers do not trust a grievance mechanism, they will be less likely to use it, if at all; a complaint line with little or no grievances may suggest conditions are fine, but in reality, issues may be going unreported.
 - Companies need to set up processes that systematically encourage communication and resolution of issues raised. (See *Guidance for Developing a Grievance Process* section below.)
- ✓ **Workers' rights to freedom of association and collective bargaining must be protected to the full extent of the law.**
 - These core labor rights are critical protections for workers. (See the section *Collective Organizing and Advocacy* below for more information on strategies to protect and respect these rights). However, these rights may be limited by national law, particularly for migrant workers, temporary or informal workers, and workers classified as independent contractors. In those situations, other means of advancing worker-management communication and engagement should be pursued to provide worker agency and representation.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- Research has shown that engagement can bring mutual benefit to employers and employees alike, with demonstrated links between workers' sense of value (through engagement) and productivity.

For more information on how forced labor risks in the mining sector, including those related to the absence of workplace communication, advocacy, and grievance management, please see the full Mining Sector Report.

The avenues for engagement are not mutually exclusive. Wherever possible, companies should support multiple avenues for worker communication and engagement. Regardless of the forms, companies should ensure the following:

- Communication and grievance mechanisms are based on careful analysis of the country and sector context and workers' levels of literacy, language fluency, technology access, and preferences;
- Communication and grievance procedures are easy to understand and assure worker confidentiality;
- Workers with concerns are provided access to additional support or advocacy as needed (e.g., interpreters, counseling), particularly in situations where workers have had potentially traumatic experiences;
- There is a clear process for follow-up and remediation for reported issues, and workers can monitor the status of grievances and resolutions;
- Measures are taken to ensure that migrant workers can access avenues for organization, self-advocacy, and grievance reporting; and
- Where digital worker engagement platforms are used, any personal data collected is well protected to ensure worker safety and security as a top priority. (Although such tools may be referred to as "worker voice" tools, worker input generated from digital outreach may not constitute genuine "worker voice" unless it results in actual outcomes for workers or a specific worker and positively impacts the structure of the business in which they work.)⁹

Worker Education and Ongoing Communication

Efforts to educate workers on their rights and to keep lines of communication open are critical ingredients for effective worker engagement. The provision of resources and information can enable workers to more fully

⁹ Esterhuizen, Lea. ["Are Worker Voice Tools Really About Workers' Voices?"](#) Ulula, 3 May 2016.

Bassina Farbenblum, Laurie Berg, and Angela Kintominas. ["Transformative Technology for Migrant Workers: Opportunities, Challenged, and Risks."](#) Open Society Foundations. 2018.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

participate in other forms of workplace communication. Educational materials, sources of information, and modes of ongoing communication can take many forms.

It is essential for workers to know their rights. Examples of specific worker education activities can include posters at the worksite, employer-provided trainings on worker rights, orientation and ongoing trainings, messages from mobile phone apps, regular meetings between workers and management and collaboration with local civil society or worker centers.

The following approaches are good practice in worker education and communication:

- The design and implementation of workplace education and communication include meaningful consultation with workers and worker representation bodies.
- All materials and verbal presentations should be available in a language workers understand. In some cases, it may be helpful to complement written materials with drawings or comic book-style illustrations if workers have lower literacy levels.
- Printed materials should be widely available for workers to take home where they can review them without observation by their labor agent¹⁰ or employer.
- Workers should have time during regular working hours to familiarize themselves with their legal rights and the grievance mechanisms available to them.
- Materials on worker rights should clearly explain legal protections available to workers and mechanisms available to workers for reporting and resolving grievances.
- Management should regularly and actively solicit concerns from workers, worker committees, and/or union representatives, and actively follow up on issues noted by workers or identified through grievance mechanisms.

Collaborating with civil society organizations, in both the country in which a company employs workers and in workers' origin countries (if they are migrant workers) is another avenue for worker education. In general, it can be helpful to collaborate with civil society organizations to fully understand the vulnerabilities workers may experience.

¹⁰ **Note:** The combination of services provided by third parties to find, place, and/or directly contract labor to work in company owned or supplier operations are varied, as are the terms used by different industry sectors and standards organizations to describe the providers. These include: labor agents, recruiters, recruitment agents, sub-agents, labor providers, private employment agencies (PEAs), staffing agents, manpower agents, brokers, contractors, crew leaders, and gangmasters. For the purposes of these tools, "labor agent" is generally used as the umbrella term, with "recruitment agent" used as a subset.

Such collaborations may be particularly helpful regarding efforts to educate migrant workers about their rights international labor standards, and responsible recruitment.

Grievance Mechanisms

All workers, including migrant workers, should have access to grievance mechanisms that allow them to voice concerns without fear of punishment or retribution.

In addition to helping to improve working conditions, grievance mechanisms can have many benefits for companies: They can serve to channel conflict into an institutionalized mechanism for peaceful resolution; they facilitate communication between workers and management regarding problems that arise; they enable workers to file complaints with dignity, knowing that there is a system of appeals leading to an impartial decision maker; and, finally, they assist companies in ensuring that staff is complying with company standards on ethical conduct.

Grievance mechanisms should be constructed as two-way communication channels that both collect information on worker experiences and provide timely and clear information to workers on their rights and progress towards remediation and resolution. Grievance mechanisms can also provide workers with information on how to resolve grievances internally and referrals to government and NGO service providers when internal resolution is unsuccessful.

Mechanisms for migrant workers to raise issues relating to their recruitment experience should be accessible to workers in their country of origin. Such a mechanism also allows workers to raise concerns related to their employment that may manifest only after their return. If such a mechanism is facilitated by an NGO in the origin country, building a relationship with such organizations can help companies understand, anticipate and prevent issues relating to their recruitment program.

At a minimum, all grievance mechanisms should conform with the benchmarks defined by Principle 31 of the UN Guiding Principles on Business and Human Rights.¹¹ Under this framework, ethical grievance mechanisms should be:

- **Legitimate:** *enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;*
- **Accessible:** *being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;*

¹¹ *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.* United Nations, 2011, p.33-34.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- **Predictable:** providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- **Equitable:** seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- **Rights-compatible:** ensuring that outcomes and remedies accord with internationally recognized human rights; and
- **A source of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.

Guidance for Developing a Grievance Process

Effective grievance mechanisms are worker-driven and developed in collaboration with worker representation bodies and workers themselves. The following categories with accompanying questions can be used to guide improvement of effective grievance mechanisms in conformance with the principles listed above:

Regular Communication

- Does the company have clear communications channels that encourage workers to report violations or issues of concern?
- Does the company seek opinions and suggestions from workers before making significant worker-related policy/procedural changes related to wages, working hours, rest and vacation, occupational health and safety, insurance, training and discipline etc.?

Access

- Can migrant workers directly access the company's grievance channels?
- Are there any language, literacy, or technology barriers that prevent all workers from accessing the grievance mechanism?

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- Can workers give feedback or report grievances to the company without having to first contact their direct supervisor or labor broker?
- Do the grievance procedures of both the company and labor brokers allow immigrant workers to seek assistance from their embassies?
- Do workers have an ongoing opportunity to provide guidance on the design of grievance mechanisms and offer feedback on remediation processes and outcomes?
- Is the grievance mechanism culturally appropriate? Are there any local customs, traditions, or taboos that impede stakeholders' ability to report a grievance?

Confidentiality

- Is there a secure means of expressing grievances that is handled by an objective third party?
- Can the grievance mechanism be used to report grievances privately and confidentially without threat of reprisal?

Non-retaliation and non-reprisal

- Do the grievance procedures clearly protect workers from reprisal?

Resolution and Redress

- Do the grievance procedures provide for immediate resolution?
- Is there a clear procedure for management follow-up of reported grievances and is this procedure clearly communicated to workers?
- Do workers have an opportunity to provide input on how grievances are resolved?
- Does the company transparently report to workers and is there any public reporting on progress toward remediating issues? Is there a process for workers to appeal the resolution of a grievance with which they disagree?

Capacity

- Are the responsibilities of supervisors and managers related to worker grievance, feedback, and participation clearly defined and documented?

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- Does the company orient and train its supervisors and managers on the handling of worker grievances?
- Does the staff assigned to receive and act on worker grievances speak the languages of the workers?
- Where translators are present, are they independent, trained to act on grievances, and are their functions and availability to assist with grievances clearly communicated to all workers?
- Are there avenues for local civil society organizations, as needed, to participate in the receipt and resolution of worker grievances?

Transparency and Documentation

- Does the company have a written policy on management's commitment to resolving workers' grievances and soliciting feedback from workers?
- Does the company have written procedures for solving workers' grievances and soliciting feedback from workers?
- Does the company communicate its grievance policies and procedures to all workers?
- Are grievance proceedings, including any follow-up actions, properly documented, and filed?
- Does the company have a policy of when and under what circumstances law enforcement should be engaged?

Note: While mining often provides an important source of employment and can have a positive community-level impact, mining operations can also negatively impact local community members, individuals, and groups. Mining activities can be highly detrimental to surrounding environments, causing desertification¹² and producing large amounts of waste. These environmental impacts can significantly limit the ability of local people to carry out traditional livelihood activities such as agriculture and fishing, thus greatly increasing their overall vulnerability to forced labor in mining as well as in other sectors.¹³ Grievance mechanisms should be made available to local

¹² "Desertification factsheet." International Fund for Agricultural Development. August 2010.

¹³ Kitula, A.G.N. *The environmental and socio-economic impacts of mining on local livelihoods in Tanzania: A case study of Geita District*. Elsevier Limited. 2003.

The Intersection Between Environmental Degradation and Human Trafficking. U.S. Department of State. June 2014.

stakeholders as well as to workers. For guidance, see the International Council on Mining and Metal's Handling and Resolving Local-level Concerns and Grievances.¹⁴

Freedom of Association and Collective Bargaining

Labor and Trade Unions

Workers' agency and representation in the workplace are key for protecting and ensuring workers' rights. The rights to freedom of association and collective bargaining are defined and protected by ILO Conventions 87 and 98. ILO Convention 87 establishes the right of workers and employers to join organizations of their own choosing without prior authorization; and the right of these organizations to draw up their own rules and constitutions, elect their own representatives, and organize their own affairs without outside intervention. It calls for the protection of workers' organizations from government interference and from being dissolved or suspended by administrative authority and calls for the right to affiliate with international worker organizations. Convention 98 grants workers the right to adequate protection against anti-union discrimination, such as dismissals and demotions based on union membership and participation, and against business interference, and encourages countries to take measures to promote collective bargaining.

Collective bargaining can be leveraged to directly address systemic human trafficking risk and compensate for weaknesses in labor law in countries where goods are produced. For example, approximately 300 multi-national companies have negotiated Global Framework Agreements (GFA) with labor unions to safeguard worker rights defined by the ILO Fundamental Principles and Rights at Work.¹⁵ Unions can also serve as a venue for grievance mechanisms and the resolution of individual workers' grievances.

Employers must at a minimum establish a policy on neutrality and non-retaliation regarding workers' organizations. Workers should not be contractually prohibited from organizing, and in no case should a worker face retaliation for participation in attempts to organize, union leadership, or union activities. Where trade unions exist, employers should refrain from any acts of interference with the operation of union or worker representation bodies; if there is a collective contract agreement or collective wage agreement in place, management should bargain with the union or worker representatives in good faith.

Below are some benchmarks for protecting workers' right to the freedom of association and steps for employers to establish clear and open communication with labor or trade unions where they exist.

¹⁴ "Handling and Resolving Local-level Concerns and Grievances: Human rights in the mining and metals sector." International Council on Mining and Metals. December 2019.

¹⁵ Fundamental Principles and Rights at Work Fact Sheet. International Labour Organization. 2020.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- A policy of neutrality and non-retaliation toward any worker who attempts to organize or express grievances through any legally permissible venue; company and employer policies and procedures do not conflict with workers' rights to freedom of association and collective bargaining.
- No restrictions on issues that can be addressed in collective negotiations.
- Written policies and procedures that recognize and respect the rights of all workers to freedom of association and collective bargaining.
- Communication and training to management and workers on policies and procedures for upholding workers' rights to freedom of association and collective bargaining.
- Where third parties are engaged in recruitment/screening/management of workers, the employer requires the contractor to adhere to the employer's policies on freedom of association and collective bargaining and monitors the performance of the contractor to ensure that the policies are being adhered to.
- No restrictions on union representatives' access to workers.
- Remedies are in place to address retaliation against workers exercising their right to representation, advocacy, freedom of association, organizing, and/or collective bargaining.

Worker Committees

The rights and abilities of some workers to freely associate in unions or to bargain collectively can be limited by law, regulation, long-standing patterns of discrimination against union members, and/or the absence of unions in some countries, regions, and sectors. Dynamics in the mining sector that can limit unionization include temporary employment, informal employment, and the presence of sub-contracted workers. While temporary migrant workers are often among the most vulnerable to a variety of labor abuses, including human trafficking, they are often legally denied the right to form or join unions; they may also have the most at stake in terms of the risk of employer retaliation. These limitations may create a need for alternative forms of collective worker engagement.

Worker committees—consultative bodies established to improve the welfare of workers and foster the development of the business through participation and cooperation between workers and employers—are one vehicle for ongoing communication between workers and management, as well as collective engagement, when unionization is not possible. Even when unions are in place, democratic and transparent worker committees can serve as valuable forums where management and employees may air concerns and discuss workplace issues.

PROTECTIONS AGAINST TRAFFICKING IN PERSONSWorker Engagement: Enabling Workplace Communication,
Worker Agency, and Grievance Management

- These councils can help to resolve disputes and act as a mechanism for submitting a grievance.
- A worker committee should ideally represent all categories of workers and all worker nationalities/languages.
- Elections are typically held on a fixed schedule and elected leaders meet on a regular basis with human resource managers and other key company officials to discuss workplace matters of concern and interest.

It is important to ensure that either form of worker representation—union or worker committee—can effectively uphold workers’ rights and interests. The following benchmarks can help ensure effective operation of unions and worker committees:

- Worker representatives are elected democratically and directly by workers/worker representatives.
- The procedures governing election, voting rights, and position responsibilities and rights are clear.
- Union leaders or worker representatives have a clear understanding of their responsibilities and meet regularly.
- Workers are aware of the union and/or worker representative body and are familiar with their functions and authority.