

## **Addressing forced labour in your supply chains: navigating murky legal regime differences in national laws and the complex nature of global supply chains**

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Global supply chains are a complex web of organisations, technologies, individuals, and activities spanning across different countries, that collaborate to manufacture and distribute goods and services across international borders. This complex interdependence made global value chains efficient and cost-effective as well as made them vulnerable to disruptions that would have adverse impacts such as natural disasters and pandemics, but also unpredictable disruptions such as geopolitical conflicts, sanctions, and policy changes. Leading the volatility is the additional burden of managing human rights abuses in the multiple stages of supply chains, particularly ones that are not in a company's direct control. These include the manufacturing and procurement of raw materials, transportation, storage in warehouses, crossing the border, and ultimately delivering the finished product to consumers.

In recent years, consumer demand, risk of litigation, sanctions and regulatory changes are forcing companies to address modern slavery in supply chains. These include but are not limited to identifying and tackling various forms of human trafficking, forced labour, and child labour across all stages of supply chains. Accordingly, an increasing number of companies are incorporating specific clauses in their procurement and manufacturing contracts. These clauses require suppliers to adhere to applicable labour laws, demonstrate proof of taking active steps to prevent forced labor, implementing systems to detect and address instances of modern slavery by way of whistle-blower provisions. Coupled with contracts, companies are also requiring suppliers and sub-suppliers to report regularly on their labour practices, and to allow for audits by the company itself or by third-party auditors.

Whilst the above makes up for a well-rounded compliance system for avoidance of modern slavery, companies need to consider the laws and legal differences across jurisdictions when assessing and preventing human rights violations, even for seemingly simple terms like "modern slavery." Based on a country's domestic laws and legal systems, as well as cultural and social norms and levels of economic development, some jurisdictions have specific laws that target modern slavery, while others cover modern slavery under more general labour laws. In some countries, modern slavery may be treated as a criminal offense whereas in others, it may be a civil matter that is not enforced strongly (leading suppliers to accept generic clauses and pass them on to sub-suppliers in back-to-back contracts).

As an example, the table below illustrates some key legal differences related to the legal expression of modern slavery in jurisdictions that are major production and/or consumption hubs.

Please note that the information in the table pertains to applicable laws in modern slavery in supply chains only.

Country	How is modern slavery legislated?	Terminology used	Legal age of a child/minor under child labour prevention laws
Singapore	The Constitution of Singapore, Prevention of Human Trafficking Act 2014, Penal Code 1871, Children and Young Person Act 1993 and Employment Act 1968 are some of the laws that deal with slavery and child labour.	<ol style="list-style-type: none"> <li>1. Constitution of Singapore- <ol style="list-style-type: none"> <li>a. Deprived of life; personal liberty (s9)</li> <li>b. No person shall be held in slavery, all forms of forced labour are prohibited (s10)</li> </ol> </li> <li>2. Penal Code 1871- <ol style="list-style-type: none"> <li>a. Grievous hurt; slavery (s367)</li> <li>b. Imports, exports, removes, buys, sells, disposes of, traffics or deals with any person as a slave (s370-s371)</li> <li>c. unlawful compulsory labour (s347)</li> </ol> </li> <li>3. Prevention of Human Trafficking Act 2014- <ol style="list-style-type: none"> <li>a. Coercion; debt bondage, exploitation; practices similar to slavery; serfdom; servitude (s2)</li> <li>b. Abduction; fraud or deception, abuse of power; abuse of the position of vulnerability (s3)</li> </ol> </li> <li>4. Women's Charter- trafficking (s141)</li> </ol>	Thirteen – Section 3, Employment (Children and Young Persons) Regulations.

Brazil	<p>Law No.13 334 (anti trafficking law) provides a legal framework for combating exploitative practices that are similar to those of traditional slavery.</p> <p>Especially relevant to supply chains, the Ministry of Labor and Employment in Brazil enacted Decree No. 540/2004 and introduced a <i>lista suja</i>. The 'dirty list' is published at least once every 6 months and is a register of employers (both people and legal entities) with exploitative, abusive and coercive working conditions.</p>	<ol style="list-style-type: none"> <li>1. Brazilian Constitution 1988- <ol style="list-style-type: none"> <li>a. Negligence, discrimination, exploitation, violence, cruelty and oppression (Art 227)</li> <li>b. Exploitation of slave labour (Art 243)</li> </ol> </li> <li>2. Penal Code 1940- <ol style="list-style-type: none"> <li>a. Abduction or private jail (Art 148)</li> <li>b. Forced labour; exhaustive journey; restricting transport; ostensive surveillance; seizing documents or personal objects (Art 149)</li> <li>c. Serious threat, coercion, fraud or abuse; conditions analogous to slavery; servitude (Art 149-A)</li> <li>d. Recruitment through fraud (Art 206).</li> </ol> </li> </ol>	Sixteen (Eighteen in case of dangerous or unhealthy work) – Art 7 (XXXIII), Constitution of Brazil.
China	<p>Criminal Law 1997 prohibits detaining or depriving a person of personal liberty. It also prohibits acts of abduction, kidnapping, buying, trafficking in, fetching, sending, or transferring women and children for the purpose of selling the victim.</p> <p>Additionally, the Labour Law of the People's Republic of China also lays down some rules regarding working hours, wages, special protection to female and juvenile workers (Chapters IV, V and VII)</p>	<ol style="list-style-type: none"> <li>1. Constitution of the People's Republic of China- <ol style="list-style-type: none"> <li>a. Unlawful deprivation; restriction of citizens' freedom (Art 37)</li> <li>b. Right to rest (Art 43)</li> </ol> </li> <li>2. Criminal Law 1997- <ol style="list-style-type: none"> <li>a. Forces others to provide or accept service (Art 226)</li> <li>b. Unlawfully detains; deprives another person of his personal freedom; causes severe bodily injury; unlawfully detains or detains (Art 238)</li> </ol> </li> </ol>	Sixteen- Art 15, Labour Law of the People's Republic of China.

		<p>c. Abduction; trafficking; causing severe bodily injury; organizes other persons to secretly cross the national boundary; depriving or limiting (personal) freedom (Art 240-241 &amp; 224)</p> <p>3. Labor Contract Law of the People's Republic of China- unlawful restriction of personal freedom; dangerous tasks that would endanger life; insult, corporally punish, assault, illegally search or detain; serious damage to the physical and mental health (Art 88)</p>	
Congo	The Constitution and Penal Code provide basic framework for the prevention of slavery.	<p>1. Constitution of the Republic of Congo-</p> <p>a. Torture, cruel, inhuman or degrading treatment (Art 9)</p> <p>b. Forced labour (Art 26)</p> <p>2. Penal Code- Trafficking or exploitation (Art 174i)</p> <p>3. Law No. 22-2010- Fight Against Human Trafficking</p> <p>a. Trafficking in persons; abuse of a situation of vulnerability; exploitation of the person; servitude; debt bondage (Art 4).</p>	Sixteen- Section 50, Title 2, Law No. 09/001 of January 10, 2009 on the protection of children.

		4. Labor code- Forced or compulsory labour (Art 4)	
India	The Constitution of India and the Indian Penal code have provisions that deal with slavery and trafficking of humans.	<ol style="list-style-type: none"> <li>1. Constitution of India – <ol style="list-style-type: none"> <li>a. Traffic in human beings and beggar discrimination on the grounds of caste or class (Art 23)</li> <li>b. Hazardous employment (Art 24)</li> <li>c. Just &amp; humane conditions of work (Art 42)</li> </ol> </li> <li>2. Indian Penal Code- <ol style="list-style-type: none"> <li>a. Maiming a minor for the purposes of begging (s363A)</li> <li>b. Kidnap or abduct, subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery (s367)</li> <li>c. Imports, exports, removes, buys, sells traffics or deals in slaves (s371)</li> <li>d. Unlawful compulsory labour (s374)</li> </ol> </li> <li>3. Bonded labour (Bonded Labour Abolition Act)- Bonded debt, bonded labour, bonded labourer (s2)</li> </ol>	Fourteen- Child Labour (Prohibition and Regulation) Act 1986.

United Kingdom	<p>Modern Slavery is regulated through the Modern Slavery Act 2015.</p> <p>Like the US, the UK has introduced the Import of Products of Forced Labour from Xinjiang (Prohibition) Bill which is currently at second reading. The bill prohibits the import of products made by forced labour in the Xinjiang Uyghur Autonomous Region; and requires all companies importing products from Xinjiang to the UK to provide proof that the manufacture of those products has not involved forced labour; and for connected purposes.</p>	<p>Per the Modern Slavery Act 2015, s1:</p> <ol style="list-style-type: none"> <li>1. Forced or compulsory labour</li> </ol>	<p>Eighteen (with some exceptions) – Section 105, Children's Act 1989</p>
United States	<p>The Constitution and Penal Code provide basic framework for the prevention of slavery. In addition to that, the Trafficking Victims Protection Act of 2000 as amended (TVPA), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) contain the various terms used to describe compelled service.</p>	<ol style="list-style-type: none"> <li>1. The United States Constitution 1789-slavery, involuntary servitude.</li> <li>2. US Code- Title 18 <ol style="list-style-type: none"> <li>a. Condition of peonage (§ 1581);</li> <li>b. Held, sold or disposed of as a slave; held to service or labor (§ 1582);</li> <li>c. Involuntary servitude (§ 1583/1584);</li> </ol> </li> </ol>	<p>Per the Fair Labor Standards Act 1938:</p> <ol style="list-style-type: none"> <li>1. Eighteen (for hazardous occupations)</li> <li>2. Sixteen (with some restrictions)</li> <li>3. Fourteen (with limitations on number of hours and types of jobs)</li> </ol>

	<p>The Uyghur Forced Labor Prevention Act (which came into effect in 2021) establishes a rebuttable presumption that the importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China, or produced by certain entities, is prohibited by Section 307 of the Tariff Act of 1930 and that such goods, wares, articles, and merchandise are not entitled to entry to the United States.</p>	<p>d. Force, threats of force, physical restraint, or threats of physical restraint; serious harm or threats of serious harm; abuse or threatened abuse; serious harm or physical restraint; abuse or threatened abuse of law or legal process (§ 1589)</p> <p>3. Victims of Trafficking And Violence Protection Act 2000-</p> <p>a. Coercion; debt bondage; involuntary servitude; severe forms of trafficking in persons (s103).</p>	
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It is understandable that managing supply chains to avoid risks related to human rights violations whilst remaining price competitive is an uphill task. However, there are steps a company can immediately take to meaningfully participate in the eradication of slavery in supply chains and to report those endeavours appropriately. These include a detailed review of current supply chain management processes, drafting relevant clauses in supplier contracts intently, robust due diligence and disclosures requirements, regular training and auditing suppliers and manufacturers, and embarking on a plan towards transparency and traceability of raw materials.

## Disclaimer

The information provided in the table is for general informational purposes only and is not intended to be legal advice. It should not be relied upon or construed as legal advice or a substitute for obtaining legal advice from an attorney licensed in your jurisdiction. The content provided is based on the general principles of law in the countries specified and may not reflect current legal developments or interpretations in your jurisdiction. No attorney-client relationship is formed by accessing or using this information.

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