



RESPONSIBLE SOURCING TOOL

Mining
Sector |
Tool 4

PROTECTIONS AGAINST TRAFFICKING IN PERSONS:

Country-Level Review of Legal Protections Against Human Trafficking

Understanding the legal frameworks and policies that govern the prevention of human trafficking,¹ including forced labor,² in a particular country can help companies assess where in their supply chains there may be heightened risk of forced labor and can provide insight into the types of issues that may arise at worksites in those countries.³

In addition to assessing laws specifically criminalizing human trafficking, including forced labor, or labor laws prohibiting the activities that can lead to human trafficking, it is helpful to understand whether the government has committed to any other frameworks, such as treaties, bilateral agreements, or conventions, that address factors that contribute to the risk of forced labor and associated issues. For example, the protection of freedom of association and collective bargaining have implications for forced labor risks; although absence of freedom of association and collective bargaining do not indicate instances of forced labor, together their absence can indicate an overall working climate less favorable to workers, especially vulnerable workers (i.e. due to age, disability, or nature of employment), putting them at greater risk for labor trafficking. Similarly, assessing laws focused on minimum age requirements and mandatory education can help determine the country-specific context for identifying gaps in legal protections for young workers.

It is also helpful to identify which sectors, if any, are exempt from laws relating to labor (e.g., minimum age, wages, hours, benefits), which can indicate higher risk of forced labor. Many types of worksites in services, agriculture, and construction, for example, are characterized as temporary, casual, part-time, or contracted, resulting in a lack of social and legal protections.

If mining companies employ migrant workers, understanding the legal frameworks and policies that govern the prevention of human trafficking in migrant workers' home countries or countries of origin can also help companies

¹ 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.

² **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.**

³ A risk factor is that in countries where the laws are adequate, often the government is unwilling or lacks the capacity to enforcement them.

assess where trafficking risk may occur, since the risk of human trafficking is often linked to the recruitment process that takes place in the worker's home country.

Finally, mining and initial processing supply chains can extend across national borders. This tool can be used to assess risks in the country in which minerals, metals, and stones are extracted and initially processed as well as in countries to which those materials may be transported for refinement into saleable commodities. For more information on the mining industry, please see the Mining Sector Report.

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,⁴ the Uyghur Forced Labor Prevention Act (UFLPA),⁵ Section 1502 (Conflict Minerals) of the Dodd-Frank Act,⁶ the EU Conflict Minerals Regulation,⁷ the Buy American Act (BAA),⁸ the Build America, Buy America Act (BABA),⁹ and the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons,¹⁰ nor legal requirements outside of the United States.

The **Guiding Questions** in the following sections are intended to help companies evaluate the degree to which a country's laws and commitments are relatively weak or robust in preventing labor and human rights abuses, including factors that contribute to forced labor.

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 Labour Organization's (ILO) Database of national labour, social security, and related human rights legislation¹¹ 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, include the reports of the ILO's

⁴ [Tariff Act of 1930 \(19 U.S.C § 1307\)](#).

⁵ [U.S. Customs and Border Protection. "Uyghur Forced Labor Prevention Act."](#)

⁶ [U.S. Securities and Exchange Commission. "Fact Sheet: Disclosing the Use of Conflict Minerals." June 28, 2024.](#)

⁷ [European Commission. "Conflict Minerals Regulation: The regulation explained." 2021.](#)

⁸ [Congress.gov. "H.R.3684 – Infrastructure Investment and Jobs Act." 2021.](#)

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

⁹ [Congress.gov. "The Buy American Act and Other Federal Procurement Domestic Content Restrictions." 2022.](#)

¹⁰ For guidance on complying with the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons, please review Tool 12, RST's Sample Compliance Plan Template.

¹¹ ["NATLEX - Database of national labour, social security, and related human rights legislation." International Labour Organization.](#)

Committee of Experts on the Application of Conventions and Recommendations,¹² the U.S. Department of State's Trafficking in Persons Report,¹³ and the U.S. Department of State's Country Reports on Human Rights Practices.¹⁴

For additional guidance on how mining companies can uphold international human rights law, please see the International Council on Mining and Metal's Human Rights Due Diligence Guidance.¹⁵

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, Including Forced Labor

Legal and policy frameworks designed to comprehensively address trafficking are essential for reducing forced labor risk. Frameworks must provide measures for governments to prevent forced labor, protect victims, and prosecute and punish perpetrators.

Existing Legal Framework

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

Government Efforts to Combat Forced Labor

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

¹² "Committee of Experts on the Application of Conventions and Recommendations." International Labour Organization.

¹³ "Reports - Office to Monitor and Combat Trafficking in Persons." U.S. Department of State.

¹⁴ "Country Reports on Human Rights Practices." U.S. Department of State.

¹⁵ *ICMM Human Rights Due Diligence Guidance*. International Council on Mining and Metals. 2024.

Implementation in Practice

- 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.¹⁶

Child Labor

The drivers for both child labor and forced labor are similar, including the demand for cheap, exploitable, unskilled labor; poverty; unequal or limited access to education; and exclusionary social attitudes based on caste, sex, 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. Child labor is common in artisanal and small-scale mining (ASM); it is estimated that there are more than one million children working in ASM around the world, accounting for approximately 25 percent of the ASM workforce.¹⁷

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?

¹⁶ "Reports - Office to Monitor and Combat Trafficking in Persons." U.S. Department of State.

¹⁷ Gomez, Blanca Racionero. "Child Labour in ASM Mining: Enabling a Holistic Approach Through the Meaningful Wheel of Action." Levin Sources, 2021.

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 illegal child labor (including worst forms of child labor) in the past year in the mining industry (industrial or ASM)?

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 forced labor risk in a country. When countries do not comply with labor standards, working environments may be more susceptible to violations of labor rights in general and forced labor specifically.

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?

The question of exemption from the law is important for the mining industry, as ASM activities around the world are often considered informal or illegal. This means ASM mining often occurs outside of the purview of law and is thus unregulated and not monitored. Because illegal mines operate outside of the law, workers lack social security and health insurance, and accidents are rarely reported. Therefore, many workers and their families do not receive compensation if workers are injured or killed on the job.¹⁸

¹⁸ Risk Analysis of Indicators of Forced Labor and Human Trafficking in Illegal Gold Mining in Peru. Verité.

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 or indicators of forced labor?

Freedom of Association and Collective Bargaining

The degree of protection for workers' rights to freedom of association and collective bargaining provides important information about the potential risk of forced labor and other human rights 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 the right of freedom of association legally guaranteed?
- Are certain types of workers excluded from the right to form or join a union?
- 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

Contract workers (indirect, non-employees) are employed throughout the mining industry; they can perform a variety of types of work ranging from mining activities themselves to support activities and the building of plants to process mined material. 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.¹⁹ 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

¹⁹ Shamir, Hila. "Unionizing Subcontracted Labor." *Theoretical Inquiries in Law* 17(1):299-256. 2016.

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, such as mining, 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 forced labor. For example, policies that tie guestworkers' work visas to particular sponsors or 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' origin country governments are in a weak position to enforce reasonable limits on recruitment fees or advocate for their citizens' rights in the migrant-destination 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 human 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 forced labor risks at a country level.

Existing Legal Framework

- Do justice system institutions and procedures exist to assist victims of forced labor?
- Do criminal justice institutions have mandates that encompass forced labor?
- 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?

Some minerals, metals, and stones are mined in connection with armed conflicts and gang activity around the world. In some instances, armed militias and gangs force workers to mine materials, and in others they benefit economically from and control mining activities. In these situations, rule of law may be weaker and additional due diligence may be warranted. For guidance, please see the OECD's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.²⁰

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 for good practice. The Information System on International Labour Standards (NORMLEX) allows you to search by country or convention for ratifications.²¹

²⁰ OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas. Organisation for Economic Co-operation and Development. 2016.

²¹ "Ratifications by country." International Labour Organization, NORMLEX - Information System on International Labour Standards.

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Guiding Question: Have the following ILO core conventions been ratified by this country?

ILO Convention	Ratified and In Force?
Forced Labor:	
<p>C29: Forced Labor</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>C105: Abolition of Forced Labor</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
Freedom of Association and Collective Bargaining:	
<p>C87: Freedom of Association and Protection of the Right to Organize</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</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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ILO Convention	Ratified and In Force?
<p>administrative authority; and calls for the right to affiliate with international organizations of workers.</p>	
<p>C98: Right to Organize and Collective Bargaining</p> <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>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Equality and Non-Discrimination:</p>	
<p>C100: Equal Remuneration</p> <p>Establishes the principle of equal remuneration for men and women for work of equal value.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>C111: Discrimination</p> <p>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>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Child Labor:</p>	
<p>C138: Minimum Age</p> <p>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</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

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ILO Convention	Ratified and In Force?
<p>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>	
<p>C182: Worst Forms of Child Labor</p> <p>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>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Guiding Question: Have the following additional international protocols and conventions been ratified by this country?

Protocol or Convention	Ratified and In Force?
<p>Trafficking in Persons:</p>	
<p>UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000</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 assist trafficking victims.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Forced Labor:</p>	
<p>P29: Protocol to the Forced Labour Convention, 1930</p> <p>Emphasizing the urgent need to eliminate forced and compulsory labour in all its forms and manifestations, the Preamble explains that the</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

Protocol or Convention	Ratified and In Force?
<p>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"> a. educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour; b. educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices; c. undertaking efforts to ensure that: <ul style="list-style-type: none"> 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 ii. labour inspection services and other services responsible for the implementation of this legislation are strengthened; d. protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process; e. supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and 	

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Protocol or Convention	Ratified and In Force?
<p>addressing the root causes and factors that heighten the risks of forced or compulsory labour</p>	
<p>Migrant Workers:</p>	
<p>C143: Migrant Workers (Supplementary Provisions) Convention, 1975²²</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>

²² 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.”