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Compliance is Not Enough:

Best Practices in Responding to The California
Transparency in Supply Chains Act



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The California Transparency in Supply Chains Act has focused company attention on the presence of human trafficking and modern-day slavery in supply chains. Yet standard social compliance responses will not be adequate to reduce company risks – or worker vulnerability – to these egregious problems.

In this White Paper, Verité outlines the content of the Act, the sources of trafficking and forced-labor risk, and what is necessary in order to address these problems adequately in supply chain production.

What Is the California Transparency in Supply Chains Act & What Does It Require?

In October 2010, Senate Bill 657 – the California Transparency in Supply Chains Act – was signed into law. This Act goes into effect on January 1st, 2012 and applies to all retailers and manufacturers with annual global revenues of more than \$100 million that do business in California. The Act requires these businesses to disclose information about their efforts to eradicate slavery and human trafficking from their direct supply chains where they make tangible goods for sale.

To review the full text of the Act, [click here](#).

The stated purpose of the Act is “to educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, to improve the lives of victims of slavery and human trafficking.”¹ Some groups have suggested that the Act will provide companies in California with the opportunity to demonstrate leadership in the fight against human trafficking, while empowering consumers to reward companies that proactively engage on these issues.

The Act requires businesses to publicly post information on their websites describing the extent to which they engage in the following:

- **Verification:** Verify product supply chains to evaluate and address risks of human trafficking and slavery;
- **Auditing:** Perform supplier audits to evaluate compliance with company standards;
- **Certification:** Require certification by direct suppliers that materials incorporated into company products comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business;
- **Internal Accountability:** Maintain internal accountability standards and procedures for employees or contractors that fail to meet company standards on slavery and trafficking; and
- **Training:** Train relevant company employees and management on human trafficking and slavery, particularly concerning the mitigation of risk within supply chains.

Businesses are required to post their disclosure with a “conspicuous and easily understood” link on their website homepage leading to the required information. In the event that they do not have a website, companies are obliged to provide consumers with written disclosure within 30 days of receiving a written request.

The penalty for non-compliance with the Act is injunctive relief by the California Attorney General. This means companies will not face a monetary penalty for failure to disclose, but that they will receive an order from the Attorney General to take specific action.

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One estimate by the California Franchise Tax Board indicates that approximately 3,200 companies will be affected by the Act. This includes manufacturers and retailers with their headquarters in the state, as well as national and international companies that do business there. Suppliers to these companies that operate outside California, though not legally bound by the Act, may be affected by it as their business partners take action to meet their new obligations under the law. The Act is poised to become a de facto standard for performance by all companies, and indeed a version of the Act has been introduced at the Federal Level.²

How Should Companies Respond? Going Beyond Compliance to a Systems-Based Approach

To meet the letter of the California Transparency in Supply Chains Act, companies need only publicly disclose the extent of their own policies and practices to eradicate slavery and human trafficking. But this is clearly not enough. Companies should instead commit to finding trafficking and forced labor where they exist in the supply chain, and resolving these abuses where they are found.

To fully understand and prevent trafficking and slavery in the making of products requires a greater level of effort and commitment. Detecting, preventing, and taking corrective action against slavery, trafficking, and forced labor in a supply chain presents substantial challenges to 'business-as-usual' efforts to implement social compliance. In Verité's experience, it is impossible to identify the hidden and insidious abuses of human trafficking and forced labor unless a company examines all aspects of workers' employment, from the moment of recruitment to on-site employment, across the entire supply chain. If companies are serious about eradicating trafficking and forced labor, they must also look beyond their first-tier suppliers to ensure that businesses deep in their supply chains are mirroring their own commitments.

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Some companies already have well-established compliance or responsible sourcing programs to monitor and promote improvements in their supply chains that include many of the functions mentioned in the California Act. These programs, however, often fail to fully address the particular abuses targeted by the Act, namely, the trafficking of persons and forced labor. These programs also frequently neglect the common risks of exploitation posed to migrant workers linked to unscrupulous labor brokers at the recruitment and hiring phases in the supply chain.

Here are the steps that companies need to take to ensure that they do not engage in forced labor and human trafficking in their internal and supply chain operations:

Detection, Assessment & Auditing

Discovering slavery and trafficking requires a bright light to be shone in all the places where a company manufactures or sources goods and raw materials. The causes of these abuses are complex, and their manifestations are often hidden. Assessing situations of trafficking and slavery requires companies to consider the many intertwined factors that leave workers vulnerable. In supplier audits, many of these factors can only be learned from workers themselves, so it is essential that companies engage workers through confidential interviews, conducted off-site by qualified interviewers. Only this approach to assessment can guarantee that workers are not working against their will.

Detection of forced labor, trafficking, and slavery in a company's supply chain also requires an understanding that workers are vulnerable from the moment they are first recruited for a job. This is when workers can take their first steps along the route into forced labor or slavery. Though the California law only requires that companies disclose how they deal with their 'direct suppliers,' Verité believes that companies must recognize the likelihood that egregious practices also exist among the sub-contracted business partners that provide first-tier suppliers with hired labor or materials (including the materials that go into stores and other facilities). Risks of trafficking and forced labor for companies exist at top-tier supplier factories and through the actions of often-overlooked labor brokers involved in the recruitment and hiring process. These risks are also frequently found in second and lower tiers of the supply chain, including at the commodities and raw-materials levels.

Integrating Solutions into the Business Management System

A worker-focused assessment or audit of a farm or factory is only one component of an effective system for preventing forced labor and human trafficking throughout supply chains. Broadly credible policies and procedures that screen for these risks and measure the performance of suppliers and labor brokers must be integrated into companies' entire legal compliance and corporate social responsibility (CSR) programs and cover the entirety of the supply chain – not only the top tier. This is a clear challenge for companies that source from several thousand farms or factories worldwide.

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Truly sustainable prevention and eradication of slavery and human trafficking requires that companies make prevention efforts part of the way they do business, integrating the avoidance of exploitation with mechanisms for hiring workers, sourcing suppliers, and measuring business success.

Corporate-Level Engagement

At the corporate level, companies should explicitly prohibit these abuses in their codes of conduct, policy statements, and supplier selection and management practices; and ensure that exploitation linked to trafficking and abuses by labor brokers is addressed. Companies need to identify the populations of workers that are most vulnerable, and the places of greatest risk within their supply chains, in order to target assessment, prevention, and remediation efforts. Understanding risk is critical to targeting often-limited resources to the right part of a large and multi-tiered supply chain. Companies then need to raise awareness and build capacity within their own ranks and within those of their suppliers to take action against these abuses.

Workplace-Level Engagement

At the farm or factory level, employers and workers also need to be trained and educated on labor risks, so that they can play a critical role in rooting out abusive conditions on the front lines. Systems must be in place to prevent these issues from occurring in the first place – for example, by integrating appropriate controls at each stage in the recruitment, hiring, placement, employment, and on-site management of workers. Factory or farm personnel with the appropriate training may be able to spot these problems by asking the right questions and knowing what to look for. Involving first-tier suppliers as active and vital partners can help companies look deeper into sub-contracting and the suppliers of raw materials, parts, and labor. Orienting and training workers is also a critical step to ensuring that vulnerability to abuse is identified and corrected, and exploitative conditions are remediated. Some companies that operate in difficult legal environments in which the vulnerability of workers is exacerbated by legislative or public policy conditions (for example the legally allowed withholding of passports) may also wish to engage in policy advocacy to promote regulatory circumstances that minimize rather than contribute to risk for companies and workers.

CASE STUDY: Forced Labor at a Malaysia-Based Factory

Verité recently conducted a social assessment for one of the pioneers in the social responsibility sector – a global company that sells fast-moving consumer goods in stores around the world. For the assessment, Verité visited a Malaysia-based workshop where flooring and countertops were manufactured for the company's Asian stores. At the workshop, employment and living conditions were shocking: Nepalese, Burmese and Bangladeshi migrants were paid only once every three months and reported being regularly harassed verbally. They lived in shipping containers that had been converted into living areas and which suffered from water leaks, poor sanitation, and excessively high temperatures. Workers' movements were restricted by gates that were locked at night and the presence of a guard dog in the courtyard. These conditions can be classified as forced labor.

If managers throughout the global company's supply chain had been trained on the risks of nontraditional procurement and incentivized to find suppliers with ethical work practices, this scenario would not have unfolded. Verité knew of suppliers of similar materials in the same geographic area that had much better working conditions.

What Are the Risks to Companies of Slavery & Human Trafficking?

The risks of slavery and human trafficking in supply chain production are significant. Anywhere from 12 to 27 million people are victims of slavery and other forms of forced labor worldwide, and more than 2.4 million of these victims have been trafficked.³

Trafficking and slavery are widespread: One hundred and sixty one countries are either a source, transit, or destination country for trafficking in persons.⁴ Slavery and other types of forced labor are found in both the informal and formal economies, and in a wide range of sectors and services. In the United States, for example, ten thousand or more people are being forced to work at any given time. Victims of forced labor in the US are found in sectors including domestic service, the sex industry, food processing, hospitality, factory production, and agriculture.⁵

The challenges to combating slavery and trafficking in the manufacturing of goods are complex and multifaceted. These abuses are sometimes obvious but in many cases hidden and difficult to identify. Verité's research has shown that slavery can be present in diverse circumstances and at many levels of supply chain production.⁶ It is most common at the base of the supply chain, in the harvesting or extraction of raw materials (for example, food, fiber, or oil crops; and fish, timber, gold, and other minerals) and during different stages of the manufacturing of finished products.⁷ Companies concerned with the California Act may also run a particular risk of employing forced laborers in the construction of their facilities or stores overseas; and in the maintenance, servicing or management of those facilities, in cases where those functions are outsourced to a third-party supplier.

Because slavery and trafficking can manifest themselves in many different settings and situations, it is important for businesses to understand the different risk factors that can contribute to these severe forms of abuse. It is also important to recognize that social compliance efforts to-date have focused primarily on the workplace itself, and not on the paths that workers take to arrive at their jobs. Verité's *in-depth research* and results from thousands of worker interviews at workplaces around the world reveal the many ways in which exploitation in recruitment and hiring can pave the way for workers to become trapped in their jobs.

During Recruitment & Hiring

Workers are highly vulnerable when they are recruited into their jobs. Migrant workers especially can be deceived by the promise of high wages and good working conditions. Common causes of vulnerability include:

- **Deception** – Workers are told by a recruiter (the employer or an employer's agent) that they will receive high wages and be provided with good living conditions, but find the opposite upon arrival at the worksite.
- **Debt** – Workers may incur debt from paying fees to employers and recruiters for their jobs. Illegally high fees and loans taken at excessive interest rates can trap workers in a kind of bonded labor. Workers arrive at the worksite to find that wages are much lower than promised. After interest and debt repayments, these workers are often left with minimal or no income.
- **Contract Substitution** – Workers may be asked to sign an employment contract in a language they do not understand, or are asked to sign a new, replacement contract (with lower wages and benefits) when they start work.

CASE STUDY: Benny

Benny graduated from a four-year computer school in the Philippines and was unable to find work. He borrowed money to pay a recruiter for a legal job in an IT factory in Taiwan. When Benny got to Taiwan, he discovered that his recruitment debt had been increased by 150 percent, and his salary was half of what he was expecting.

Benny worked six to seven days a week, 12 hours a day with mandatory overtime for two years. When his contract was up, he returned home having barely dug himself out of the recruitment debt. With no savings and his family reeling from a storm that flooded their home, Benny plans to return to Taiwan to try again. This time, he says he hopes to go with an "honest" recruiter.

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- **Trafficking** – Workers are transported to a remote worksite away from family, friends, and any support structure, in debt and without any means to escape. Migrant workers, often from among the rural poor, may travel overseas or long distances within their own country to obtain a job.

Verité has encountered these vulnerabilities in many sectors, including electronics, garments, construction, and agriculture. Taken together or on their own, they place workers in extreme situations of risk that can result in forced labor, coercion and human trafficking.

During Employment

Slavery and forced labor can be perpetuated at the job site when employers keep workers trapped using different mechanisms of control:

Slavery and forced labor can be perpetuated at the job site when employers keep workers trapped.

- **Withholding Personal Identity Documents** – Especially for foreign migrant workers, the employer may hold workers' identity documents, making it impossible for them to cross borders or avoid being detained by authorities. In one case, Verité found that a labor broker in a Southeast Asian country told workers that if they questioned their employment conditions, he would rip up their passports and report them to the police as illegal immigrants.
- **Financial Control** – An employer may control workers by withholding wages until the end of a contract or until a crop is planted to prevent them from terminating employment. They may also attempt to control workers through debt (e.g., by providing advances or loans with high interest rates) or by controlling their bank accounts and withholding ATM cards.
- **Physical or Sexual Abuse** – Workers may be subjected to physical or sexual abuse or inhumane disciplinary practices if they question their working conditions or disobey the rules. In situations of trafficking, vulnerability to sexual abuse can be high. For example, Verité found in its research that, under the Sumangali scheme in southern India, young girls are promised a lump sum of cash as dowry money after a multi-year contract, but instead work long hours in deplorable conditions and can face threats of sexual exploitation.
- **No Freedom of Movement & Housing** – Workers are locked in their housing or in the workplace under strict supervision. Verité has found cases where workers are either not allowed to leave the farm or factory compound at all, or may only do so every few months with an escort. In another case, Verité found workers housed in shipping containers in a locked factory compound patrolled by pit bulls.

CASE STUDY: Fernando

Fernando from Guatemala wanted to earn more money to send his children to school. He contracted with a labor broker to obtain an H-2B visa for temporary work on tree plantations in the southeastern United States. He borrowed the money for the \$2,000 recruitment fee.

Upon arrival in the US, Fernando and 11 other migrants were piled into a van and driven through the night to New England, to do plant nursery work. This work was not covered by his visa. Fernando was suddenly illegal.

Fernando's passport was confiscated, and he was required to sign a contract that he could not read. He was placed in overcrowded housing an hour from the jobsite. He worked 12 to 15 hour days six days a week, for around US \$1.20 an hour after deductions, under constant verbal threat.

Fernando eventually escaped and filed a lawsuit with other victims. The parent company of the nursery settled out of court, and the victims were awarded a small sum, but not enough to pay off their recruitment debts. Fernando is still living and working in the United States to pay of his debt. He misses his family.

Each of these coercive mechanisms must be considered when attempting to detect slavery, forced labor, and trafficking in a company supply chain. Assessment measures should be adopted or refined to ensure that auditors have the full means to detect cases of abuse, and companies

should establish systematic preventive measures to guard against them. Comprehensive corrective action strategies and systems improvement plans should also be established in the event that a case of forced labor or human trafficking is discovered in the company or supply chain.

How Verité Provides Solutions

Verité's services and resources can help companies to fully understand the nature and sources of slavery and human trafficking in supply chains and how to overcome the obstacles to building sustainable systems solutions that benefit companies and workers alike. These services provide the skills, knowledge, and training needed not only to meet and exceed the obligations companies face under the California Act but to identify and root out the deceptive and coercive practices that lead workers into situations of trafficking and forced labor in supply chains.

Embedding the capacity, knowledge, and systems-based approach across the entire supply chain helps companies effectively and comprehensively meet their new obligations under Bill 657.

Assessment and Consultation

Verité provides both online resources and consultation to help companies identify and address forced labor risks.

Resources

- Verité's **Help Wanted initiative** helps companies ensure their products are made under fair, safe, and legal conditions.
- Verité's **Fair Hiring Framework for Responsible Business** and **Fair Hiring Toolkit** provide strategies and comprehensive tools and guidance to support responsible recruitment in global supply chains. These open-source materials are invaluable in providing a roadmap and practical tools to help companies take action against the abuses facing migrant workers.
- Standards of verification for ethical brokerage, forthcoming from Verité and the Manpower Group, provide a call to action and guidance for companies and other stakeholders on this critical issue.
- Our on-line **Commodity Atlas** provides considerations to determine the risks of forced labor in production.

These tools provide companies with the means to analyze their product supply chains and to evaluate their exposure to the risk of human trafficking and slavery.

Consulting

Our consulting assists companies in identifying risks of trafficking, slavery, and forced labor in their supply chains. Verité's consulting helps brands and suppliers identify existing gaps in their business processes that do not effectively screen for risks of trafficking and forced labor, and supports development of strong, internal accountability mechanisms to combat these abuses, imbedded in suppliers' existing business management systems and processes.

Auditing Services

Verité's worker-focused audits are uniquely positioned to detect indicators of trafficking, slavery, and forced labor. Standard social audits are generally unable to uncover forced labor, particularly when it involves foreign migrant workers and abuses perpetrated by labor brokers. Verité has conducted social audits that have identified how much workers were overcharged by brokers, and facilitated repayment to those workers.

Capability Building and Training

Verité training programs have provided suppliers, managers, and regional/corporate CSR staff on farms and in factories with knowledge and skills to eliminate forced labor abuses. Verité's Migrant Labor Workshops help companies manage the risks inherent in using brokered labor, helping participants to understand the manifestations and root causes of human trafficking and debt-bondage. Classroom-based learning of this kind will soon have an online component, with the development of a comprehensive eLearning platform, which addresses the California Act and risks of forced labor and human trafficking.

Embedding the capacity, knowledge, and systems-based approach across the entire supply chain helps companies illuminate the risks of forced labor, establish effective preventive measures, respond systematically to cases of human trafficking, and effectively and comprehensively meet their new obligations under Bill 657.

Who is Verité?

Verité is an international not-for-profit consulting, training, and research NGO that has been a leader in supply chain social responsibility and sustainability since 1995. Verité is a member of the Alliance to End Slavery and Trafficking, and has presented its solutions to forced labor at the Clinton Global Initiative. For its work, Verité was winner of the Skoll Award for Social Entrepreneurship in 2007 and the Schwab Social Entrepreneur of the Year Award for 2010.

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⁴ United Nations Office on Drugs and Crime. *Trafficking in Persons, Global Patterns*. Vienna, 2006.

⁵ Free the Slaves and Human Rights Center, University of California, Berkeley. *Hidden Slaves: Forced Labor in the United States*. September 2004.

⁶ Verité. *Help Wanted: Hiring, Human Trafficking & Modern-Day Slavery in the Global Economy*. June 2010.

⁷ See: <http://www.dol.gov/ilab/programs/ocft/PDF/2011TVPRA.pdf>.