MODERN SLAVERY: A Global Perspective

ETHIXBASE360

A compilation of articles highlighting the depth and complexity of a worldwide problem

Contents

Foreword

01

In today's business landscape, modern slavery remains an immense obstacle to ethical operations. The very name suggests that the issue should have been solved centuries ago, yet it continues to plague nations around the world. While many companies are complicit in practices that facilitate modern slavery, ethical leaders are looking for ways to do their part in stamping it out–and more nations are adopting regulations that will force companies to report their due diligence efforts on the topic. As a result, rooting out modern slavery within supply chains is fast becoming a key element in risk management as well as a moral imperative.

The good news is that there is more technology than ever available to perform due diligence that extends to modern slavery–but many leaders lack the full context for the term and the true extent of the issue. Many consider modern slavery to be an issue that primarily affects developing countries and isn't something that needs close examination on home soil. However, regulations coming out of Germany, Australia, Canada, and more are opening eyes to the global and pressing nature of the problem.

Modern slavery isn't just a monolithic concept that happens elsewhere, it's an umbrella term for various forms of wrongdoing that happen in your own backyard–and possibly within your supply chain. Human rights abuses, labor law violations, trafficking, and other unethical acts are not

"Modern slavery isn't just a monolithic concept that happens elsewhere, it's an umbrella term for various forms of wrongdoing that happen in your own backyard–and possibly within your supply chain."

isolated incidents but bricks in the foundation of modern slavery. As such, it's critical for business leaders to take a global view of the issue and the regulations surrounding it to effect change while mitigating risk.

For too long, it was acceptable to relegate responsibility for modern slavery to a moral gray area due to limitations in technology that left third-party networks a mystery. Today, businesses have the power to vet third parties for modern slavery violations and risks at an unprecedented level, and it's time to use all available tools to promote transparency. Only with a fully visible supply chain can companies meet compliance requirements while moving the needle on this crucial worldwide challenge.

This collection of articles from Ethixbase360 highlights recent discoveries and developments regarding modern slavery.

With this critical information in hand, risk management professionals and other business leaders will learn essential context for what drives today's modern slavery scandals, what key regulations are coming into play, and how to make meaningful progress in fortifying supply chains against third-party wrongdoing.

Together, we can work toward eliminating this threat from business operations around the globe.

The State of Modern Slavery and Human Rights in Global Supply Chains

02

*The following is an excerpt from an Ethixbase360 eBook. To download the full eBook, visit our **website**.*

Modern Slavery Landscape: 2023 Snapshot

Now that businesses can look at the economic impact of the pandemic through the rearview mirror, it's easier for them to focus about creating long-term value, including strengthening corporate social responsibility.

On the one hand, new modern slavery regulations such as Germany's Lieferkettengesetz (LkSG) and a similar law newly enacted by the Canadian Parliament remind companies of the need for compliance. On the other hand, scandals such as the sexual abuse of workers in a Kenyan tea farm and the exploitation of child labor in U.S. meat processing plants and car assembly lines serve as a warning about noncompliance.[2]

The news is rife with reports of labor rights abuses in various countries, including multiple allegations of human trafficking and job scams that bring foreigners into Cambodia as forced labor.[3] In southern Spain, farms are using migrant workers who are paid unfair wages and are forced to work excessive hours and unpaid overtime, according to a report by the Ethical Consumer.[4]

Also in Europe, a report by the Fair Trade Advocacy Office shows the huge power imbalance between clothing brands and retailers and European manufacturers desperate for orders. The result: lower prices for fast fashion, shortened lead times, more order changes, extended payment deadlines, and increased transfer of hidden costs to manufacturers in low-wage countries such as Bulgaria, Romania, Croatia, and Czechia.

The economic pressure that brands exert on supply chains are creating labor inequities and regional clusters of poverty.[5]

The prevalence of labor rights abuses attracted the attention of G7 when Japan assumed its leadership in 2023. One of the G7 working groups recommended mandatory human rights and environmental due diligence, as well as support for the UN Treaty on Business and Human Rights. It also called for the establishment of a safe and decent working environment in the supply chains.[6]

Root Causes of Modern Slavery

For all the talk about improving the ethical standards in global supply chains, why do modern slavery and labor rights abuses persist?

The ILO attributes these enduring problems to several factors. A 2022 report called "Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains,"[7] identified the following as the root causes:

Gaps in statutory legislation, enforcement and access to justice that create space for noncompliance;

Socioeconomic pressures facing individuals and workers; and

Business conduct and business environment.

The report called for businesses to conduct due diligence in accordance with the UN Guiding Principles on Business and Human Rights and the Organisation for Economic Cooperation and Development's Due Diligence Guidance for Responsible Business Conduct.

"Due diligence entails a full supply chain approach; includes processes that are designed to be preventive; is risk based, meaning that the actions companies take are commensurate with and prioritized in accordance with the severity of the impact and are part of an enterprise's risk management and decision-making system," according to the report.

Download the 2023 ebook to take a look at how modern slavery laws are shaping up across different countries and jurisdictions. It's imperative that companies understand the requirements in countries where they do business. A lack of awareness and understanding of regulations is one of the biggest risk factors for multinational organizations and their value chains.

References

1 Press release, International Labour Organization, Sept. 12, 2022.

2 "Modern Slavery Scandals Highlight Lagging Compliance," Ethixbase360 Blog, March 20, 2023.

3 "Taiwanese Court Sentence 9 Defendants in Human Trafficking and Job Scams," Business & Human Rights Resource Centre, April 13, 2023.

4 "Spain: Fundamental Workers' Rights Allegedly Violated on Farms]," Business & Human Rights Resource Centre, April 25, 2023.

5 "Europe: Report Finds Brands Exerting Economic Pressure on Manufacturers," Business & Human Rights Resource Centre, April 1, 2023.

6 "G7 Japan 2023: Leaders Urged to Introduce Mandatory Due Diligence," Business & Human Rights Resource Centre, April 26, 2023.

7 "Ending Child Labour, Forced Labour and Human Trafficking in Global Supply Chains," International Labour Organization, Organisation for Economic Co-operation and Development, International Organization for Migration and United Nations Children's Fund, 2019.

Modern Slavery Scandals Highlight Lagging Compliance

03

The U.K.'s Modern Slavery Act of 2015 was a groundbreaking step toward the goal of ending modern slavery throughout the supply chains of all large companies. One year later, a Thomson Reuters report surveying global leaders revealed that 62 percent only conducted due diligence on the first tier of their third-party networks and just 16 percent labeled themselves "sufficiently knowledgeable" about slavery and forced labor. Despite noble intentions to stamp out unethical labor practices, an onslaught of high-profile modern slavery scandals in the past two years alone show that compliance in this area is still woefully lacking.

The disturbing supply chain of a beloved staple

Recent high-stakes **investigation by the BBC** has revealed that multiple tea farms supplying popular brands including Lipton are falling afoul of labor laws. An undercover reporter bravely put her own physical safety on the line to corroborate the reports of more than 70 women workers that their supervisors were perpetrating sexual abuse.

The shocking report has led to multiple retailers denouncing the company in question–James Finlay and Co. Sainsbury's promises to take "robust action to safeguard workers" while Tesco is opening "constant dialogue." Starbucks even went as far as to suspend purchasing from the company altogether.

As these retailers scramble to find alternative suppliers or force James Finlay and Co to come into compliance, it's clear that intensified and expanded due diligence will have to take precedence in the process.

Dangerous third-party activity

Across the Atlantic, the United States is experiencing its own series of violations revolving specifically around child labor. Packers Sanitation Services Inc. LTD has paid **a fine of $1.5 million** for employing more than 100 minors in hazardous occupations that exposed them to heavy machinery and dangerous chemicals. Packers provided services to major companies including Cargill Inc. and JBS Foods.

Late last year it was revealed that Hyundai Motor Co.'s supply chain was rife with **child labor violations**, from their own assembly lines to at least four major third-party suppliers. Hyundai initially argued that there were just a few isolated, accidental incidents–however once it was uncovered that there were multiple violations at multiple sites, the argument fell flat. Hyundai will divest from the Alabama subsidiary and has conducted its own audits of 29 suppliers to ensure compliance going forward.

These major events are part of the overall **rise in child labor violations** that has resulted partially from increased reliance on migrant workers in a time of dwindling labor availability. When large companies put pressure on third parties to keep the supply chain going, they must also lean heavily into ensuring those third parties don't cut corners on employment standards.

Spotlight on underutilized tools

The dramatic rise of modern slavery incidents makes it clear that despite global efforts to stem unethical labor practices, there's a missing piece that's holding companies back. If multinational companies are struggling to maintain proper governance and protocols in regard to third parties, it's almost a given that smaller companies with fewer resources are experiencing even more difficulty gaining comprehensive visibility into supply chains.

As compliance requirements continue to expand, it's clear that the only way to keep regulators satisfied without pouring immense resources into risk and compliance expansion is to leverage the growing body of compliance technology.

Ethixbase360 provides the comprehensive due diligence that companies of all sizes require to bring clarity to supply chains, with due diligence tools including a Modern Slavery Questionnaire. This Questionnaire makes it simple to vet third parties for compliance with modern slavery regulations including the German Due Diligence Act.

Embracing the portable due diligence model

It’s clear that the burden of compliance in terms of modern slavery has placed mounting strain on companies in all industries. Rather than expanding risk and compliance teams to tackle vetting manually, many organizations are opting to use the portable model of due diligence, in which third-party candidates complete their own due diligence and receive a report they can bring to as many companies as they want.

“By altering our approach to modern slavery compliance and leveraging developing technologies, companies the world over can simplify the mission to end modern slavery.”

How Multiple Migration Crises are Testing Compliance Across the Globe

04

Human migration is always a top political concern, and it seems that nations the world over are facing escalating crises that cause dangerous ripple effects on multiple facets of society. Most recently, large influxes of migrants are underpinning a rise in labor violations across the European continent, the U.K. and the United States that are proving compliance is more complex than many expect.

Continued scrutiny in China

When considering modern slavery and other labor violations, the spotlight is typically on goods and materials coming from China. Between June 2022 and April 2023, nearly $1 billion worth of goods have been seized in transit as a result of the Uyghur Forced Labor Act (UFLA) of 2021. The goods are highly concentrated in electronics and agricultural categories, though other product categories are involved as well. But it's not just China where labor violations are rising; the U.K. and U.S. are experiencing disturbing spikes as well.

Worker shortages in the UK

In 2015, the U.K. took an ostensibly significant step in combating harmful practices by implementing the Modern Slavery Act. The Act details efforts to reduce forced labor in the form of modern slavery, as well as human trafficking. Yet, despite this implementation, rates of labor violations continue to rise as the U.K. relies more and more on overseas workers since Brexit.

The United Kingdom has seen an immense expansion in the need for workers, which resulted in the issuance of 40,000 seasonal-worker visas in 2022–a shocking jump from the 2,500 granted in 2019. With more migrants vying for work in deteriorating conditions, the concerns for a perfect storm of modern slavery incidents are rising. Early last year, the U.K.'s anti-slavery commissioner listed exploitation risks specific to agricultural workers, including debt bondage, unsanitary housing, and exploitative contracts among other poor practices leading to violations.

Increasing numbers of refugees seeking asylum contribute to the issue of compliance management. In 2022, the U.K. processed more than 72,000 applications for asylum, which doubled the number seen in 2019. Without enough resources or people power to handle the influx, the number of violations logged has not significantly increased despite the swelling number of applicants. The most recent U.K. data, from 2021, indicates a 27 percent increase in the number of police-recorded modern slavery offenses involving children, but simultaneously a 43 percent decrease in the number of potential victims reported to the Modern Slavery and Exploitation Helpline. This mismatch is one indicator that enforcement of the Modern Slavery Act is well below what regulators would have liked to see by this point in the timeline.

Child labor spikes in the US

In the U.S. another migrant crisis is fueling child labor violations on its own shores. In 2022, nearly 4,000 children spread across hundreds of companies were found to be victims of federal labor law violations–marking a dramatic increase over a five-year period. The highest-profile cases were violations found at multiple points in the Hyundai-Kia supply chain, and violations by cleaning agency Packers Sanitation Services Inc. which employed more than 100 children to work with dangerous chemicals cleaning meatpacking plants for multiple multinational brands.

The proliferation of child labor stems from the failure of the Health and Human Services Department (HHS) to release children from overcrowded shelters to properly vetted sponsors. Those improperly vetted sponsors then went on to employ children in dangerous and illegal jobs. As the HHS and Department of Labor (DOL) tossed the issue back and forth, they also failed to acknowledge the urgency and growth of the exploitation problem.

While the focus is on framing child labor specifically, it's critical to note that a majority of these cases revolve around migrant children being forced to work to support their families–placing the issue squarely within the purview of modern slavery. That makes it essential for any business with an international supply chain to take modern slavery regulations more seriously by rethinking and reinforcing governance frameworks to meet international standards.

The beginning of a new crackdown

While the U.K. struggles to manage the proliferation of modern slavery, the U.S. is developing a new taskforce to enforce existing prohibitions in the **Fair Labor Standards Act** (FLSA). The FLSA was updated in 2014, and the upcoming crackdown may provide a blueprint for the U.K. to follow in upholding the Modern Slavery Act.

Under the FLSA, “hot goods” are anything produced under conditions that violate the FLSA. The existing prohibition already prevents “the interstate shipment of goods that were produced in violation of the minimum wage, overtime, or child labor provisions of the FLSA.” The upcoming taskforce will serve to ensure that prohibition is rigorously enforced as a way to curb the rising tide of child labor, and the U.K. could significantly cut down on overall modern slavery incidence by using a similar tactic.

Worldwide business implications

The adoption of a goods confiscation model will have intense ramifications, whether it spreads to the U.K. or not. Under current conditions, any companies found to have links in the supply chain that produce “hot goods” can generally pay a fine, cut ties with the offending supplier and move on to make a slightly reduced profit. If the crackdown really does occur, the end products made with the hot goods can be seized, making a huge dent in actual profits. For Hyundai and Kia, for example, the results could be disastrous. If a manufacturer that makes their manifolds is found to be using child labor, the government could theoretically prevent the sales of the fully-built vehicles.

It is worth noting that the current "hot goods" provisions do not apply to a "good faith" purchaser who acquires the goods for value, in good faith and in reliance on written assurance from the producer that the goods were produced in compliance with the FLSA. This effectively requires greatly heightened due diligence in order to provide strong evidence of good faith. In order to minimize the risk of human rights and labor violations–and to prepare for potential future crackdowns–leaders should consider looking at regulations beyond their own borders of operation and move toward compliance with the strictest due diligence requirements. For example, even a company without operations in Germany should examine the stringent requirements of the German Due Diligence Act as a model for advancing their third-party management.

Building a 360° defense

The current overlap between migrant crises, labor violations and upcoming crackdowns is a strong signal that regulatory pressure will continue to heat up. Companies with supply chains that cross international borders would do well to examine international regulations and adopt the most stringent level of governance possible to mitigate third-party risks associated with suppliers or intermediaries that fall afoul of human rights or modern slavery requirements.

Child Labor Scandal Puts Third-Party Governance in the Spotlight

05

News of labor violations leading to human suffering is always difficult to receive, and emotions run even higher when those violations concern children. A recent and **ongoing investigation** by the U.S. Department of Labor has revealed the possible use of illegal child labor by a Wisconsin-based company that provides cleaning services to meat processing plants. Unfortunately, the investigation is a tragic reminder of how critical it is to monitor and audit third parties to mitigate ESG risks and enhance governance.

Oppressive working conditions

The Department of Labor's investigation began earlier this year, launched by a law enforcement tip about a child working overnight shifts and suffering a chemical burn at a JBS USA meat packing facility in Nebraska. Interviews with local school officials revealed that children working at the facility were an open secret, with multiple individuals expressing concern about students coming to school exhausted from their overnight shifts.

Ultimately, the investigation uncovered that 31 children ages 13 to 17 worked for Packers Sanitation Services Inc. at JBS USA plants in Nebraska and Minnesota, in addition to a Turkey Valley Farms plant in Minnesota. A separate investigation into Packers Sanitation at a Tyson Foods plant in Missouri has also begun.

Minors can legally perform some jobs, but strict federal regulations do not allow them to do work that harms their health or is considered "particularly hazardous." With multiple reports of long overnight shifts, chemical burns and minors cleaning dangerous slaughterhouse machinery by hand, it's clear that the DOL's designation of "oppressive child labor" is an accurate one.

Big brands in the crosshairs

One of the unique factors in this situation is that it involves two of the biggest nationwide meat producers. JBS USA is the number one beef producer in the U.S. and ranks number two for both pork and poultry. Tyson's Q2 sales for 2022 added up to a staggering $13.12 billion, thanks to products you can identify in any grocery store across the country.

In today's tech-bound climate where missteps are instantly seized upon and trumpeted to the masses, a child labor scandal can thrust companies into a negative news cycle within a matter of hours. It doesn't help these major companies that Packers Sanitation is denying all wrongdoing and has allegedly obstructed the investigation by deleting files and directing children to refuse to cooperate with the investigators.

This is a clear case of a critical third-party's actions potentially impacting reputation in a big way, and the manner in which the affected companies respond publicly will affect their ability to mitigate the damage of being directly associated with Packers Sanitation.

Exhibiting good governance

JBS USA, the company with the most meat packing plants subject to investigation, has taken a clear stance on the issue and provides a good example of how strong governance protects businesses.

The company's Chief Ethics and Compliance Officer, Michael Koenig, stated that the allegations would be a serious violation of company ethical policies and that "JBS has zero tolerance for child labor, discrimination or unsafe working conditions for anyone working in our facilities. We expect and contractually require our partners to adhere to the highest ethical principles as outlined in our Business Associate Code of Conduct."

03

The company is also launching an independent audit of all facilities to evaluate the situation.

This approach is a strategic balance between calling out the company's ethical stance on labor and actually having the proof that the third-party agreed to work within those principles through a binding code of conduct.

In this case, clearly defining the expectations of the third-party relationship from the outset with a code of conduct firmly established boundaries which today clarify that JBS USA cannot reasonably be held responsible for the actions of the third party–whether by outraged consumers or the Department of Labor. While it didn't make the company bulletproof, that code of conduct may prove invaluable as the investigation continues.

Accessible governance now

It's not just big businesses that need to defend against rights violations and other ESG concerns. Today, businesses of every size and scale need full-spectrum visibility into their suppliers, vendors and other third parties to avoid getting entangled in unexpected scandals. Digital third-party risk management tools like those you'll find on the Ethixbase platform are essential for improving monitoring and audits for your highest-risk third parties and shoring up governance to define responsibility in the case of a violation of this caliber.

Understanding Child Labor & the Migrant Crisis in the U.S.

06

*The following is an excerpt from an Ethixbase360 eBook. To download the full eBook, visit our **website**.*

The recent spotlight on child migrant labor in the United States is thanks to a New York Times investigative journalist Hannah Dreier, who sought out and **interviewed more than 100 migrant children** across 20 states–all of whom were working jobs in violation of U.S. child labor laws. Dreier was shocked at how easy it was to find these children, and describes the problem as an open secret in the communities where they live and work.

Ultimately, Dreier's calculations suggest that 250,000 or more migrant children have crossed the US border in a two-year span, and most of them find themselves in full-time employment with no governmental support to ensure they receive adequate living conditions and consistent access to education.

The influx of unaccompanied child migrants is due in large part to the economic fallout of the pandemic in Central American economies. Guatemala and surrounding nations were especially hard-hit, leading parents to send their children to the border alone. Unaccompanied minors are less likely to be turned away, but once they are processed through there is little to no support for them afterward. While children are supposed to go to vetted homes–preferably with a relative or someone connected to their home country–the major influx has led to a vast decrease in screening. **Thousands of kids** are turned over to live with complete strangers and have little recourse if they find themselves forced into labor.

The Department of Health and Human Services (HHS) is responsible for placing unaccompanied children into suitable residences, but diminishing funding in addition to the approximately **700% surge** in arriving children mean the issue is increasingly difficult to measure and manage. In an **interview of more than 60 caseworkers** for the HHS, most believed about two-thirds of unaccompanied children admitted to the US ended up in full-time labor even though they are owed the right to an education due to their age.

A second factor in the crisis is the difficulty of staffing unwanted or dangerous jobs, especially in manufacturing where there may be **2.1 million unfilled jobs by 2030**. The third key element to consider is inflationary pressure, which is causing businesses to foray into cheaper labor alternatives. This challenge has led many businesses to fill openings through third-party staffing agencies, creating a significant blind spot. After multiple high-profile scandals like the Packers Sanitation Services Inc. case in which **more than 100 children** were illegally employed by the sanitation contractor, it's not enough to assume your third

A Worldwide Issue

parties are complying with regulations. Heightened due diligence is a must in ensuring costs are not being cut through unethical or illegal methods.

In this difficult situation where child migration is increasing under less government oversight, there are more opportunities for third parties to mistakenly or purposefully skirt labor laws.

In combination with the continued and escalating labor shortages in dangerous industries, companies are finding it harder than ever to achieve the transparency needed to mitigate the risk of child labor in supply chains.

While the *New York Times* investigation has been a bombshell revealing the extent of the crisis in the United States, Europe and the U.K. may have similar escalations that have not yet been uncovered. **UNICEF's most recent tallies** show that in the first half of 2020–as the U.S. crisis was just ramping up–almost a third of Europe's asylum seekers were children. If the New York Times investigation spurs similar inquiries in other regions, the true scale of the issue may come to light and force companies to adopt greater levels of due diligence as a third party risk mitigation tool. As incidences of forced labor and modern slavery are increasing, so does legislation addressing it. In anticipation of further enforcement of emerging Human Rights and Modern Slavery legislation like the LkSG in Germany, CSDDD in the European Union and the Norwegian Transparency Act intensifies, companies must consider how to clamp down on migrant child labor risks and manage mandated reporting in their countries of operation.

Existing Laws on Child Labor

One of the key challenges arising as the child migrant crisis continues to unfold is that there are no specific laws addressing this issue in the United States. Rather, there are umbrella regulations that address child labor but do nothing to address or mitigate the labor crisis in the context of migration specifically.

In the United States, child labor is governed by the **Fair Labor Standards Act** (FLSA) of 1938. It sets standards for minimum wage, overtime pay, and child labor. Additionally, the **Migrant and Seasonal Agricultural Worker Protection Act** (MSPA) establishes certain labor standards and protections for migrant and seasonal agricultural workers, including children. Imports produced by forced labor fall under the **US Tariffs Act, Section 307** of which prohibits the import of any product "mined, produced, or manufactured wholly or in part by forced labor, including forced or indentured child labor."

Just across the northern border, Canada has made notable strides that will help reduce the crisis through the **Fighting Against Forced Labour and Child Labour in Supply Chains Act**, which received royal assent in May 2023. The Act requires companies that do business in Canada to publicly disclose what steps they have taken to prevent and reduce the risk of forced and child labor. Companies to which the Act applies are referred to as "entities." Companies considered entities are those that are listed on a Canadian stock exchange, or that have a place of business in Canada, do business in Canada or have assets in Canada.

The Act applies to entities with at least CA$20 million in assets and CA$40 million in revenue for the two most recent financial years, while also maintaining an average of 250 employees or more.

This is the most comprehensive law on modern slavery reporting to date, and companies meeting the definition of "entity" under the Act will need to be prepared for the extra layer of due diligence required for compliance.

The Fallout

The consequences of directly violating any of these umbrella laws are typically fines. Packers Sanitation Services Inc, for example, was forced to **pay $1.5 million in civil penalties**, while violations of the Canadian Act contains provisions for fines up to CA$250,000 for noncompliance.

For companies whose third parties commit violations, however, the indirect results are more complex. While companies that are not actively complicit with the actions of the non-compliant entity are highly unlikely to face severe penalties, the reputational damage can be severe. Meatpacking company JBS was forced to quickly issue **a strong statement** condemning Packers Sanitation's actions and end contracts with the company at all offending locations. However, the spotlight had already been cast on the overall dangerous working conditions that often make consumers and investors give pause before supporting a company.

Tyson Foods, which also had minors from Packers Sanitation working in a slaughterhouse, also had to **make a statement and sever ties** with the company–leading to a scramble to find a replacement cleaning services company.

Enhanced Governance and Collaboration

With more child migrants slipping through the cracks and into exploitative working environments, all North American businesses need to reevaluate the risk of modern slavery within their network of third parties. Achieving transparency is a collaborative matter in which third parties must be able to participate and explain all measures taken to eliminate child labor within their business.

As regulations are fractured across regions and enforcement may move faster in some areas than others, protecting your company from the effects of child labor in your overall supply chain becomes a matter of proactivity rather than reactivity.

Companies should reassess their governance frameworks and whether contracts are clear and adequately strict on consequences for labor violations, and ensure potential third parties are willing and able to provide information on the scope of their operations, internal policies and controls.

Download the 2023 eBook to read more and learn how you can prepare you business. With clear, zero-tolerance expectations and collaboration with third parties, companies can reduce the likelihood of bringing a bad actor into their supply chain as well as minimize the fallout should a third party commit violations.

The German Supply Chain Due Diligence Act: What It Means for Your Company

07

*The following is an excerpt from an Ethixbase360 eBook. To download the full eBook, visit our **website**.*

Germany is leading the European Union's fight against unethical global supply chains with its Supply Chain Diligence Act, also known as the Lieferkettengesetz (LkSG), effective Jan.1, 2023.[1] Although France was the first in the region to enforce a similar Duty of Vigilance Law in 2017, Germany's version is stricter. The country has raised the bar in global supply chain requirements by making its law much more comprehensive than any other law of its kind.

Majority of Germans (75%) support the new law,[2] but some business groups have expressed concerns about its impact on "costs and risks for companies trading with suppliers in poorer countries with weak institutions," as well as on its political impact on poorer nations.[3] The legal community worries that the law exposes companies to litigation and other contractual liabilities.[4]

Nevertheless, the LkSG has invigorated likeminded governments seeking increased accountability for businesses and their value chains. There are similar laws being considered in Austria, Belgium, Finland, the Netherlands, and Spain. Likewise, the European Union's Supply Chain Directive is pending before its lawmaking bodies.[5]

While it's too soon to judge the LkSG's effectiveness, it has already brought a reckoning in the business world. It's time to look inward and ask critical questions.

How does your own supplier network fare in terms of human rights and sustainability?

Is your value chain on a par with the new German standards?

How will the LkSG affect your company?

Introduction: The Lieferkettengesetz

Since its last EU Presidency in 2020, the German Government was pushing for the adoption of EU-wide legal standards for fair global supply and value chains. According to the German Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung) such approach takes time, the German Government took the lead and agreed on the draft LkSG, which was passed by the parliament on 11 June 2021.[6]

The ministry noted that 80% of worldwide trade relies on global supply chains. "No other major industrialized country is as highly integrated in international supply chains as Germany," it said. "Companies in Germany...must ensure that fundamental human rights standards are respected in their supply chains."

By mandating fairer value chains, Germany is flexing considerable economic muscle. It has the fourth largest economy in the world with a GDP of US$4 trillion, behind the U.S., China, and Japan.[7] The country's exports were worth US$1.6 trillion (€1.4 trillion) in 2022.[8] To get a share of the German market, companies must invest in supply chain compliance.

The LkSG is aligned with the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.[9] But it raises the standards by going further.

"The LkSG is not only looking at forced labor and human trafficking, it's covering discrimination of any type, safety at work, freedom of coalition, protection of indigenous people, use of security forces, and many other areas. We are not only talking about Modern Slavery but the protection of human rights as a whole," said Michael Wiedmann, a lawyer and compliance expert at the global firm Norton Rose Fulbright.[10]

Who is Affected?

Companies doing business in Germany and their direct and indirect suppliers are affected. About 900 companies with more than 3,000 employees must comply with LkSG beginning this year. In January 2024, an additional 4,800 companies with more than 1,000 employees must also comply with the new law.[11] The LkSG applies to the entire value chain, from providers of raw materials to product marketing and distribtion. It applies to foreign companies even with just one branch in Germany that employs at least 3,000 people. For example, Amazon12 has one office in Munich, but it employs about 20,000 people.

What Are the Requirements?

The LkSG[13] requires due diligence in two major areas:

***Human Rights:** Child and forced labor, slavery, health and safety, freedom of association, discrimination, living wage, harmful impacts on the environment with negative consequences on persons, eviction, and use of security forces*

***Environment:** Unlawful use of mercury, persistent organic pollutants, and the export of hazardous waste.*

The law specifies how companies must perform due diligence on human rights and the environment, including analyzing possible risks, taking measures to prevent and mitigate any violations, setting up grievance mechanisms, and reporting on relevant activities.

In terms of environmental protection, the obligations of businesses are based on three international conventions to prevent health and environmental hazards: the Minimata Convention on Mercury, the Stockholm Convention on Persistent Organic Pollutants, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

What Are the Repercussions?

Violations can bring penalties of up to 2% of a group's annual global revenues. The government can exclude companies with fines of €175,000 (US$187,056) or more from public tenders.[14]

Download the 2023 eBook to read more and learn how you can prepare you business for LkSG compliance.

References

1 See the unofficial translation of the Act by the lead ministry, viewed on Feb. 27, 2023.

2 "German Supply Chain Law Comes into Force," Business & Human Rights Resource Centre, Jan. 10, 2023.

3 Economic Evaluation of the German Due Diligence Act, Kiel Institute for the World Economy, a study commissioned by Gesamtmetall (the Federation of German Employers' Associations in the Metal and Electrical Engineering Industries).

4 "New German Supply Chain Act: New Challenges and Exposure for Doing Business in Germany," JDSupra, Dec. 22, 2021.

5 Map Corporate accountability legislative progress in Europe, European Coalition for Corporate Justice website, viewed on Feb. 27, 2023.

6 Federal Ministry for Economic Cooperation website, viewed on Feb. 27, 2023.

7 World's Largest Economies by GDP 2023, World Population Review website, viewed on Feb. 27, 2023.

8 Destatis website (German Statistics Office), 2022 Foreign Trade, viewed on Feb. 27, 2023.

9 "SCDDA Perspective: The German Supply Chain Due Diligence Act," Ethixbase Blog, Jan. 26, 2023.

10 "Make Lieferkettengesetz Work for Your Business with the New Ethixbase360 Capability," Ethixbase website, Oct. 31, 2022.

11 Supply Chain Due Diligence Act, FAQs, English version., viewed on Feb. 27, 2023.

12 "Make Lieferkettengesetz Work for Your Business with the New Ethixbase360 Capability," Ethixbase website, Oct. 31, 2022.

13 The Lieferkettengesetz (English version), German federal government website, viewed on Feb. 28, 2023.

14 "Germany Passes Law on Tougher Oversight of Supply Chains," Reuters, June 11, 2021.

Mixed Reaction to Canada's New Law

08

When Canada recently passed a law to prevent modern slavery, joining Germany, Australia and the U.K., supporters heralded it as **groundbreaking** while critics denounced it as **insufficient**. Such a mixed reception could be a sign that the country's effort to establish a legal structure to fight forced labor is off to a good start, but a great deal still needs to be done as companies assess requirements for compliance.

After four years of back-and-forth, the Canadian Parliament passed **Bill S-211** ("Fighting Against Forced Labour and Child Labour in Supply Chains Act") on May 3, 2023. The law is meant to provide supply-chain transparency by requiring public and private entities to submit annual reports of their due diligence programs. The entities and their supply chains must show that they are not using forced labor or child labor. This law is potentially stricter on child labor than we have seen in other laws to date.

Under the new regulation, the first report is due no later than May 31, 2024. It affects government institutions and private entities that are listed on Canada's stock exchange and has assets or presence in Canada or does business in the country with at least two of these conditions recently:

- *At least $20 million in assets;*
- *Generated at least $40 million in revenue;*
- *Employs an average of at least 250 employees.*

Although this is Canada's first modern slavery law, it has taken other measures in the past to address the problem. The country's Customs Tariff bans imports produced by forced labor as required by the United States-Mexico-Canada Agreement.

In 2021, [Canada also announced measures] to protect Canadian businesses from becoming unknowingly complicit in importing goods made by forced labor in China's Xinjiang Uyghur Autonomous Region.

Canadian Law's Advantages

The new law imposes significant reporting obligations on Canadian businesses and importers, which makes it a step in the right direction. One of the law's most advantageous features is its scope. Reporting obligations are based on consolidated financial statements, so even when individual entities within a corporation don't meet the thresholds, they still need to report as a collective.

Second, the law extends its reach beyond Canada by including foreign entities with business presence in the country. Third, the reporting requirements also apply to government agencies, including Crown corporations and subsidiaries owned by the government that are established like private companies (e.g., utility companies). Entities that fail to comply or knowingly make false or misleading statements face fines of up to C$250,000.

While the Canadian Customs Tariff already prohibits the import of goods produced by forced labor, the new law reinforces the restriction by defining the meaning of "forced labor" and including child labor as part of the definition.

Mixed Reactions

The advocacy group **Stop the Traffik** congratulated the Canadian Parliament for its work. "This law drives up the risk to those who do not take action, whether they are unaware of the issue or fail to prioritize in order to prevent the harm modern slavery and human trafficking inflicts across our world," said CEO Ruth Dearnley.

By contrast, the Bloc Quebecois and National Democratic Party **criticized the law** because it doesn't actually hold companies accountable and doesn't have the power to end forced labor.

Likewise, **Canadian Network on Corporate Accountability** panned the Act, saying: "Canada's new law on forced and child labour in supply chains is bound to fail because it only requires companies to publish reports, and it risks making the problem worse by providing the appearance of real action when it is not."

Transparency vs. Accountability

Concerns about Canada's new law lie in the fact that it aims only for corporate transparency, not accountability. The law is arguably less powerful than Germany's Supply Chain Due Diligence Act, also known as the Lieferkettengesetz (LkSG). Advocates consider the German law—like similar modern human rights due diligence laws in France, Norway, and Switzerland—to have more teeth.

What's considered a good modern slavery law? A legislation should have access to justice and remedy, a preventative component, and administrative enforcement mechanisms, according to the [UK-based Business & Human Rights Resource Centre](#).

When the organization presented its recommendations for the European Union's Supply Chain Directive, currently pending before legislators, it recommended these elements:

- *A strong civil liability regime*
- *Effective and safe stakeholder engagement*
- *Sufficient scope*
- *Mandatory requirements which go beyond tick box exercises*
- *Protection of all internationally recognized human rights and environmental standards*

Additional Canadian Initiative

In Canada's 2023 federal budget, the government revealed its intent to introduce new legislation by 2024 to eliminate forced labor from supply chains and to strengthen the import ban on goods produced using forced labor.

Unlike the newly enacted Bill S-211, the proposal is expected to go beyond reporting obligations by mandating affected companies to stop instances of forced labor.

Despite mixed reactions to Canada's new law, there's no denying the growing global movement toward the adoption of modern slavery laws. Differing reporting standards and frameworks can be a challenge for companies complying with similar laws in different jurisdictions. Without a universal reporting standard, every company must choose and develop its own compliance process.

The good news is, technology such as the Ethixbase360 third-party risk management platform can facilitate and accelerate reporting and due diligence compliance. The platform provides robust third-party questionnaires configured according to a company's business requirements and specific risk areas, including modern slavery, anti-bribery and anti-corruption, LkSG, Australia's Modern Slavery Act, and similar laws.

The true impact of Canada's law can only be determined over time, but its implementation is likely to serve as a catalyst for other governments with similar goals to adopt comparable measures in a global effort. While the efforts of a single country are never sufficient, collaborative actions from around the world offer a stronger chance of eradicating the systemic problem of modern slavery.

The Unseen Connection Between Corruption and Modern Slavery

09

Imagine a busy international port, where goods from around the world flow in and out, driving global trade. Amid this bustling commerce, there exists a less conspicuous but vital issue—the complex interplay of corruption and modern slavery. In a recent episode of the Ethics Exchange Podcast, we explored this deep-rooted connection with Abigail McGregor, a partner at Norton Rose Fulbright, and discussed practical insights for companies to address it.

In its September 2021 report, the United Nations underscored a significant revelation that the most corrupt countries are often the least committed to combating modern slavery. This correlation is not a mere coincidence but a compelling truth that should put companies on notice for modern slavery violations in their supply chains and encourage them to take meaningful actions to address the issue, McGregor said.

How Corruption Breeds Modern Slavery

To understand this connection, we must dissect the intricate process by which corruption fuels modern slavery:

- ***Creating vulnerability*** *– corruption starts by creating vulnerable communities in locations where corruption runs rampant. These communities become ripe for exploitation.*
- ***Cultivating officials*** *– perpetrators of modern slavery rely on corrupt officials to facilitate their illicit activities, especially in cases involving migration and transportation. Bribes are the currency of choice to gain official cooperation.*
- ***Targeting victims*** *– once individuals are trafficked and forced into slavery, they become a new source of income for corrupt officials. Victims are coerced into paying bribes to avoid harsher conditions or legal consequences.*
- ***Extortion and mutual support*** *– the corrupt officials themselves become vulnerable to extortion by the traffickers. A record of their complicity in modern slavery becomes a weapon in the hands of those seeking to continue their operations.*

This vicious cycle of corruption and modern slavery feeds on itself, creating a deeply entrenched problem.

09

The Role of Businesses in Breaking the Chain

Companies hold a critical position in the surveillance and management of third parties to combat and eradicate modern slavery. As global supply chains becoming increasingly intricate, businesses have a moral and legal obligation to ensure that their products and services are not tainted by human rights violations. By meticulously scrutinizing their third-party partners and suppliers, companies can enforce stringent ethical standards, trace the origin of their products, and evaluate the labor practices of those involved in their supply chains.

According to McGregor, there are a series of actionable steps that companies can take:

1. ***Conduct Comprehensive Risk Assessments:*** *Understand the corruption risks within your organization and your supplier network. Identify high-risk countries and sectors.*
2. ***Empower Your Workforce:*** *Educate your employees about the red flags associated with both corruption and modern slavery. Knowledge is the first line of defense.*
3. ***Collaborate for Impact:*** *Join industry or regional initiatives to combat corruption collectively. A united front amplifies your influence.*
4. ***Support Victims:*** *Depending on your industry, consider providing support to organizations aiding trafficked individuals. Legal assistance and financial contributions to relevant charities can make a difference.*
5. ***Due Diligence on Third Parties:*** *Implement robust due diligence procedures for your third-party relationships. Assess not only modern slavery but also corruption risks.*
6. ***Scrutinize Certifications:*** *Be cautious when dealing with certifications claiming a business is free from modern slavery. These certifications can be corrupted, so verify their credibility.*
7. ***Embed Ethical Clauses:*** *Incorporate modern slavery and anti-corruption clauses into supplier agreements and requests for tender. Ensure your partners adhere to ethical standards.*

09

A Call to Action

The United Nations' findings highlight a crucial aspect in the fight against modern slavery: the pivotal role that reducing corruption plays in this battle. Corruption, with its insidious web of bribery, embezzlement, and illicit practices, can perpetuate and even exacerbate conditions conducive to modern slavery. When corrupt officials or institutions turn a blind eye to exploitation, human trafficking, and forced labor, perpetrators are emboldened, and victims are left without recourse. Addressing corruption serves as a linchpin in dismantling the modern slavery ecosystem. Businesses, therefore, bear a significant responsibility in this endeavor. By adopting these strategies, companies can safeguard their operations while contributing to a more just and humane world.

At Ethixbase360, our mission is to promote ethical business practices and empower organizations to navigate the complex landscape of corporate governance. Together, we can drive positive change and create a more sustainable and equitable world.

Stay tuned for more thought-provoking insights as we continue to explore the latest trends, challenges, and opportunities in today's ever-evolving business world.

Your feedback and topic suggestions are invaluable to us; please share your thoughts at **marketing@ethixbase360.com**.

Together, we can make a difference.

A Global Perspective: Four Key Takeaways

10

*The following is an excerpt from an Ethixbase360 eBook. To download the full eBook, visit our **website**.*

Your company and entire value chain have a responsibility to mitigate any adverse effects that your activities may cause in the labor force and the environment. In light of a growing global movement to prohibit the use of modern slavery and promote human rights in supply chains, it's only good business to embrace your responsibility fully and strategically.

Here are four things to keep in mind in your overall approach to compliance with various modern slavery and human rights laws, as you incorporate modern day slavery risks into your assessment of third parties:

#1 Increase human rights awareness throughout your company and value chain.
Any compliance effort begins with the proper awareness and understanding of your regulatory obligations. Implement a compliance program that fosters continuous information and learning about how to identify signs of forced labor, child labor, modern slavery, and worker exploitation.

#2 Take advantage of the latest technology to improve your TPRM processes.
In today's fiercely competitive global market, automation of TPRM is no longer a nice option to have but a necessity. Most global companies agree as reflected in a 2023 report by KPMG, a multinational professional services network. Six out of 10 companies that participated in a KPMG survey said they plan to invest in digital technology to bolster their supply chain processes. The report recommends prioritizing technology investment in supply chain capabilities and end-to-end visibility.[25]

#3 Invest in your value chain by helping third parties elevate their ethical standards.
Any long-term business relationship requires nurturing. Instead of changing suppliers as soon as you see red flags, help them improve compliance by including them in your training and certification processes and encouraging them to adopt rigorous policies.

#4 Being a good corporate citizen is imperative.
Complying with modern slavery and human rights laws is not only expected and mandated in certain jurisdictions, it's also the right thing to do. Noncompliance can bring substantial penalties. It can also damage your brand and reputation enormously. Governments and advocacy groups alone can't end an atrocity as pervasive as modern slavery. It requires the international business community's long-term commitment and the proactive support of individual companies worldwide.

25 "The Supply Chain Trends Shaking Up 2023," KPMG, January 2023.

How Ethixbase360 Can Help You

11

As more countries and jurisdictions pass laws and implement initiatives against modern slavery, the compliance burden for your company and value chain will grow. It's essential for you to integrate social responsibility, particularly an ethical supply chain, into your business operations as part of your overall strategy to succeed in the global market.

While modern slavery regulations share the overarching goal of eliminating worker exploitation, each jurisdiction's requirements and enforcement vary. In the same vein, your company is unique and your compliance needs are distinct. You have specific business requirements that a one-size-fits-all third-party risk management (TPRM) system is unlikely to fulfill completely.

Ethixbase360 was designed to help you elevate the ethical standards of your company and entire supply chain through a comprehensive platform configured to your specific needs and third-party risk factors and resiliency. The purpose-built platform can help you navigate the ever-expanding landscape of modern slavery and human rights regulations throughout the world.

Here are some of the ways Ethixbase360 can help you fulfill your various reporting and compliance requirements.

Configured Risk Assessment

Effective risk assessment is a prerequisite in understanding third-party risks and resilience. Ethixbase360 can automate and configure the entire risk assessment process to match your risk criteria, thresholds, and weighting, so you can conduct the process on your own terms. With the platform, you can screen third-party risk factors instantly during onboarding and continue monitoring them throughout the course of your business relationship.

Risk-Proportionate Due Diligence

Third-party risk factors are not created equal. Ethixbase360 lets you conduct low-touch due diligence on third parties that don't require rigorous screening and dig deeper into higher-risk third parties from anywhere in the world. The platform sifts intelligence from one of the most comprehensive risk-profile databases in the world to provide you with relevant and reliable risk-proportionate reports. You can rest assured you will always receive intelligence commensurate with the risk level of the third party regardless of geographic location.

Third-Party Questionnaires

Robust modern slavery and other third-party questionnaires are essential in getting intelligence directly from third parties. Our collaborative approach involves sending smart, easy-to-complete questionnaires through an easy-to-use portal, with automatic notifications and follow up. The campaign approach yields some of the highest completion rates in the industry.

Use our risk-specific questionnaires across areas—sanctions, anti-bribery and anti-corruption, LkSG, Australia's Modern Slavery Act 2018, and other similar laws. Ethixbase360's modern slavery and LkSG questionnaires were developed in tandem with Norton Rose Fulbright, a top 10 global law firm and foremost expert on human rights for businesses. The questionnaire is integrated into the Ethixbase360 platform to identify and assess modern slavery and human rights risks and provide an indicative risk rating.

You can customize a third-party questionnaire to your specific risk areas. You can even configure it to help identify users whose answers indicate high risks. Ethixbase360's multilingual capabilities cater to a globally dispersed supply chain.

Certification and Verification

Demonstrate to regulators, investors, and stakeholders that your suppliers meet international standards. Ethixbase360's certification and verification solutions validate third-party compliance efforts, help you understand red flags, and ensure adequate policies are in place. We can help speed up the vetting process and reduce its cost through a shared cost model that allows third parties to share the cost and ownership of due diligence.

Third-Party Training

Training is one of the best ways to ensure that suppliers and third parties are compliant. Ethixbase360's eLearning modules make it easy to teach your employees and third parties key regulatory requirements and how to identify business risks. Choose from an array of online courses on such topics as anti-money laundering, sexual harassment prevention, economic sanctions, forced labor, and human trafficking. Refresher courses cover topics such as global anti-bribery and anti-corruption, gifts and hospitality, and conflicts of interest.

ETHIXBASE360

Get in touch.

Website | LinkedIn | Twitter