

# HUMAN TRAFFICKING AND SUPPLY CHAINS

## Recommendations to Reduce Human Trafficking in Local and Global Supply Chains

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This report was made possible through support provided by the Washington State Department of Commerce, as required by Washington Law 2015 3rd special session c. 4 s. 36 (ESSB 6052)



## **The University of Washington Women's Center**

The mission of the Women's Center is to create a more inclusive and compassionate society by promoting gender equity and social justice through educational programs and services that allow all participants to succeed in life.



JUNE 2017  
REPORT TO LEGISLATURE

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## Executive Summary

The trafficking of persons is a growing human rights problem that affects individuals locally and globally and is exacerbated by public and private supply chains.

Outsourcing goods and services to countries with lower labor standards than in the U.S. has traditionally been one of the ways companies decrease production costs.<sup>1</sup> However, this leaves many businesses, particularly those with global supply chains, at risk of contributing to forced labor practices abroad. In addition, we have found that human trafficking is present in Washington's local supply chains and has been reported in eighteen counties within numerous industries.<sup>2</sup> Washington's commercial landscape offers opportunities for exploitation in sectors that are both predisposed to human trafficking and contribute to the local economy including construction, manufacturing, agriculture, hospitality and food,<sup>3</sup> all of which collectively generate nearly \$100 billion towards the state's GDP.

To gather assessments from individuals and organizations on how to reduce labor trafficking, researchers interviewed legal, non-profit service providers and academic experts, inquiring about nuanced supply chain practices and their perspectives on ethical sourcing successes (smart practices) and challenges, monitoring, and pragmatic policy development.

### KEY FINDINGS

Many corporations, including Washington-based companies such as Costco and Starbucks, have strong Corporate Social Responsibility (CSR) initiatives that draw attention to their global footprint and aim to reduce instances of labor trafficking. Additionally, social media has proven to be a powerful tool in pressuring corporations to do more to eliminate labor trafficking and similar abuses from their supply chains (also referred to as ethical sourcing). However, these market drivers have not been strong enough to thwart the use of forced labor in product manufacturing, as demonstrated by the numerous cases of labor trafficking in the Information, Communications, and Technology (ICT) industry in Malaysia and China, the fishing industry in Thailand, and the garment industry in Bangladesh, to name a few.

Washington State and local governments contract with various vendors that use both local and global supply chains to produce goods bought by public agencies. It is conceivable that these supply chains include victims of labor trafficking, yet the State does not currently monitor its supply chains nor require vendors to use a supply chain free from forced or trafficked labor.

### RECOMMENDATIONS

Human trafficking is a complex problem that requires a multi-faceted approach to be

eliminated. Clean supply chain public policy is one such approach that is necessary to enact change. Washington must lead by example and require the state and its vendors and corporations to amplify their current efforts, transparently and diligently manage their supply chain, and hold these actors accountable for their business and labor practices. The University of Washington Women's Center recommends the state legislature introduce and pass legislation that will accomplish the following:

1. **Implement Anti-Human Trafficking Public Procurement Policy That Addresses Supply Chain Management:** Including anti-labor trafficking requirements in master and all other state contracts will support efforts to reduce Washington's contribution to labor trafficking and assist smaller agencies in their ethical sourcing initiatives;
2. **Encourage Corporations with a Significant Presence in Washington State to Transparently and Diligently Manage Clean Supply Chains** to encourage meaningful accountability and enforcement mechanisms that incentivize diligent management of ethical supply chains;
3. **Strengthen the Farm Labor Recruitment Act** to protect foreign workers from exploitation in Washington;
4. **Contract with third-party monitoring agencies** such as the Worker Rights Consortium, and Electronics Watch to audit Washington's supply chains and support vendor compliance;
5. **Invest in third-party research** to map and analyze risk in Washington's current supply chain;
6. **Revive the Joint Legislative Oversight Committee on Trade Policy** to review the impact of trade agreements and make recommendations to trade representatives on solutions to eliminate forced labor in global supply chains.
7. **Leverage Washington ports** as an enforcement mechanism.

## Introduction

As the first state in the nation to criminalize human trafficking, Washington State is recognized nationally as a pioneer in the anti-human trafficking movement. In response to reports of domestic servitude through the mail-order bride industry in the Filipino community, the University of Washington Women's Center headed by Dr. Sutapa Basu hosted the first conference in the state to address this issue. The conference served as a catalyst for groundbreaking research and policy development. In 2003, then Representative Velma Veloria, her colleagues in the Legislature, and community of color activists such as Dr. Sutapa Basu, Emma Catague, Norma Timbang and others set a historic precedent by championing House Bill 1175, which made human trafficking a crime on the state level for the first time in history.<sup>4</sup> Since then, all 50 states have implemented similar laws.<sup>5</sup> Washington State remains at the forefront of the anti-human trafficking movement in policies and practice. For the past several years, the Polaris Project has assigned Washington a perfect score for having the strongest anti-human trafficking laws in the United States.<sup>6,1</sup>

Human trafficking is a growing human rights problem that affects individuals locally and globally and is exacerbated by public and private supply chain management. Washington has the opportunity to further its exemplary commitment to end human trafficking through examining its own purchasing practices as well as laying groundwork for corporate supply chain transparency and due diligence. Consumers have repeatedly demonstrated that they prefer to purchase goods identifiable as manufactured under "good working conditions" (also referred to as a clean supply chain).<sup>7</sup>

The following report highlights the link between Washington State, human trafficking (also referred to as labor trafficking and forced labor), and business supply chains by identifying opportunities for strengthening private and public practices to eliminate human rights abuses.

## Definitions

The Trafficking Victims Protection Act (TVPA) of 2000 and its four subsequent reauthorizations define severe forms of trafficking in persons, also known as human trafficking, within two pillars: labor trafficking and sex trafficking.

Labor trafficking is defined as the recruitment, harboring, transportation, provision, or obtaining of a person through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Sex trafficking is defined as a commercial sex act induced by force, fraud, or

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<sup>1</sup> According to the Polaris Project, a "perfect score" constitutes a basic legal framework that combats human trafficking, punishes traffickers, and supports survivors.



coercion, or in which the person made to perform such an act has not attained 18 years of age.<sup>8</sup>

Similar to federal statute, Washington identifies a person guilty of human trafficking in the first degree when such person:

“recruits, harbors, transports, transfers, provides, **obtains, buys, purchases, or receives by any means** another person knowing, or in reckless disregard of the fact, (A) that force, fraud, or coercion will be used to cause the person to engage in (i) forced labor, (ii) involuntary servitude, (iii) a sexually explicit act; or (iv) a commercial sex act, or (B) that the person has not attained the age of 18 years and is caused to engage in a sexually explicit or a commercial sex act.”<sup>9,10,11,111</sup>

On March 10, 2016, Washington broadened the law by passing Senate Bill 5342, which expands the definition to honor the true scope of labor trafficking.<sup>11</sup> Of particular note, “forced labor” is now defined as all work or service (whether legal or not) that is demanded from a person under the menace of any penalty, such as threats, violence, withholding of identity documents, and illegal deduction of wages<sup>IV</sup> and to which the person has not offered himself or herself voluntarily.<sup>12</sup>

Sweatshops are workplaces, often associated with clothing production and electronic manufacturing, that regularly violate safety, health, wage, and labor laws.<sup>13</sup> Traditionally, workers are employed at very low wages for long hours and under poor working conditions.<sup>14</sup> While sweatshops and labor trafficking are not always synonymous, they are closely related.

One interpretation differentiating human trafficking from sweatshop labor is employment through the use of force, fraud, and coercion rather than personal choice. However, the lines between choice and economic coercion are highly blurred. Even without that distinction, many sweatshop workers are likely also

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<sup>II</sup> For more definitions or clarification, see WA RCW 9a.40.100 or [www.apps.leg.wa.gov/rcw/default.aspx?cite=9a.40.100](http://www.apps.leg.wa.gov/rcw/default.aspx?cite=9a.40.100)

<sup>III</sup> While human trafficking can include movement, it is not a requirement to be considered a victim of trafficking. Some victims are trafficked internationally or domestically, while others are subjected to exploitation in their hometowns.

<sup>IV</sup> "Menace of any penalty" means all forms of criminal sanctions and other forms of coercion, including threats, violence, retention of identity documents, confinement, nonpayment or illegal deduction of wages, or debt bondage.

victims of labor trafficking. In this report, sweatfree or sweatshop policies are often included as model practices because the root causes of sweatshop labor and labor trafficking are very similar and therefore interrelated, complementary solutions are needed.

Due to the complex nature of corporate supply chains<sup>V</sup> and increasing demands to reduce production costs (i.e., race to the bottom),<sup>15</sup> supply chains are often vulnerable to violations of labor trafficking. Within supply chains, human trafficking may occur in a variety of activities. This includes, but is not limited to, the production of a product, such as that produced by garment workers in a factory or farm laborers harvesting food, or the transportation necessary for product distribution, as well as the labor necessary for the service a business is supplying, such as housekeeping in a hotel.<sup>16</sup>

## Globalization and Labor Trafficking

Our interconnected and global marketplace has intensified the flow of capital, goods, and services, and the movement of people across borders, which has simultaneously fueled the human trafficking industry.<sup>17</sup> Anti-human trafficking discourse has traditionally employed a supply-and-demand framework to explain the trade of human beings.<sup>18</sup> Global economic policies favoring free trade such as the North American Free Trade Agreement (NAFTA)<sup>19,20,21, 22,VI</sup> and the General Agreement on Tariffs and Trade (GATT), which have greatly stimulated our world markets, have also produced unintended consequences.<sup>23</sup> These policies have encouraged offshore sweatshops,<sup>24</sup> forced migration of workers and a “race to the bottom mentality” by corporations,<sup>25</sup> where the “demand for cheap goods drives the supply of cheap labor.”<sup>26,VII,VIII</sup>

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<sup>V</sup> For the purpose of this report, supply chains are defined as the sequence of processes involved in the production and distribution of a commodity.

<sup>VI</sup> The North American Free Trade Agreement (NAFTA) eliminated tariffs on agricultural trade between the U.S. and Mexico and its effects drastically restructured Mexico’s economy and workforce. After NAFTA’s implementation, consumer food prices rose, leaving 20 million Mexicans in poverty. Small farmers lost the ability to support themselves, countless Mexican farms went out of business, and Mexico’s agricultural labor force decreased by 2 million. Consequently, Mexico to U.S. migration reached unprecedented rates with approximately 500,000 traveling to find work in the U.S. a year after NAFTA.

<sup>VII</sup> Market liberalization is the relaxation of government regulations and restrictions on the global marketplace.

<sup>VIII</sup> Structural adjustment programs, or SAPs, are the loans given out by the International Monetary Fund (IMF) and the World Bank (WB) to developing countries in economic crises. To qualify for a loan, the IMF and WB require the countries to follow policies to reduce government spending and pay back the loan. Historically, cuts included public spending for health, education, and subsidies to the manufacturing and agricultural industries.

With the expansion of markets to trade in, corporate supply chains have grown substantially in breadth and complexity.<sup>27,28</sup> The garment industry's manufacturing processes are a perfect example of this dramatic shift. Previously, manufacturers would oversee all steps from design to product delivery, whereas today the majority of retailers contract production to one or many factories abroad.<sup>29</sup>

To meet the demand for inexpensive goods, companies have compressed their expenses, which historically has been realized through a disregard for the health, safety and well-being of the workforce.<sup>30</sup> This approach has fostered a culture in which factory operators exploit the vulnerability of their economically disadvantaged workforce<sup>31</sup> and hence, the human trafficking industry continues to grow.

Workers' obligation to acquiesce to such pressures stems from their desperation for work. To manage the expansive scope of production requirements, worker recruitment is frequently farmed out to third-party agencies with limited regulations in which unscrupulous recruiters prey on the vulnerability of the workers.<sup>32, 33</sup>

For this reason among others, over the decades we have witnessed the manifestations of the underside of globalization, including widespread cases of reduced wages and a disregard for safety protocols.<sup>34, 35,36</sup>

## Foreign Labor Recruiters and Human Trafficking

Labor recruiters, also known as labor intermediaries or labor brokers, who facilitate employment for migrant workers are another key driver of the human trafficking industry.<sup>37</sup> Labor recruiters serve as an important facilitator for workers in search of employment opportunities, which fosters a dependent power dynamic resulting in workers' vulnerability.<sup>38</sup> The role of foreign labor recruiters varies in significance ranging from signing paperwork to securing housing and negotiating wages.<sup>39</sup> In many cases, using a labor intermediary is the only way for workers to secure employment and is therefore a necessary risk of survival. A Reuters investigation from 2007 to 2016 found that labor recruiters were responsible for securing visas for 80% of the two million foreign workers approved for work in the United States – primarily in the agricultural industry or low-skill positions.<sup>40</sup>

The Global Horizons case, an international labor broker based in California, is a perfect example of how corrupt recruitment of temporary, migrant and immigrant workers and human trafficking directly impact the supply chain (also referred to as the food chain) in Washington State.

### **Global Horizons Manpower, Inc.**

Under the guise of a legitimate recruitment agency, in the early to mid-2000's, Global Horizons trafficked over 1,000 Thai workers on H-2A visas into agricultural jobs across the U.S., including Eastern Washington. Two hundred or so of the workers were trafficked and forced to work in Washington and Hawaii.<sup>41</sup>

Global Horizons charged aspiring workers in Thailand upwards of \$20,000 in recruitment fees in exchange for a promise of steady and high paying agricultural jobs with a legitimate H-2A guest worker visa, transportation to and from the United States, and housing.<sup>42</sup>

According to a Verité investigative report on the case, upon arrival in the United States, workers' passports were confiscated, their wages were lower than promised, and in some cases, pay was withheld completely.<sup>43</sup> Bonded to their jobs with a large debt to Global Horizons, families to care for in Thailand, and financially and socially isolated, these workers were forced to work day after day from 2003-2007 with no avenue for recourse.<sup>44,45</sup>

Specific living conditions varied by employer, but generally, the Thai workers were forced to live in dilapidated housing infested with rats and insects while sharing a room with dozens of others, and many men slept without beds. Furthermore, they were forbidden from leaving the premises. On the job, they endured screaming, threats and physical assaults from their supervisors, and were isolated from non-Thai farm workers, reports the U.S. Equal Employment Opportunity Commission (EEOC).<sup>46</sup>

In May of 2016, a federal judge ordered Global Horizons, Inc. to pay \$7,658,500 to 67 Thai workers who are known to have suffered abuse, harassment and forced labor at two Yakima area farms.<sup>47</sup>

Another typical scenario of how corrupt recruitment fosters human trafficking in global supply chains may present itself as follows: To provide for his extremely poor and starving family, a Nepali man that we will call Bishal is forced to leave his family to search for employment. He has heard that there are good jobs in Malaysia where he can work in a factory manufacturing computer parts for global consumption. Bishal travels to the nearest city where he hires a recruiter to facilitate his work placement and arrange the logistics to work in a foreign country. In the hands of the recruiter, Bishal incurs exorbitant fees for job placement, travel arrangements, housing, and other expenses, which he has to leverage from friends, family, and a loan from the recruiter, thus placing Bishal in tremendous debt. Now, Bishal must work at his new job until he has earned enough money to pay back his recruiter and personal network, save enough to support his family, and eventually arrange travel home. He is now debt-bonded and further vulnerable to exploitation from his employer, who unfortunately, takes advantage of the situation and forces him to work 18-20 hour days, seven days a week for a fraction of the salary he was

promised. Unable to escape and forced to work, he is a victim of labor trafficking, forced to manufacture computer parts that will be sold across the globe. Unbeknownst to taxpayers and public officials, it is conceivable that Bishal's blood, sweat and tears reside in the computers stationed at the desk of hundreds of City, County or State employees.

Recognizing this unnerving reality, the U.S. federal and various state governments have worked on creating legislation to address abusive recruitment practices in corporate supply chains. As of 2016, progress has been made, but the practices of unscrupulous labor recruiters continue to be a major issue facing migrant workers in most supply chains.

## Governments and Labor Trafficking

Human trafficking is condemned by a host of international treaties and agreements that the United States has signed, as well as by federal and local statutes. The purpose, scope, and impact of anti-human trafficking policies globally are vast. One such dimension is the use of trafficked labor in public and private supply chains. Recognizing this fact, governments around the globe have begun to take leadership and require public and private agencies to draw attention to their supply chains. Below are some examples of public policies that address labor trafficking in public or private supply chains:

### GLOBAL EXAMPLES

***The European Union Garment Initiative*** aims to strengthen global governance and support stakeholders in garment producing countries on their ethical supply chain practices.<sup>48</sup> The European Commission (EC)<sup>ix</sup> introduced this initiative on April 25, 2016 at a high-level conference in Brussels.

With the details still in development, the EU Garment Initiative plans to use the EU's significant purchasing power to organize key stakeholders across private and public sectors to strengthen and complement current clean supply chain efforts and fill unaddressed gaps.<sup>49</sup> In support of this initiative, the CEO of Inditex,<sup>50,x</sup> one of the world's largest fashion retailers, and the general secretary of the global union IndustriALL, which represents 50 million workers around the globe,<sup>xi</sup> have signed a groundbreaking agreement designating policies and collaboration to ensure that workers in Inditex's

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<sup>ix</sup> The European Commission (EC) is the executive body of the European Union responsible for proposing legislation, implementing decisions, upholding the **EU** treaties, and managing the day-to-day business of the **EU**.

<sup>x</sup> The Inditex group owns eight brands, including Zara, Massimo Dutti, Oysho, and others, and runs over 7,000 shops in 91 countries.

<sup>xi</sup> IndustriALL Global Union represents 50 million workers in 140 countries in the mining, energy and manufacturing sectors.

supply chain have the negotiating power to ensure fair pay and good working conditions.<sup>51</sup>

**The UK Modern Slavery Act** requires suppliers of goods and/or services carrying out, in-part or in-whole, a business in the UK with total annual turnover exceeding €36 million (approximately, 40.2 million USD at time of study) to disclose the activity they are undertaking to eliminate slavery and human trafficking from their business supply chains.<sup>52,53</sup>

## FEDERAL EXAMPLES:

**Executive Order (EO) 13627: “Strengthening Protections Against Trafficking in Persons in Federal Contracts”** amends the Federal Acquisition Regulations (FAR) to protect individuals who are contributing to services and the manufacturing of goods procured by the United States.<sup>54</sup> Honoring the US’s power as the largest purchaser of goods and services in the world, in 2012, President Barack Obama signed Executive Order 13627.<sup>55</sup> In essence, the policy protects workers by prohibiting the use of forced labor in the performance of a government sponsored contract or subcontract, misleading or fraudulent recruitment practices, recruitment fees, employees’ lack of access to their identification documents, and other practices that contribute to worker vulnerability.<sup>56</sup>

**The Trade Facilitation and Trade Enforcement Act of 2015** amended *Section 307 of the Tariff Act of 1930* to close the “consumptive demand” loophole that compromised the law’s intent.<sup>xii</sup> Previously, if domestic production was insufficient to meet demand, exceptions could be made for goods to be imported regardless of origin.<sup>57</sup> Now that the loophole has been closed, the law explicitly prohibits the import of “all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict, forced, and/or indentured labor” into the U.S.<sup>58</sup>

**The Fraudulent Overseas Recruitment and Trafficking Elimination Act (Pending)** protects prospective employees overseas from unscrupulous recruitment practices that often leave workers vulnerable or victims of bonded labor (H.R. 3344 and H.R. 4586 in the 113th Congress).<sup>59,60</sup>

**The Business Supply Chain Transparency on Trafficking and Slavery Act of 2015 (Pending)** (H.R. 3226 and S. 1968) proposes amending the Securities Exchange Act of 1934 to “require certain companies to disclose information describing any measures the company has taken to identify and address

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<sup>xii</sup> Please refer to 19 U.S. Code § 1307.

conditions of forced labor, slavery, human trafficking, and the worst forms of child labor within the company's supply chains."<sup>61</sup> Similar to the California Transparency in Supply Chains Act, this bill will also address businesses with annual worldwide receipts in excess of \$100 million.<sup>62</sup>

#### **STATEWIDE EXAMPLES:**

**The Washington State Farm Labor Contractor Act (FLCA)**<sup>xiii</sup> was originally passed in 1985, during an era of federal legislation regulating seasonal agricultural workers.<sup>xiv</sup> Washington's FLCA is essentially a licensing system for farm labor contractors<sup>xv</sup> and holds farms liable for unlicensed contractors' services.

The FLCA's primary enforcement mechanism is an anonymous complaint system where wage or other labor rights violations are reported to and subsequently investigated by the WA Department of Labor & Industry.<sup>63</sup>

Over its 32-year tenure, various amendments have been offered to strengthen the law. Most recently and after the Global Horizons labor trafficking case<sup>xvi</sup> highlighted the weaknesses of the law, Columbia Legal Services, a local non-profit labor rights law firm, and other advocates proposed opportunities to better protect agricultural workers. While the legislative efforts were unsuccessful at the time, the FLCA remains a promising vehicle to protect Washington's agricultural workers from forced labor.

At present, California's Foreign Labor Recruitment Law (SB477) similarly requires contractors who hire foreign labor to register with the California

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<sup>xiii</sup> RCW 19.30.200 (1985) states: "Any person who knowingly uses the services of an unlicensed farm labor contractor shall be personally, jointly, and severally liable with the person acting as a farm labor contractor to the same extent and in the same manner as provided in this chapter." (RCW 19.30.200, 1985)

<sup>xiv</sup> The federal Migrant and Seasonal Agricultural Worker Protection Act (AWPA) (public law 97-470) superseded the Farm Labor Contractor Registration Act (public law 88-582) in 1983. The AWPA assists migrant and seasonal workers, provides protections for transportation, housing, wages, and required farm labor contractor registration – similar to Washington's Farm Labor Contractor law. (29 U.S.C §§ 1801-1872)

<sup>xv</sup> A farm labor contractor (FLC) is defined as an individual, firm, partnership, association, corporation or government who, for a fee, does one or more of the following: recruiting, soliciting, supplying, transporting, hiring workers to perform any of the following activities: growing, producing, or harvesting farm or nursery products, reforestation of lands or harvesting Christmas trees. (RCW 19.30.010, 1985)

<sup>xvi</sup> More information about the Global Horizons case is highlighted in the Foreign Labor Recruiters and Human Trafficking section of this report.

Labor Commissioner and contains protections for foreign workers by way of protecting supply chains.<sup>64</sup> Illinois and Maryland have drafted comparable legislation.<sup>65</sup>

**The California Transparency in Supply Chains Act (commonly referred to as CTSCA or The Act) of 2010** introduced a new era of social disclosure and supply chain transparency. The bill was signed into law in October 2010 and went into effect in January 2012. The law requires medium to large sized retailers and manufacturing companies to report on their actions to eradicate slavery and human trafficking in their supply chains. Approximately 1,700 companies that do business in California meet the \$100 million qualifying threshold.<sup>66</sup> The Act requires business to disclose their efforts -- if any -- to safeguard their supply chains from labor trafficking violations and is enforced solely through the Office of the Attorney General.<sup>67</sup> More information about the Act is highlighted in the Corporate and Public Leadership section of this report.

**The California Joint Employer Law (AB633):** In 1999, California's Assembly passed their first version of a joint employer law (AB633) that holds garment manufacturers liable for their workers' wages if their contractors failed to pay.<sup>68</sup> Grievances are enforced solely through the Office of the State Labor Commissioner. Due to the complexity of the cases and other enforcement issues, the ability of the State to exercise the full potential of this law has been limited.<sup>69</sup> Over the past five years, California has worked to strengthen this statute in hopes of incentivizing manufacturers to ensure legitimate contractors.<sup>70</sup> More recently, the Assembly has passed two similar joint employer laws in the janitorial and long-term care industries.<sup>71,XVII</sup>

In addition to California and Washington's focus on labor trafficking and sweatfree policies, as of June 2012, 7 States, 16 Counties, 45 Cities, 4 Dioceses, 118 School Districts, and 4 Individual High Schools have adopted sweatfree procurement policies and resolutions.<sup>72,XVIII</sup>

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<sup>XVII</sup> California's Assembly Bill No. 1978 enacted a number of requirements to the property services (also referred to as janitorial services), that holds employers liable for any wages and penalties its contracted employer owes to its current and former employees. (A.B. No. 1978, Ch. 373, added Part 4.2, commencing with Section 1420, to division 2 of the CA Labor Code.) (California. Assembly. *Employment: property service workers*. 2015-2016 reg. sess. AB 1978. 15 Sept. 2016.)

California's Senate Bill No. 588 (signed by the governor in 2015), builds upon an existing law regarding the licensing and regulation of various types of long-term care employers to hold any individual or business entity that contracts for services in long-term care industries to be jointly and severally liable for any unpaid wages. (California. Senate. *Employment: nonpayment of wages: Labor Commissioner: judgment enforcement*. 2015-2016 reg. sess. SB 588. 11 Oct. 2015.)

<sup>XVIII</sup> See Appendix C for list of institutions.



Additionally, 186 colleges and universities have joined the collective of schools affiliated with the Worker Rights Consortium (WRC), an organization that monitors compliance and requires collegiate apparel to be produced in factories that protect workers from labor abuses and offer a living wage.<sup>73</sup>

Some Washington counties, cities and universities have also started taking a proactive stance against labor trafficking. Evergreen State College, Gonzaga, Seattle University, University of Washington, Washington State University, and Western Washington University are all members of the WRC and therefore maintain a code of conduct with licensees requiring that workers' rights are upheld.<sup>74</sup> Furthermore, the City of Seattle maintains a sweatfree policy that upholds the standard that the production and manufacturing of products for the City, specifically in "acquisition of textile uniforms," are ethically sourced.<sup>75</sup> Similarly, the City of Olympia maintains a resolution to purchase sweatshirts, t-shirts, and ball caps from responsible and ethical contractors when possible.<sup>76</sup> More information about the City of Seattle and the City of Olympia's sweatfree purchasing policies are highlighted in the Corporate and Public Leadership section of this report.

## Scope of the Issue: Statistics on Labor Trafficking

According to the International Labour Organization (ILO),<sup>xix</sup> approximately 21 million children, women, and men are victims of human trafficking around the globe – if concentrated in the U.S., that would equal the entire population of Washington State three times over.<sup>77,78</sup> While sex trafficking has been an area of great interest to public policy researchers, labor trafficking has only recently come to be a part of policy-making decisions.<sup>79</sup> For this reason, there is a tendency in both private and public agencies to associate all forms of human trafficking with sexual exploitation.<sup>80</sup> Yet globally, the vast majority of victims, approximately 16.4 million (78%) are exploited primarily for other forms of forced labor, specifically in sectors such as agriculture, construction, domestic service, entertainment, fishing, manufacturing, mining, and state-imposed prison or military labor (See Figure A).<sup>81,82</sup> Sexual assault of those victimized in the forms of labor listed above is also common.<sup>83</sup> According to the ILO, private individuals and enterprises are responsible for exploiting 19 million victims (90% of those recorded as victimized), while state or rebel groups exploit approximately two million.<sup>84</sup> These statistics highlight the vast influence private enterprises have in the trade of human beings for economic gain.

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<sup>xix</sup> The International Labour Organization is the international body designated by the Treaty of Versailles to set global labor standards, develop policies, and devise programs promoting decent work for all women and men.

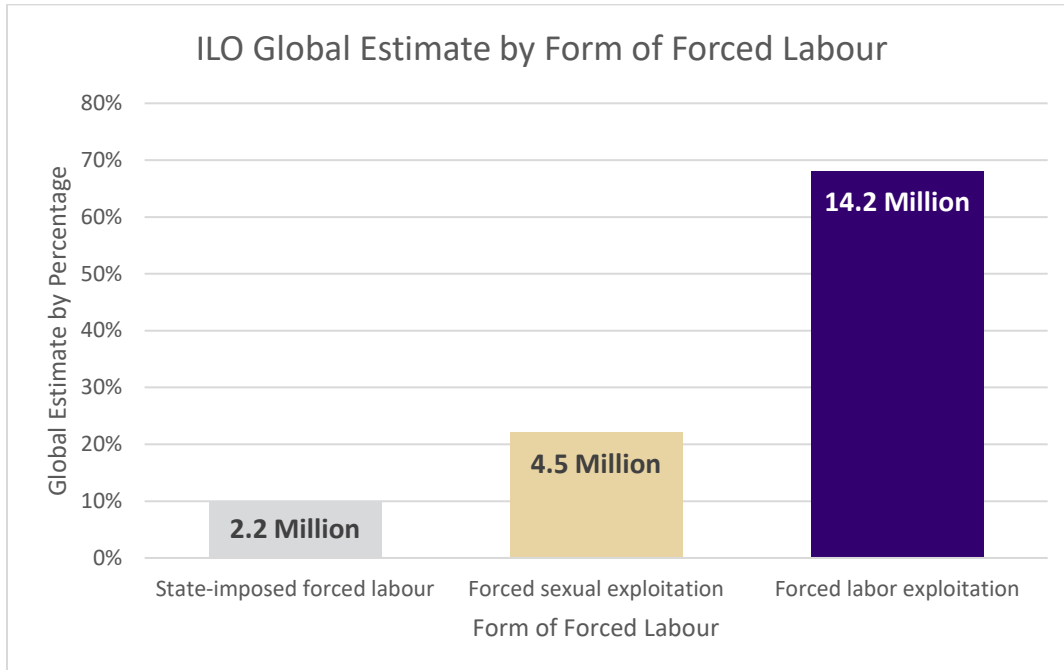


Figure A: ILO Global Estimate by Form of Forced Labor

In a 2012 report, the ILO estimated that the global profits accrued through forced labor and sex labor exploitation reached \$150 billion annually.<sup>85, XX</sup> These large profits are realized by minimizing the value of human life all over the globe for financial gain.

Forced labor occurs most frequently in the Asia-Pacific region, with 11.7 million, or 56% of the global total victim count.<sup>86, XXI</sup> The staggering percentage of trafficking victims in the Asia-Pacific region include children, women, and men forced to work in a host of industries and occupations, such as labor in factories that produce textile goods.<sup>87</sup> The Asia-Pacific region, which includes the world's two most populous countries (India and China),<sup>88</sup> is also home to great economic disparities, massive internal migration from rural to urban areas, and frequent instances of external migration in search of economic opportunities.<sup>89</sup> Migrants forced to leave their homes in search of work are particularly vulnerable to exploitation and preyed upon by traffickers and recruiters, as these migrants are often desperate for work, fall victim to physical or cultural isolation, carry financial burdens, and confront language barriers, to name only a few factors contributing to their vulnerability.<sup>90</sup>

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<sup>XX</sup> Outside of state-imposed labor and forced sexual exploitation, "forced labor" includes domestic work, agriculture, and other economic activities. The total value of the forced labor industry is estimated to equal \$150 billion.

<sup>XXI</sup> Other regions follow: Africa at 3.7 million (18%), Latin America and the Caribbean at 1.8 million (9%), Central and South-Eastern Europe & CIS at 1.6 million, Developed Economies & the EU at 1.5 million, and the Middle East at 600,000 victims annually.

The 2015 Trafficking in Persons (TIP) Report confirms this notion, finding that East and South Asian migrant workers are particularly susceptible to forced labor in the garment sector, often subjected to long working hours and forced overtime.<sup>92</sup> Yet even with this knowledge, Asian countries continue to dominate the global market as the “best place” for businesses to outsource services.<sup>93</sup> For the past 10 years, India, China, and Malaysia have continually topped the A.T. Kearney Global Services Location Index.<sup>94,XXII</sup>

In 2016, the U.S. Department of Labor’s Bureau of International Labor Affairs identified 139 goods from 75 countries believed to be produced by forced labor or child labor.<sup>95</sup> These goods range from everyday items like coffee, cotton, electronics, and shoes to products such as bricks, minerals, and furniture.<sup>96,97</sup> Outsourcing goods and services to countries with lower labor standards than in the United States has traditionally been one of the ways companies decrease production costs.<sup>98</sup> However, this leaves many businesses, particularly those with global supply chains or layers of contractors, at risk of inadvertently (or intentionally) allowing forced labor practices abroad. Over the years, academics and corporations alike have exposed flaws in this approach to sourcing, recognizing the difficulty in oversight and prevalence of human rights abuses.<sup>99,XXIII</sup>

In addition to garment manufacturing, which is commonly associated with forced or sweatshop labor, the information, communication, and technology (ICT) industry is another area hard hit by human rights abuses and forced labor. According to a 2014 Verité report--an assessment, auditing, research, and consulting organization focused on human rights--workers manufacturing components in technology companies' supply chains are subject to a number of vulnerabilities including often being a migrant worker, falling prey to recruitment swindles, entering indebtedness caused by exorbitant recruitment fees, and submitting to a host of workplace injustices as depicted above in the example of Bishal. The Verité study found that out of the 501 electronics workers surveyed, 73% exhibited forced labor characteristics of some kind.<sup>100</sup> These findings are particularly pertinent considerations when assessing electronics manufactured in Malaysia. The ICT industry generated approximately 27% of Malaysia’s jobs in 2013 and assembles products for some of the world's major technology firms.<sup>101</sup>

Agriculture and fisheries, both domestically and globally, are similarly affected by forced labor as they, too, are industries heavily dependent on the work and recruitment of migrant workers.<sup>102</sup> Even in Washington State, our agricultural industry is heavily supported by temporary, migrant, and immigrant laborers.<sup>103</sup>

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<sup>XXII</sup> “Now in its seventh edition, the A.T. Kearney Global Services Location Index tracks the contours of the offshoring landscape in 55 countries across three major categories: financial attractiveness, people skills and availability, and business environment.” More information can be found at: [www.atkearney.com/strategic-it/global-services-location-index](http://www.atkearney.com/strategic-it/global-services-location-index)

Likewise, the hotel industry and its workers experience a similar predisposition to labor trafficking. Hotel franchise owners often contract with vendors, recruitment agencies, and cleaning crews without knowledge of workforce management. Hotels that frequently receive peaks in seasonal tourism also experience spikes in demand for short-term temporary labor.<sup>104</sup> The sheets in a hotel room may be manufactured in a sweatshop, the room itself may be used to facilitate sex trafficking, and the housekeeper may be a victim of document retention, fraud, coercion, and other tactics unlawful employers use to force labor.<sup>105</sup>

## Labor Trafficking and Washington State

Maria\* was born and raised in Mexico. Several years ago, in search of work and a better life, she hired a smuggler on a payment plan to help her cross the border without documents. Now indebted to her smuggler and with limited employment options in the United States, she was preyed upon by traffickers and was forced to do custodial work in Texas. In addition to being held physically captive and abused, she was debt-bonded and continued to accumulate debt from her trafficker, who charged her exorbitant fees for transportation, housing, and food.

Eventually, Maria was approached by a woman who offered to help her pay off her debt and escape from her trafficker. Desperate for freedom, she placed her trust in this woman, and accepted the offer. Unfortunately, this woman, too, preyed on her vulnerability, relocated her to Washington State, and trafficked her in another custodial contract agency.

By the time she reached the Pacific Northwest, her new trafficker had supposedly paid off all her previously amassed debt, liberating her from that financial burden.

In reality, Maria was now debt-bonded to a new trafficker, a woman who controlled her and the other victims (one male and another female) by isolating them from their families, indoctrinating them with fear of the police and immigration officers, and torturing them with physical and psychological abuse.

Maria's trafficker owned a janitorial service company and held contracts to provide these services to several businesses, including hotels and office buildings in the area. To supply her workforce, she often recruited from other countries and/or hired workers she could easily exploit, such as Maria.

The trafficker forced all her victims to work in her janitorial business cleaning deserted buildings overnight and condemned them to domestic servitude during the day. Maria and her peers worked long hours, slept on the floor, and were rarely given enough food to subside their hunger. If Maria's trafficker suspected anyone of trying to reach out for help, they were relentlessly beaten. In theory, Maria received a couple hundred dollars per

month in salary, but her trafficker kept her earnings, claiming it was to pay back the debt Maria had accumulated.

After 3-4 years total of being trafficked, abused, and forced to clean local hotels and businesses in Washington and Texas, she was finally provided the opportunity to rescue herself and the child she birthed while in the U.S. The trafficker's daughter reported her mother's activities and helped connect Maria to a local service provider.

Today, Maria and her child are safe and separated from her trafficker. Maria ultimately made the decision not to press charges against her trafficker out of fear from experiencing additional trauma.

\* Pseudonym used to protect identity

Sources: Nguyen, Hao "Forced Labor Cases in Washington State." Telephone interview. 30 Jan. 2017. Alcantara, Joanne "HT Stories." Message to the author. 26 Jan. 2017. E-mail. API-Chaya cases

Labor trafficking is present, but not limited to international supply chains.<sup>106,107</sup> In line with the ILO's international estimate on labor trafficking prevalence, API-Chaya, a local survivor service provider, reports that approximately two-thirds of all their human trafficking cases are those of forced labor.<sup>108</sup> Cases of human trafficking have been reported in eighteen Washington counties,<sup>109</sup> many of which represent non-sex labor trafficking.<sup>110</sup> The State's commercial landscape provides ample avenues for traffickers to transport their victims in and out of the country unnoticed and force them to work in sectors that both contribute to the economy and that are known to be predisposed to labor trafficking, namely construction, manufacturing, agriculture, and hospitality and food, which collectively generate nearly \$100 billion towards the state's gross domestic product (GDP).<sup>111,112,XXIV</sup>

Washington State is an internationally recognized leader in import and export businesses, largely due to its variety of retail, manufacturing and globally-focused companies, its diverse offering of goods and services, and its geographic advantages.<sup>113</sup> As an international gateway to the rest of the nation, Washington's import industry contributes significantly to the state's growing economy.<sup>114,115</sup> At least 40% of all jobs in Washington can be tied to trade, making it "one of the most trade-engaged economies in the country."<sup>116, 117,XXV</sup> In addition, the abundance of air and sea ports, railways, and highways place Washington at risk of contributing to human trafficking locally and globally.

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<sup>XXIV</sup> In 2015, the construction industry in Washington State generated \$18.877 billion towards the state's gross domestic product (GDP); the manufacturing industry generated \$58.681 billion; Accommodation and food services generated \$12.112 billion; and the agriculture industry generated \$7.489 billion.

<sup>XXV</sup> Overall, Washington is the fifth largest goods exporting state in the country and third largest per capita.

The food and agriculture industry contributes \$49 billion (13%) to Washington's economy and agriculture is the State's third-largest exporting industry, employing approximately 256,000 workers and producing 70% of the nation's apples.<sup>118,119</sup> While many farming jobs are concentrated in Eastern Washington, they are represented in all 39 counties.<sup>120</sup> Within the agriculture industry, there are populations at risk of exploitation including temporary, migrant, and undocumented workers.<sup>121,122</sup>

Washington ranks fourth in the nation for H2-A visa<sup>xxvi</sup> certifications, with the Washington Farm Labor Association the second largest petitioner of H2-A workers in the country.<sup>123</sup> H2-A guest workers account for a sizable portion of the labor force Washington relies on to sustain its agriculture industry.

Guest worker programs such as H2-A and H2-B<sup>xxvii</sup> visas are often described as a double-edged sword. While they create job opportunities for migrant workers and support our local economy, they may also cultivate a culture and environment ripe for exploitation. Experts in the field such as Neha Misra, migration and human trafficking specialist at the Solidarity Center, postulate that guest worker and temporary migration programs inherently foster vulnerability, as they "create a subclass of workers entitled to fewer rights" than permanent workers or citizens.<sup>124</sup> Some conditions of H2-A certification that tie workers to their employer have also raised red flags for vulnerability.<sup>125</sup>

In a national study that sampled 111 victims of labor trafficking, the vast majority (71%) of the victims in the study entered the United States on a temporary visa – most commonly on an H2-A visa for work in agriculture or H2-B visa for work in hospitality, construction, and restaurants. Additionally, the study identified some female domestic servitude victims who arrive on diplomatic, business, or tourist visas.<sup>126</sup>

Migrant workers, including those who travel across international borders and workers following harvest seasons across the U.S., are particularly vulnerable to human trafficking.<sup>127</sup> One of the most prominent factors underlying the vulnerability of migrant workers who travel far or travel internationally are the actions of unscrupulous labor recruiters, such as Global Horizons Inc., that deceive prospective workers and charge exorbitant fees that migrant workers cannot repay in a reasonable amount of time.<sup>128</sup> Additionally, the seasonal and temporary workflow of agricultural production leads workers to frequently migrate to follow the crops' seasons. As a result, workers often do

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<sup>xxvi</sup> The H-2A temporary agricultural program allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs.

<sup>xxvii</sup> The H-2B temporary non-agricultural program allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary non-agricultural jobs.

not build relationships with any one community and may not recognize local support networks, or understand laws or available services.<sup>129</sup>

Immigrants without documents are also disproportionately vulnerable to labor trafficking as the fear of deportation discourages them from reporting abuses to authorities or seeking assistance.<sup>130</sup> Washington is home to nearly 250,000 undocumented people who represent approximately five percent of the workforce, and the numbers are growing.<sup>131</sup> Between 2009 and 2014, the unauthorized immigrant workforce in Washington State grew by an estimated 40,000 people.<sup>132</sup> On a national level, the PEW Research Center estimates that one in four U.S. immigrants are unauthorized, accounting for nearly 11.1 million (25.5%) of the total U.S. foreign-born population.<sup>133</sup> These immigrants are over-represented in the workforces most prone to labor trafficking.<sup>134</sup>

Washington's economy is heavily reliant on industries and workforces vulnerable to human trafficking and other labor rights abuses. Therefore, it is imperative that Washington consider ways to protect its supply chains from labor trafficking violations both domestically and abroad.

## Corporate Social Responsibility and Labor Trafficking

“Shared value holds the key to unlocking the next wave of business innovation and growth”<sup>135</sup>  
-- Michael E. Porter and Mark Kramer<sup>XXVIII</sup>

Washington is the headquarters for a number of major corporations, including leaders such as Amazon, Boeing, Expedia, Starbucks, PACCAR, and Costco that import commodities, and thus are significantly connected to and impacted by labor management in their global supply chains.<sup>136</sup>

Mindfulness of a corporation's social footprint is not a novel concept for the 21<sup>st</sup> century; a small selection of companies have long standing policies that reflect values of workforce and environmental sustainability.<sup>137</sup> However, the popularity of corporate social responsibility (CSR) initiatives have drastically increased due to a growing shift in our global marketplace.<sup>138</sup> Where there used to be a handful of corporations with CSR initiatives, now there are countless. Many of these programs have emerged in response to external pressures, particularly through mass media, which has strongly encouraged the use of CSR strategies as a tool to improve a company's reputation and satisfy consumers' demand for a clean supply chain.<sup>139,140</sup>

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<sup>XXVIII</sup> Michael E. Porter is an economist, researcher, author and professor at the Harvard Business School. Mark Kramer is the co-founder and Managing Director of the social impact advisory firm FSG.

In recent years, a number of major companies have demonstrated an evolution away from a reactive model of CSR to a proactive approach that views social responsibility as a source of competitive advantage.<sup>141</sup> In line with this perspective, researchers have found that ethical sourcing and/or sustainable practices may increase productivity, profit, and long-term value for the business and decrease risk, turnover, cost, and injury.<sup>142,143</sup>

In a study that analyzed purchasing trends of shoppers in 111 Banana Republic factory outlet stores, the same product was marketed in two ways, one as a “fashion forward” item and the other as a “fair labor” item. Researchers concluded that there is indeed a segment of shoppers who prefer to purchase apparel manufactured under fair labor standards and that such messaging had a “substantial positive effect on sales.”<sup>144</sup>

Many studies have drawn similar conclusions that support a consumer appetite for ethically produced goods. For instance, the following are three additional examples of clean supply chain preference:

- **Higher sales for Fair Trade Coffee:** In a field experiment that surveyed 26 stores in a US grocery chain, researchers found a 10% increase in sales of Fair Trade labeled coffee over non-Fair Trade labeled coffee.<sup>145,146,147,148,XXIX</sup> The experiment attached a Fair Trade label to certain bulk coffee bins in all stores assigned to the treatment condition. In stores assigned to the control condition, a similar label was applied to the same coffee bins, only it made no mention of trade origins. When comparing the same coffee in nature, but marketed differently, the Fair Trade branded coffee experienced higher sales.<sup>149</sup>

Mirroring this sentiment of consumer demand for seemingly ethically sourced coffee, due largely to a grassroots campaign led by Global Exchange, Starbucks became one of first major coffee brands committed to supplying Fair Trade-certified coffee grounds.<sup>150</sup>

- **Customers willing to pay a premium on ethically sourced goods:** In 2006, researchers in Michigan tested consumer preference for socks made under “good working conditions,” specifically their willingness to pay a premium on ethically sourced socks. In their sample of 573 purchases over 17 months, the researchers concluded that “averaging across all trials in which there was a price difference, about 30 percent of customers were willing to pay a premium to avoid purchasing a

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<sup>XXIX</sup> The Fair Trade system was developed in response to inequities that have resulted from globalization. The practice provides small farmers with stable, guaranteed minimum floor prices to protect them against a volatile market. Fair Trade Certified products are produced under the following principles: fair prices and credit, fair labor conditions, direct trade, democratic and transparent organizations, community development, and environmental sustainability. However, some research has revealed flaws in the Fair Trade program, where the costs of certification burden and sometimes alienate impoverished growers.



product morally tainted by sweatshop labor”<sup>151</sup>; and

- **Increased demand for “ethically” labeled goods:** In 2005, a prominent Manhattan-based retailer, ABC Carpet and Home, experienced an increase in demand for towels and candles labeled as “Fair and Square”. The label “fair and square” highlighted fair and safe labor conditions. After running the experiment for 5 months, researchers found that sales rose for items labeled under good labor standards even when the products’ prices increased by 10-20%.<sup>152</sup>

Washington State is considered one of the “strongest, fastest growing [economies] in America” and continues to set a precedent for competitive, innovative business.<sup>153</sup> The State’s legacy at the forefront of the anti-human trafficking movement coupled with its ever-growing economy offers leverage to promote anti-human trafficking initiatives, support positive business outcomes, and continue to show leadership through public and private supply chain-focused legislation.

## Methodology

From February 1 to June 30, 2016, the University of Washington (UW) Women's Center conducted a literature review of existing government and corporate social responsibility practices, scholarship pertaining to forced labor and human trafficking, and transcripts from Women's Center hosted conferences, forums and meetings on forced labor, human trafficking and corporate responsibility.<sup>xxx</sup> The literature was divided into four categories: companies' published supply chain disclosures, scholarship regarding ethical sourcing, government reports and documents on ethical procurement practices, and media stories relevant to corporate social responsibility models and supply chain scandals. Data on the scope of the human trafficking problem worldwide in academic articles and policy reports were analyzed and corporate responsibility was assessed through a variety of frameworks. Furthermore, existing city, county, and state-wide procurement practices such as the Seattle Sweatfree Purchasing Policy and the California Transparency in Supply Chains Act were examined. All information was gathered with an eye towards learning more about the corporate social responsibility culture, practices, and mechanisms for implementation.

The second phase of this study began July 1, 2016 and gathers information not readily available online. Researchers interviewed subject-matter experts about nuanced supply chain practices and their perspective on ethical sourcing successes (best practices) and challenges, monitoring, and pragmatic policy development. The following parameters were used to target interviewees:

- Parties instrumental in the California Transparency in Supply Chains Act and Sweatfree public procurement ordinances;
- academics with research interests in corporate social responsibility, corporate supply chains, corporate value chains, sweatfree labor, and workers' rights were;
- corporate lawyers who specialize in compliance with Supply Chain disclosures and due diligence, and
- not-for-profit organizations with a mission to end the practice of forced labor and support victims and survivors.

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<sup>xxx</sup> University of Washington Women's Center Conference presentations and materials reviewed include: "Human Trafficking, Forced Labor and Corporate Responsibility" Continuing Legal Education/Professional Development Program, 2012; "Human Trafficking in an Era of Globalization: Forced Labor, Involuntary Servitude and Corporate & Civic Responsibility" two-day international conference, 2013; "Human Trafficking and Supply Chains Forum," 2013; and "Economic Growth on the Back of Global Workers - Mapping Local Strategies for Global Change" two-day conference, 2016. Meeting notes reviewed include meetings with Starbucks Ethical Sourcing Team and Women's Center Anti-Human Trafficking Task Force members.

In total, 42 people representing 30 organizations/departments including public officials, attorneys, public procurement officials, labor organizers, scholars, non-profit leaders, corporate representatives and a small business owner were interviewed.<sup>xxxi</sup>

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<sup>xxxi</sup> See Acknowledgements for list of people and affiliate organizations interviewed.

## Topics Under Study

### SHARED VALUE THROUGH SUPPLY CHAIN MANAGEMENT PRACTICES

In a survey of 566 U.S. based executives produced by *The Economist*, 74% of participants believed that corporate social responsibility could help improve the bottom line of their company.<sup>154</sup>

Porter and Kramer argue in “Creating Shared Value” that the distinction between economic and social goals represents a false dichotomy. Rather, the notion of shared value creates economic worth in a way that concurrently benefits society and industries.<sup>155, XXXII, XXXIII</sup>

Without a shared value framework for business practices, corporations may limit themselves to a narrow way of operationalizing success, where short-term financial achievement takes priority over the sustained value of workers and their sustained development.

Labor trafficking at its core interferes with fair competition because those using an exploited labor force win the proverbial “race-to-the-bottom,” which also inherently disincentivizes innovative and corrective action because of an initial competitive disadvantage.<sup>156</sup> Alone or coupled with moral obligation, the concept of shared value offers great impetus for governments, corporations and civil society to challenge the culture and encourages businesses to revisit how companies manage their supply chains both domestically and internationally.

Offering a resource to corporations, the World Economic Forum in collaboration with Accenture prepared a report entitled, “Beyond Supply Chains - Empowering Responsible Value Chains.” This report highlights steps to achieve what they coined as the “triple advantage.” Under these guidelines, companies are said to enjoy profits while simultaneously benefiting society. One of these practices is to establish supplier auditing and controls. This would offer high societal impact, relative ease of implementation, and medium to high profitability while increasing brand value and mitigating company risks. Advocates of this model assert that those companies who implemented the prescribed triple advantage practices have experienced significant benefits, namely a 5-20% revenue upgrade, risk reduction, and improved local welfare and labor standards (i.e. in wages and

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<sup>XXXII</sup> Michael Porter is the Bishop William Lawrence University Professor at Harvard Business School and is well known as an economist, researcher, author, advisor, speaker and teacher.

<sup>XXXIII</sup> Mark Kramer is a Visiting Lecturer of Business Administration at Harvard Business School and leading researcher, writer, speaker and consultant on strategies for social impact.

working conditions). On an operational level, an authentically positive brand reputation influences a sustained credit rating and good labor practices.<sup>157</sup>

Similarly, reports from the ILO Better Work Program -- which brings together all levels of stakeholders in select countries to improve working conditions and boost the competitiveness of the apparel businesses -- demonstrates linkages between better work conditions, profitability, and market competitiveness.<sup>158</sup> See “Key Findings from Better Work Vietnam” sidebar.<sup>159</sup>

Similarly, in a 2010 study, researchers quantified the benefit of clean supply chains. Broadly looking at environmental and labor sustainability practices jointly, the authors concluded that generally, the cost reduction impact of sustainable procurement outweighs the implementation costs. Furthermore, the reduction of risk associated with implementing a clean supply chain represents a worthwhile investment for companies.<sup>160</sup> Averaged across the various case studies examined, implementing sustainable procurement reduced costs, per project, by .05% of the company’s total revenue.<sup>161</sup> With these cost savings, the authors conclude that sustainability-driven cost reduction alone could fund an entire sustainable procurement initiative. For example, improvements for safer building construction, factory ventilation, factory sanitation and more. Thus, companies could benefit from the risk management and revenue growth opportunities with no added cost.<sup>162</sup>

In addition to benefits such as operational sustainability and respect for human life, consumers have displayed a great interest in clean supply chains and when accessible, react positively to ethical purchasing options.

In 2011, collaborators from Harvard and Stanford found that on average, shoppers on Ebay were willing to pay a 45% premium for ethically labeled polo-style shirts in comparison to

## Selection of Key Findings from Better Work Vietnam

- Better working conditions are linked to higher profitability.
- Tolerating abusive behavior in the workplace compromises the bottom line.
- The presence of verbal abuse or sexual harassment in a factory setting reduces the productivity of workers.
- Training line supervisors, particularly women, pays off in better working relationships and higher productivity.

unlabeled polo shirts.<sup>163</sup> Likewise, the aforementioned 2015 field experiment on Banana Republic factory outlet stores, the New York City retail store and the Fair Trade examples highlight that fair labor standards have a positive effect on sales among a segment of shoppers.<sup>164</sup>

It has been well documented under the sweatshop movement that forced labor, child labor and other human rights abuses are exacerbated and widespread in the global south, i.e. countries such as Bangladesh.<sup>165</sup> While corporate headquarters in Washington State or elsewhere in the U.S. may not directly manage labor practices in various points of a supply chain, such as manufacturing plants and factories, labor abuses are a direct result of business decisions to produce in a global-based factory and with international contractors or subcontractors. With this knowledge heavily shared through media and social media campaigns, consumer-facing corporations can be largely impacted when evidence of labor trafficking is uncovered in their supply or value chain. Events causing a supply chain disruption such as a child or forced labor scandal represent on average, 0.7% of a company's revenue in direct costs (such as financial penalties and product recall) and on average, a 12% decrease in market cap.<sup>166</sup>

Public agencies have a tremendous opportunity to elicit a market response and encourage ethical supply chain operations.<sup>167</sup> When the Norwegian sovereign fund sold €414 million in Walmart shares over reports of child labor and other human rights abuses with their suppliers, Walmart's market share fell 11% between June 1 and mid-July of 2006.<sup>168,169</sup>

In the apparel industry, organized boycotts by universities, many of which were public institutions, affiliated with the Worker Rights Consortium in 2000 threatened up to 20% of the revenue of Gear for Sports, an athletic apparel provider, and up to 1% of Nike's revenue.<sup>170</sup>

Social media has effectively changed the entire consumer landscape, where information is instantaneously and freely shared across the globe, activating substantial social movements. Before the popularity of social media platforms, activists were primarily forced to rely on mass media outlets legitimizing their claims. Through social media, activists have the opportunity to raise their voice and reach consumers across the globe.<sup>171</sup>

In early 2010, when severe workplace violations and subsequent worker suicides were revealed in Foxconn's (a Taiwanese multinational company and the world's largest contract electronics manufacturer) China-based factories, consumer backlash was not solely focused on Foxconn, but also on their brand clientele such as Apple, Dell, HP and Sony.<sup>172,173</sup> These brands in turn were forced to respond by hiring a third-party auditor, The Fair Labor Association, to investigate the Foxconn factories.<sup>174</sup>

As Markus Funk, partner at Perkins Coie shared, one can reasonably assume corporations are doing what is projected to earn the most profit while keeping in line with their internal policies, procedures and code of conduct.<sup>175</sup> Thus, the most pertinent information is likely how great of a risk it is to not have a clean supply chain rather than whether or not socially responsible (ethically sourced) supply chains are going to increase shareholder value or market share.

## THE IMPACT OF SOCIAL MEDIA ON CORPORATE SOURCING PRACTICES

Corporate leadership in ethical supply chain management predates the age of social media; however, social media has greatly amplified the movement.

In 1992, ahead of the emerging corporate social responsibility movement, a group of socially-minded entrepreneurs who saw the potential of progressive business to integrate social and environmental considerations into business practices founded Businesses for Social Responsibility (BSR). The organization began with 51 member companies, including Ben & Jerry's cofounder Ben Cohen and Body Shop owner Anita Roddick, and now serves over 250 members.<sup>xxxiv, 176</sup>

Yet, when a person thinks about the birth of corporate social responsibility and the sweatshop movement, likely two pivotal events come to mind, the exposure of Nike and Kathie Lee Gifford's sweatshop business model.

Twenty years ago, Kathie Lee Gifford revealed to the nation how devastating a sweatshop scandal can be to one's career and the heart wrenching impact of not diligently monitoring one's supply chain. On April 29, 1996, the National Labor Committee Education Fund in Support of Workers and Human Rights in Central America publicly declared to Congress that Kathie Lee's clothing line was being made by 13 and 14 year old children working 20 hours a day in Honduran factories. Shortly thereafter, news broke of factories in New York's garment district producing blouses for her brand without pay.<sup>177</sup> According to a New York Times article, Halmode Apparel Inc, the Kellwood Company unit that holds the license to use her name, looked into this matter.<sup>178</sup> Indeed, the manufacturing supply chain of her blouses was quite convoluted and is reported to flow as follows: Halmode Apparel held a contract with Walmart, the contract dictated the goods would be manufactured by a New York based company called Bonewco, and Bonewco would then subcontract with a manufacturer in Alabama. Specifics not included in the contract were that the Alabama Company subcontracted part of the order to a New Jersey-based company that in turn subcontracted to Seo, the factory where the abuses were taking place (See Figure B).

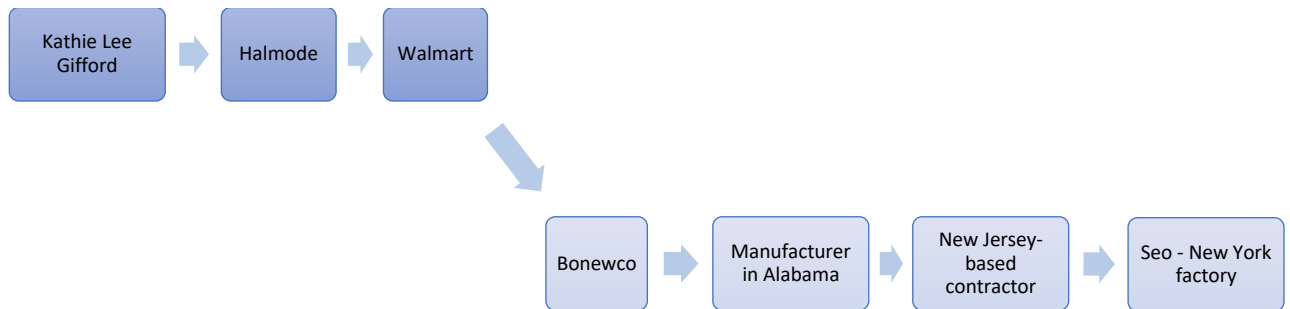
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<sup>xxxiv</sup> BSR offers consulting services to its members to provide creative engagement strategies and solutions to encourage sustainable business practices. Specific services advertised on their website include assessments of the company's sustainability and supply chain practices, strategy development to drive business value, implementation support, assistance in developing sustainability disclosures and communications, and more.

<sup>xxxiv</sup> BSR also promotes coalition building and stakeholder engagements to encourage the private sector to tackle sustainability issues in unison.



Figure B: Kathie Lee Gifford's product supply chain



In response to the public outcry, Kathie Lee began to publicly stand up against the sweatshop industry she was unknowingly supporting. The media attention and public reaction to her scandal offered momentum for the White House to initiate a task force on sweatshops, which later became the Fair Labor Association (FLA).<sup>179</sup> The association serves as a collaboration of universities, civil society organizations and socially responsible companies dedicated to protecting workers' rights around the world through monitoring, setting standards of affiliates, and supporting compliance.<sup>180,xxxv</sup>

In a similar case, during the 1990s, Nike developed a negative reputation for their supply chain practices as allegations of child labor, substandard wages, and poor working conditions surfaced. Nike, whose massive success was due in part to their business model that capitalized on outsourcing its manufacturing, repeatedly came under attack from the media, consumers, and particularly college students in widespread protests and boycotts.<sup>181</sup> By 1998, the company's stock prices were falling and sales were weak.<sup>182</sup> Then CEO Phil Knight, who was initially resistant to the protesters demands, finally responded to the public outcry and made headlines with his 1998 press conference speech on how "the Nike product has become synonymous with slave wages, forced overtime and arbitrary abuse."<sup>183</sup> In his speech, Knight made a series of pledges to address the criticisms about Nike's supplier practices, including raising the minimum factory working age, tightening air

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<sup>xxxv</sup> Although appearing to take a zero-tolerance policy on forced labor, it is important to also know that according to Heather White, founder of Verité, when Ms. Gifford hired the organization to audit the supply chain associated with her brand and they determined that, "her problem was not just a few factories in Central America but at least 600 factories in China, Ms. Gifford turned to a public relations firm rather than creating a real mechanism for address the problems." See: Pg. 228, Conroy, Michael E. *Branded! : How the 'Certification Revolution' is Transforming Global Corporations*. Gabriola Island, B.C.: New Society, 2007. Print.

quality controls, and introducing independent monitoring to ensure compliance. The same year, Nike created a corporate responsibility and compliance division to integrate sustainability values into company operations.<sup>184</sup>

As a show of their continued commitment to improving working conditions and clean supply chain practices, Nike disclosed a list of their factories in April 2005 (the list amounted to approximately 90% of Nike's supplier factories and did not include Nike subsidiaries), a groundbreaking move at the time when many corporate leaders were fearful that factory disclosure would ruin a company's competitive advantage.<sup>185</sup> The perceived risk of factory disclosure was outweighed by the longer-term benefit created by Nike's decision to disclose, as they are now perceived by some as leaders in the movement towards transparency.<sup>186,187</sup>

However, the Worker Rights Consortium (WRC) was recently denied access to Nike's collegiate factory Hansae Vietnam, a subsidiary of Hansae Company Limited, a Korean multinational.<sup>188,189,XXXVI</sup> This sparked concern from University Students Against Sweatshops (USAS) and labor rights activists. In light of this news, UW USAS and chapters across the country have been organizing against Nike, demanding that UW and other universities divest from the brand unless they change their policy. In July of 2016, after the intervention of the University of Washington and Georgetown University, Nike agreed to facilitate access to Hansae for the WRC in the context of a joint WRC-FLA visit to the facility.<sup>190</sup> The results of their audit highlighted severe workers' rights violations ranging from abusive management to unsafe working conditions.<sup>191</sup> This is of particular concern because Nike has been contracting with the factory for over a decade and claims to have been auditing their supplier for years, yet they missed or never acted on these violations.<sup>XXXVII</sup>

Furthermore, Nike has failed to commit to facilitate access for the WRC to inspect its collegiate factories in the future.<sup>192</sup> As a result, USAS is resolved to continue their campaign until either Nike's contract with the university is discontinued or Nike's policy is reversed. Similar to UW USAS, students at Georgetown University have organized campaigns and are applying pressure for the school to withhold renewing their contract with Nike that expired at the end of 2016 until Nike agrees to the WRC prescribed code of conduct.<sup>193,194</sup> According to the *Georgetown Voice*, a student-run newsmagazine, "until a new contract is reached, no new Georgetown-branded Nike apparel will be ordered or produced".

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<sup>XXXVI</sup> Hansae's other buyers include Gap, H&M, Hanes, Inditex (Zara), JC Penney, Kohl's, Macy's, Children's Place, Polo Ralph Lauren, Target and Walmart.

<sup>XXXVII</sup> According to the WRC report, Hansae has also been audited by Better Work Vietnam, a monitoring program on which Nike relies for labor rights inspections of its Vietnamese suppliers. Better Work Vietnam also missed many of the most serious violations at Hansae – and failed to achieve remediation of some that it did identify.

Kathie Lee Gifford's and Nike's cases are a crucial reminder of 1) The significant value of a brand's reputation's for success, 2) the importance of independent, third-party monitoring and 3) the negative effects poor supply chain management practices can have on business.

#### SCOPE OF SOCIAL MEDIA INDUSTRY

"There is no doubt in my mind that Avaaz played a pivotal role in persuading H&M to embrace the accord." – Labor Leader

Media has played a significant role in corporations' public disclosures and social impact policies. Bad press, particularly on issues regarding abuse of workers' rights, has served as a catalyst for multinational companies to require suppliers in developing countries to change their employment practices, according to a study analyzing Nike and H&M's response to negative media.<sup>195</sup>

Capitalizing on this knowledge, social media has been used to create more transparent supply chains through campaigns, information sharing and innovative tools such as Sourcemap that offer consumers instant go-to platforms to learn (to an extent) where a product is sourced.

#### RANA PLAZA

"There is a rush for shipment—the buyer is putting pressure. He (the general manager) says that we have to hit our production target, then we can go home." --Reba Sikder, Rana Plaza Survivor

Management shouted at the workers to get to work and threatened to deduct a month's salary if they did not comply. Reba Sikder and others were hesitantly standing outside the factory, sharing their fears of its shoddy infrastructure. The day prior, Sikder and her colleagues went home early after the building started to visibly deteriorate – sand and concrete had fallen on a worker's hand – causing many to panic and rush to escape. The building owners assured the workers and the media, who had caught the crack on tape, that an engineer had inspected the building and that it was safe to return the following morning.

Once employees were back inside the factory, Sikder's general manager expressed concern that any delays in production would encourage the brands to move their valuable business to cheaper, quicker factories and pressured the employees to meet the production target as early as possible. Once they hit the production target, the manager said, the workers could go home.

Twenty minutes in to the work day, the lights went out. Two or three minutes later, Sikder heard a massive boom, everything around her collapsed, and she fainted. Once she regained consciousness, Sikder woke to find she was covered in her coworker's blood and her feet were trapped under a machine. Aminul, who worked beside her, was crushed under a beam and column and pleaded for help. Unable to free herself, Aminul died a few minutes later. Sikder managed to free her leg from the machine and started to navigate small openings in the rubble. During her journey out, Sikder found a pocket where thirty fellow workers were trapped, many injured or dead. Their thirst was overwhelming, and many resorted to drinking their own urine or blood to stay alive. Sikder and three others crawled through the maze of debris, losing hope with each dead end they encountered. For two nights and two days, Sikder passed in and out of consciousness trying to find her way out of the rubble.

Eventually Sikder and her companions felt a breath of fresh air and heard sounds of people moving the concrete and rubble. They screamed and screamed until finally a man heard their cries and called in the army. Within half an hour, Sikder and her three colleagues were rescued.

Many families never found the bodies of their loved ones.

Eighteen-year-old Reba Sikder survived the Rana Plaza collapse in Dhaka, Bangladesh, unlike many of her peers. Her testimony paints a vivid picture of the haunting reality of supply chain negligence.

Sikder's experience is recounted from her personal testimony published in the book entitled, *Women in Clothes*.<sup>196</sup>

Rana Plaza was an eight-story commercial building in Bangladesh that housed several businesses including garment factories. On April 23, 2013, structural cracks were discovered in the building and all businesses except the garment factories on the upper floors immediately closed as a safety precaution. On April 24, the building collapsed, full of thousands of workers sewing apparel products for North American and European brands.

In total, 1,138 workers were killed and nearly 2,600 workers were injured, many of whom will live the rest of their lives with disabilities.<sup>197</sup>

Following the Rana Plaza disaster, a huge public outcry ensued and nearly 2 million people around the world signed an online petition, hosted by a web-based tool called Avaaz, directed to the CEOs of H&M, Gap Inc., and other fashion brands to sign onto the Bangladesh Accord on Fire and Building Safety. The Bangladesh Accord would effectively change the way many brands operate by ensuring Bangladeshi factories used in apparel supply chains meet several standards to support workers' safety and wellbeing.<sup>198</sup> Social media tools like Facebook and Twitter were instrumental in mobilizing consumers to engage and take a stand against lax corporate supply chain norms. Largely due to social pressures, even though H&M was not represented as a brand with factories in Rana Plaza, they were among the first to sign the Bangladesh Accord in May 2013.<sup>199</sup> According to a labor leader cited on Avaaz's website, Avaaz -- and by extension other social media platforms -- played a pivotal role in affecting change in the Bangladesh garment district.<sup>200</sup>

Similar to encouraging corporations to use factories in Bangladesh that protect workers, social media was used to pressure corporations to admit usage of Rana Plaza based factories and assume responsibility by contributing to a victim-centered fund. Activism ranged from a billboard driven around Benetton's global headquarters in Italy with a photo of a Bangladeshi woman on a stretcher with the phrase "Benetton: show your true colours" to online media campaigns.<sup>201</sup> This media attention drove home the need for Benetton, and other brands represented in the factory, to face its full responsibility to the victims sewing for the company and their families.

In the weeks following the tragedy, Benetton released a statement denying use of any factories in Rana Plaza, aside from a "one-time order" that was completed and shipped out several weeks prior to the incident.<sup>202</sup> Benetton asserted that the factory they used in the Plaza, New Wave Style, was permanently removed from their list of suppliers, as it no longer met their code of conduct.<sup>203</sup> Benetton claimed to practice risk assessment audits of many of its suppliers, but unfortunately, the company never followed through with an audit of New Wave Style.<sup>204</sup>

Soon after Benetton's statement, more information surfaced that Benetton's "one-time order" claim was false, which forced the company to admit "occasional" sourcing from New Wave Style.<sup>205</sup> Eventually, even more documents surfaced that revealed that Benetton had a long-standing relationship with New Wave Style. Only after pressure from the media did Biagio Chiarolanza, company CEO at the time, finally admit that Benetton's orders with New Wave totaled upwards of 200,000 shirts in shipments between December 2012 and January 2013.<sup>206</sup> Furthermore, after nearly 2 years of social pressure, Benetton finally paid an additional \$1.1 million into the Rana Plaza Trust Fund in addition to the original \$500,000

the company contributed to victim medical care and long-term support. According to Marco Airoidi, the former Boston Consulting Group partner who took charge as Benetton's chief executive in 2014, the activists' campaign was "a bit of a kick."<sup>207</sup>

#### THE BANGLADESH ACCORD

The Bangladesh Accord of Fire and Safety (commonly referred to as The Accord) is a legally binding agreement between over 200 companies and 1,600+ factories<sup>208,209</sup> dedicated to improving the Bangladeshi Ready-Made Garment (RMG) Industry. The Accord is governed by a Steering Committee "with equal representation of the signatory companies and trade unions with a neutral Chair provided by the International Labour Organisation (ILO)."<sup>210</sup>

The agreement consists of six key components:<sup>211</sup>

1. A five year legally binding agreement between brands and trade unions to ensure a safe working environment in the Bangladeshi RMG industry;
2. An independent inspection program supported by brands in which workers and trade unions are involved;
3. Public disclosure of all factories, inspection reports and corrective action plans (CAP);
4. A commitment by signatory brands to ensure sufficient funds are available for remediation and maintenance of sourcing relationships;
5. Democratically elected health and safety committees in all factories to identify and act on health and safety risks; and
6. Worker empowerment through an extensive training program, complaints mechanism and right to refuse unsafe work.

In recent decades, American retailers have periodically been pressured to pay damages for unethical supply chain practices, such as the \$20 million settlement on behalf of 30,000 garment workers in Saipain paid by Gap, Nordstrom, Walmart, Target and 20 other brands in 2003.<sup>212</sup> However, the Accord marks a vital movement within our corporate garment industry. It signifies accountability and recognition of egregious human rights abuses, specifically in Bangladesh, and proactively works to improve factory standards through independent monitoring, training, and enforcement.<sup>213,214</sup> It will be important for all who value ethical sourcing to urge corporations to renew their commitments once the current accord agreement expires in May 2018.

#### WALMART

Walmart, the world's largest retailer<sup>215</sup> and corporation by total sales,<sup>216</sup> is well known as the focal target of many social and environmental campaigns for change. Due to the company's sheer size, so-called cost-reducing techniques (race-to-the-bottom mentality), and a corporate culture overwhelmingly opposed to organized labor,<sup>217</sup> Walmart has been repeatedly sued for illegal and unethical labor practices. Examples include violating local

and international child labor laws,<sup>218, 219</sup> deceiving workers, and cheating contracted immigrant workers out of overtime pay.<sup>220</sup>

Among the many movements over the decades, in 2005, two major labor unions launched a massive campaign against Walmart's abusive treatment of workers and unethical environmental practices. The movements demanded Walmart implement a living wage, end discriminatory practices, adopt a zero-tolerance policy on child labor, and institute a monitoring program to stop child labor exploitation abroad. In these cases, the Unions<sup>xxxviii</sup> supported transparency websites entitled WakeUpWalMart.com and WalmartWatch.com, both of which served the public as a platform to share information, organize events and create solidarity.<sup>221</sup> Around this same time, filmmaker Robert Greenwald released the documentary entitled, "Walmart: The High Cost of Low Price," which portrayed the negative consequences Walmart's business practices had on communities, families and individuals.<sup>222</sup> The film coincided with "Higher Expectation Week," where more than four hundred groups nationwide coordinated thousands of events from town hall meetings to movie screenings across the nation in opposition to Walmart's labor practices.<sup>223</sup> Eventually, Walmart responded.

In reaction to the changing social and media landscape of the mid 2000's, Walmart committed itself to new, sustainable environmental policies, made a pledge to purchase certified seafood, adopted an agreement to start selling private-label fair trade certified coffee, and embraced other similar strategies.<sup>224</sup> Walmart continues to address the risk of human trafficking and forced labor in their supply chains through their Global Responsibility Report and collaborates with industry stakeholders on initiatives to reduce their risk. For example, Walmart participates in the Fair Food Program, organized by the Coalition of Immokalee Workers (CIW), which requires humane working conditions for agricultural workers in Immokalee, FL (See the Case Studies and Best Practices section of this report for more information about the CIW and the Fair Food Program). Furthermore, Walmart's new CEO, Doug McMillon announced the company's commitment to improving their local supply chain with an increase in pay and training to workers across the U.S. In addition to benefiting the workers directly, shopper reports have highlighted the dual-benefits of employee appreciation with higher levels of satisfaction with store cleanliness and customer service.<sup>225, 226</sup>

Although concerns of labor practices with mega retailers like Walmart and other brands persist, social media and consumer pressure have been successful in effecting significant changes within some of the largest and most challenging corporations to leverage.

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<sup>xxxviii</sup> United Food and Commercial Workers and Service Workers International Union

## CORPORATE AND PUBLIC LEADERSHIP: CASE STUDIES AND BEST PRACTICES IN ETHICAL SOURCING

### COSTCO & THE THAI SEAFOOD INDUSTRY

Receiving regular beatings and torture, witnessing execution-style killings, and working 20-hour shifts -- these are the experiences survivors shared about their daily life at Charoen Pokphand (CP) Foods in a Guardian exposé on CP Food's horrific disregard for human life. For years, migrant workers from Burma and Cambodia paid labor brokers to help them find work in factories or on building sites; instead they were sold to boat captains and were enslaved, experiencing inhumane and brutal working conditions. These forced laborers were an integral part of CP foods' supply chain to produce feed for prawns sold to supermarkets in the U.S. and U.K., including Walmart and the Washington-based wholesaler, Costco.<sup>227</sup>

Shortly after the scandal, Costco responded with their plans and efforts to eradicate the labor abuses in their Thai shrimp supply chains, including joining a coalition that maps supply chains, helps implement transparency systems, and engages with government and industry leaders to create effective policies and legislation to protect seafood workers.

<sup>228,229,230</sup>

### COSTCO'S SUSTAINABILITY COMMITMENT

Costco is recognized by many for providing high-quality products to their consumers while maintaining a commitment to ethical sourcing and employee satisfaction, which has earned the company praise and reputation as a leader in corporate social responsibility.<sup>231,232</sup> Some even argue their dedication to a positive social footprint locally and globally has led to a significant competitive advantage.<sup>233,234,235</sup>

More specific to their global and local vendor supply chain, Costco adopted a Vendor Code of Conduct in 1999 and continually audits their production facilities through internal and third-party agencies.<sup>236,237</sup> Reviewing and reflecting on audit outcomes are core to their strategy and these practices largely influence purchasing decisions.<sup>238</sup>

Costco's vendor Code of Conduct prohibits practices such as forced labor, physical abuse, confiscation or retention of workers' documents, recruitment fees, and child labor.<sup>239</sup> To ensure compliance, the company arranges audits of supplier facilities, focusing primarily on private label merchandise or vendors operating in high-risk countries or industries. Remedies and the timeline for vendors to correct violations are determined by the degree of harm. For example, responses to violations may include immediate action, termination of the relationship, ongoing and collaborative work to strengthen supply chain practices, and more.<sup>240</sup>



Costco also works with the Equitable Food Initiative (EFI), a consortium of food buyers, growers, farmworker groups and consumer advocates, to ensure that Costco's agricultural products meet high labor, environmental, and food safety standards. The initiative's objective is to support a "dignified livelihood for farmworkers, a stable and professionally trained agricultural workforce for growers, and safer and more sustainable food for retailers and consumers."<sup>241</sup>

As the second largest retailer in the U.S. (after Walmart), Costco possesses great power and leverage to encourage ethical business practices and change the global culture of supply chain management.<sup>242</sup> The 2014 Thai seafood case revealed to the world that even with a corporate culture dedicated to social responsibility, human rights violations are still possible. This case marks the importance of a truly robust policy that focuses on due diligence and transparency. Costco's approach of working with the supplier to correct violations rather than terminating business outright supports an important operational shift for businesses and demonstrates their commitment to working with their suppliers when possible to address the root causes of labor trafficking.

#### STARBUCKS COFFEE AND FARMER EQUITY (C.A.F.É.) PRACTICES PROGRAM

"I do not believe that any company in America  
can build a sustainable enduring enterprise by  
just embracing profitability."– Howard Schultz,  
Starbucks CEO<sup>243</sup>

Starbucks is a highly successful company with 25,000+ stores and is regarded by many as an industry leader in global sustainability and ethical sourcing.<sup>244, 245, XXXIX</sup> Their foundation as one of the first companies to commit to ethically source 100% of their coffee and treat people well has earned Starbucks a sound reputation. As of 2015, Starbucks had achieved 99% progress toward their goal.<sup>246, 247</sup>

Starbucks' initial commitment to Fair Trade certified products came after a 2000 campaign championed by Global Exchange, following an investigative report by San Francisco's ABC-TV that revealed child labor and poverty-level wages in Guatemalan coffee plantations, some of which sold to Starbucks.<sup>248</sup> Global Exchange responded by writing an open letter to the company, organizing over thirty demonstrations at Starbucks stores across the country, and flooding CEO Howard Schultz's fax machine with hundreds of letters urging

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<sup>XXXIX</sup> As of October 2, 2016, Starbucks had 25,085 stores in 75 countries. See: Starbucks. "Starbucks Company Profile." *Starbucks Coffee Company*. Nov. 2016. <[news.starbucks.com/uploads/documents/AboutUs-Company\\_Profile-11.3.16.pdf](https://news.starbucks.com/uploads/documents/AboutUs-Company_Profile-11.3.16.pdf)>

him to serve Fair Trade certified coffee at Starbucks stores. Five days after the demonstrations and onrush of consumer requests, Starbucks committed to stocking Fair Trade.<sup>249</sup>

In 2004, Starbucks developed and launched the Coffee and Farmer Equity (C.A.F.É.) Practices program, which includes over two hundred benchmarks ranging from economic accountability and social responsibility to environmental leadership.<sup>250</sup> The company worked with a large group of stakeholders, including several opposing parties, to develop the comprehensive C.A.F.É. Practices program, which they openly share with the coffee industry and the public.<sup>251</sup>

Among other social responsibility stipulations, C.A.F.É. Practices maintains a zero-tolerance policy that prohibits the use of labor trafficking in their supply chain.<sup>252,253, XL</sup> If it is determined that a supplier is not in compliance with the company's ethical sourcing standard, Starbucks' policy is to work with the supplier to develop and implement a corrective action plan under a mutually agreeable schedule. Failure thereafter to meet these goals are a breach of agreement and may result in cancellation of orders or cancellation of the contract. Cases of gross violations or illegal activities are cause for outright and immediate termination of the contractual and business relationship.<sup>254,255</sup> Furthermore, the supplier scorecard includes a set of complimentary provisions on document retention, minimum wage, and direct payments to workers (prohibiting payments through labor intermediaries), which are intended to protect its labor force.<sup>256,257</sup> Starbucks works with SCS Global Services, an independent third-party to assist with evaluating supplier performance in their C.A.F.É. Practices, Cocoa Practices and the Manufactured Goods program.<sup>258</sup>

As with most large corporations and social responsibility programs, there are limitations to their effectiveness. For example, some labor activists and scholars have alluded that the C.A.F.É. Practices does not meet true consumer standards of ethical sourcing.<sup>259</sup> Critics of Starbucks argue that instead of offering a greater supply of Fair Trade certified coffee they use their in-house C.A.F.É. Practices marque, which has weaker standards and dilutes their accountability.<sup>260,XLI</sup>

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<sup>XL</sup> In addition to CAFÉ Practices, Starbucks' ethical sourcing policy includes the Cocoa Practices program, which seeks to verify the supply chain for the cocoa beans used in their beverages and the Manufactured Goods marque, which is a commitment to social responsibility standards for the merchandise, furniture and other items found in stores. Zero-tolerance language in these respective policies includes involuntary, forced or trafficked labor (in the case of Cocoa Practices) and slave labor, bonded labor, indentured labor or involuntary convict labor (in the case of Manufactured Goods).

<sup>XLI</sup> Counter to this accusation, it was explained to the authors that as of a few years ago, the quantity of coffee needed to supply Starbucks is so large that it is not sustainable to only purchase Fair Trade

Regardless of the various opinions about Starbucks' position on ethical sourcing, as a leader in the global coffee retail market, their corporate values, monetary and operational investment in clean supply chain policies highlights a much-needed shift in our culture.<sup>261,XLII</sup>

#### SUSTAINABILITY AT HEWLETT-PACKARD

In 2014, the California-based technology company, Hewlett-Packard Inc. (HP) initiated a ground-breaking supply chain policy that prohibited suppliers and their foreign labor recruitment agencies from charging fees to potential workers and now offers full disclosure of their suppliers, which is a huge step in the Information and Communication Technology (ICT) industry.<sup>262</sup> HP Inc. was the first U.S. technology company to implement such a foreign labor recruiter policy and it has contributed significantly to their successful corporate social responsibility model.<sup>263</sup> This initiative followed shortly after Verité published a comprehensive report on forced labor entitled, "Forced Labor in the Production of Electronic Goods in Malaysia," which found that in general, unethical recruitment agency practices and costly fees are key practices that led to conditions of forced labor in the ICT supply chains they investigated.<sup>264</sup>

Even though HP's Supplier Code of Conduct already explicitly forbade any "forced, bonded, indentured, involuntary prison labor, slavery or trafficking of persons,"<sup>265</sup> HP worked with Verité to identify and address vulnerable areas in their supply chains, including recruitment. While other sectors such as apparel have wholly or in part addressed unethical hiring practices in their supply chains, HP was the first U.S. ICT company to develop a comprehensive plan accessible to the public.<sup>266</sup>

The new supplier code includes language that sets standards regarding employment contracts (e.g., contracts are between employer and employee rather than inclusive of a third-party, and terms and conditions are accessible in the worker's native language, to name a few), work conditions, wages and working hours, freedom of association, payment of transportation costs and repatriation.<sup>267</sup> HP's code also bans the practices of recruitment fees and document retention commonly used to force labor and violate other human rights.<sup>268</sup> To ensure workers' rights are being upheld, the company requires an anonymous grievance reporting mechanism for HP and supplier employees, customers,

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coffee, which focuses on smaller farms. Similarly, differences in quality assurance standards between CAFÉ Practices and Fair Trade prevent Starbucks from wholly switching to Fair Trade coffee.<sup>XLII</sup> As of March 2013, Starbucks had spent over \$70 million in their comprehensive ethical sourcing program over the past forty years, which includes collaborative farmer programs, C.A.F.E. Practices, farmer support centers, farmer loans, a farming research and development center in Costa Rica, and more.

and others to seek resolution. Furthermore, HP conducts regular internal and external audits.<sup>269</sup>

In regard to foreign labor recruitment, HP's supply chain standard expressly states that: *"Foreign migrant workers shall not be required to pay for their employment" and "suppliers shall maintain adequate controls to ensure that workers have not been charged recruitment or placement fees during their recruitment process."*<sup>270</sup> The policy encourages suppliers to minimize the use of recruitment agencies altogether and instead, hire workers directly. In instances where suppliers must use recruitment agencies, the policy states that the suppliers shall maintain a direct contract with the agents and define the terms and conditions of hiring foreign migrant workers.<sup>271</sup>

In 2016, KnowTheChain benchmarked ICT companies on the "transparency of their efforts to eradicate forced labor from their global supply chains."<sup>272</sup> The companies were evaluated on seven themes: traceability and risk assessment, commitment and governance, recruitment, purchasing practices, worker voice, monitoring and remedy. HP Inc. scored a 72, the highest rating of all 20 major ICT companies covered in the study and Apple scored second place with a rating of 62 out of 100.<sup>273</sup>

HP's initiative to disclose their full list of suppliers, ban the use of recruitment fees, and respond proactively to the Verité report with a third-party comprehensive risk assessment of their supply chain offers our community a model for corporate leadership and ethical sourcing strategy.

#### APPLE SUPPLIER RESPONSIBILITY PROGRAM

Apple, the world's largest information technology company by revenue and by assets,<sup>274</sup> unsurprisingly, has a very complex global supply chain. In line with the general logic of affairs, Apple too has struggled to prevent labor rights abuses in their supply chain as demonstrated by the 2010 and previous worker rights' issues with Apple's supplier, Foxconn and their factories in China.<sup>275,276</sup> Even after public commitments to end labor abuses and edits to their supplier code of conduct that prohibit excessive work hours and unsafe working conditions, labor rights abuses of varying degrees have persisted over the years.<sup>277,278</sup>

Following these investigations, Apple developed what they coined as their Supplier Responsibility Progress Report and incorporated regular audits of their supplier factories into their supply chain management strategy. According to Apple's 2015 Progress Report, the company conducted 633 audits covering 1.6 million workers in 19 countries – 182 more audits than in their 2013 report.<sup>279</sup>

With an interest in preventing conditions known to increase instances of labor trafficking and vulnerabilities in their supply chain, in early 2015, Apple announced that they would

prohibit associated entities from charging workers' recruitment fees.<sup>280</sup> The groundbreaking policy goes even further to hold suppliers that are recruiting foreign contract workers either directly or through third-party agencies responsible for all recruitment-related fees and expenses charged to the workers.<sup>281</sup> Apple requires suppliers who are found in violation of the no-fees recruitment policy to reimburse workers in full, which has resulted in payouts to workers costing \$4.7 million in 2015 and totaling \$25.6 million since 2008.<sup>282</sup>

Despite Apple's initiative, reports of worker rights abuses continue to surface periodically. Skeptics of Apple, such as the China Labor Watch (CLW), caution that according to their findings, some workers in Quanta factories—where the Apple Watch is produced—have reportedly been forced to pay for medical exams and intermediary fees to receive the job.<sup>283</sup>

Regardless of the mixed reception of their supply chain practices, Apple's move to retroactively reimburse the workers for recruitment fees takes their clean supply chain policy to the next level, beyond the electronics industry standard.<sup>XLIII</sup>

ALTA GRACIA

“Three years ago, she never would have imagined life could be so good. The single mother says she was desperately poor, didn't know how she was going to feed her four children and had little hope for the future. But life changed dramatically when she got a job at the Alta Gracia garment factory...”. – Jackie Northam, NPR recounting the experience of Aracelis Upia Montero, employee at Alta Gracia.

The Alta Gracia factory, founded in 2010, challenges the status quo of garment factories in the developing world and defies the race-to-the-bottom mentality. Alta Gracia provides all its workers with a living wage, almost three times the Dominican Republic's mandated minimum wage (8,310 Pesos or approx. 175 USD per month as of June 2017<sup>284</sup>), and good

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<sup>XLIII</sup> In our interview with Shawn MacDonald, CEO of Verité, MacDonald praised Apple's policy regarding repaying workers and explained how including a requirement that the suppliers pay back the workers for unjust recruitment fees incentivizes suppliers to pay close attention to which recruiters they use and to monitor their behavior.

working conditions, and welcomes regular third-party worksite audits to ensure compliance with labor laws.<sup>285,286</sup>

Joe Bozich, CEO of Knights Apparel, the leading supplier of college-logo apparel to U.S. universities and owner of Alta Gracia, credits his approach to the terrifying experience of losing his vision with a diagnosis of multiple sclerosis. Bozich says that experience inspired him to “do more” than just worry about his business.<sup>287</sup> Bozich explained that the experience made him think about all the families who do not have the resources for even basic healthcare. Thus, in 2005, Bozich worked with the WRC to develop the model factory and with industry executive Donnie Hodge decided to take over a factory in the Dominican Republic that had been recently abandoned, leaving 3,500 residents unemployed. Renovations totaling \$500,000 were completed and the factory opened in 2010.<sup>288,289</sup>

Alta Gracia made a meaningful decision to not ask retailers to pay more at wholesale and absorb a lower-than-usual profit margin.<sup>290</sup> Above excessive profit, Alta Gracia values ethical sourcing and human lives.

In a 2014 report published by Georgetown University, Alta Gracia merchandise was reported to perform well in the college bookstore market. It registered approximately \$11 million of retail sales in 2013 and was projected to produce \$16 million in 2014. The report asserts that Alta Gracia’s unconventional business model is proving to be viable and all signs point to a profitable 2015 and beyond.<sup>291</sup>

“Three years ago, nobody had heard of Alta Gracia, and there was no market for this type of product. Now, we’re in over 800 bookstores around the [U.S.],” Bozich says. “We wouldn’t have gone from zero to 807 bookstores if it weren’t for the fact that it was working. Consumers are responding. They’re buying it.”<sup>292</sup>

A Nike spokesperson shared that his company will watch Alta Gracia’s journey “with interest.”<sup>293</sup> In an NPR interview, Bozich communicated that he has been approached by big-name apparel companies wanting to learn more about Alta Gracia.<sup>294</sup>

The University of Washington is one of the top three schools selling Alta Gracia products in the nation. The university marketing and merchandising team reports that customers aware of Alta Gracia’s mission are very supportive and willing to purchase the products.<sup>295</sup>

The implications of Alta Gracia’s success are enormous for the apparel industry. Alta Gracia made a bold decision to put workers before profits and offers a model for other companies to follow. As a young project for Knights Apparel, scholars and industry representatives are watching with interest.

## PATAGONIA CORPORATE RESPONSIBILITY

Patagonia<sup>XLIV</sup> is widely regarded as a socially and environmentally responsible brand whose leadership has awarded them praise and attention from the Obama Administration when their sourcing practices were presented at the White House Forum on Combating Human Trafficking in Supply Chains.<sup>296</sup> Patagonia offers the public accessible insight into their supply chains, is working actively to implement a living wage policy for all company workers, is working to improve the treatment of its second-tier-factory workers where the bulk of labor violations exist, and is reported to be “going far beyond” the industry standard.<sup>297</sup>

Since 2007, the company has encouraged supply chain transparency and informed consumption through their Footprint Chronicles,<sup>®</sup> an interactive web resource that maps the company’s textile mills, factories and farms in its supply chain. The map includes the supplier’s physical address, the goods it produces, and workforce demographics and languages.<sup>298</sup>

Even with their progressive and socially responsible model, in 2012 a third-party audit of raw-material suppliers revealed vulnerabilities in their supply chain. Labor brokers were reported to have charged migrant workers up to \$7,000 to work in the Taiwanese fabric mills included in Patagonia’s supply chain.<sup>299</sup> Considering the company’s positive reputation, the audit’s findings were a surprise to many and like other corporate sourcing examples, highlight the difficulty of managing complex global supply chains even with the best of intentions.<sup>300</sup>

In response to the audits, Patagonia reformed and strengthened their Code of Conduct, revising it to include an even more transparent Footprint Chronicles<sup>®</sup> website, and through their partnership with Verité, has begun to execute a short, medium and long-term strategy to eradicate human trafficking with their Taiwan suppliers.<sup>301</sup> Patagonia is one of a limited number of companies that offers Fair Trade Certified apparel and since the audit, the company has reduced the number of first-tier suppliers from 108 to 75. As a company, Patagonia holds greater leverage when it uses fewer suppliers, as supply chain control is more manageable and orders are larger in each factory.<sup>302</sup>

Patagonia’s outward dedication to social responsibility and supply chain transparency, and efforts to minimize the volume of its supplying factories are model practices. These ethical sourcing policies serve as a catalyst to evolve our global and commercial culture to prioritize the workers creating value in business supply chains.

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<sup>XLIV</sup> Patagonia is not a publicly traded company and therefore has arguably less pressure than publicly traded companies to weigh the shareholder and stock market response against company decisions.

While there are countless companies that practice admirable and effective supply chain management, forced labor continues to flourish globally. Clear and enforceable public policy is needed to eradicate human trafficking.

THE FEDERAL ACQUISITIONS REGULATION (FAR)  
SUBPART 22.17—COMBATING TRAFFICKING IN  
PERSONS

The U.S. government “bears a responsibility to ensure taxpayer dollars do not contribute to trafficking in persons.”<sup>303</sup> -- President Barack Obama, Exec. Order No. 13627, 3 C.F.R. (2012)

The U.S. government is the single largest purchaser of goods and services in the world, totaling approximately \$500 billion in contracts per year.<sup>304</sup> The Federal Acquisitions Regulation (FAR) is used to direct all the U.S. government’s procurement processes and subpart 22.17 prescribes policy for implementing the anti-human trafficking guidelines.<sup>305</sup>

In 2006, under President George W. Bush’s “zero tolerance” approach to human trafficking,<sup>306</sup> FAR subpart 22.17 was enacted to authorize purchasing agencies or departments to terminate a contract if any contract agent engages (directly or indirectly) in human trafficking. The language specifically prohibits:<sup>307</sup>

- (1) Engaging in human trafficking during the period of performance of the contract;
- (2) Procuring commercial sex acts during the period of performance of the contract; and
- (3) Using forced labor in the performance of the contract. See sidebar for additional prohibited activities.

## FAR’s Prohibited Activities

- (1) Destroying, concealing, confiscating, or otherwise denying access to employee’s identity or immigration documents;
- (2) Using misleading or fraudulent practices during the recruitment of employees; or using recruiters that do not comply with local labor laws of the country in which the recruiting takes place;
- (3) Charging employees recruitment fees;
- (4) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment of a foreign worker (with some exceptions);
- (5) Providing or arranging housing that fails to meet the host country housing and safety standards;
- (6) If required by law or contract, failure to provide an employment contract, recruitment agreement, or other required work document in writing. (More detailed requirements apply).

See FAR 22.1703 for additional information.



President Obama amended the provision further with Executive Order (EO) 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, which he signed in 2012. The EO provides greater protection of labor trafficking victims and hold vendors to a higher standard of supply chain management.<sup>308</sup> Effective March 2, 2015, contractors, contractor employees, subcontractors, subcontractor employees and their agents are prohibited from activities enabling human trafficking abuses. For example, the revised FAR requires vendors to certify that their supply chain is free of forced labor and to develop an anti-human trafficking compliance plan.<sup>XLV</sup> The new requirements are interpreted by many to mean the law applies to all contractors and subcontractors, regardless of tier, and irrespective of contract type or value. Noncompliance with the plan can result in termination of the contract, suspension or debarment, and other consequences.<sup>309</sup>

As of December 2016, guidelines for implementing the additional anti-human trafficking policies were being drafted and new tools and personnel needs were being filled to help contractors navigate the new set of regulations.<sup>310,311</sup>

With guidelines and unanswered questions looming, multiple interviewees shared their perspective on anticipated implementation challenges. One such challenge was an interpretation that the FAR now requires vendors to unequivocally certify that there is no human trafficking at any point in their supply chain, which is concerning for many companies. Even companies with high labor standards and effective auditing practices may have cause for concern simply because of the complexity of global supply chains. Some of the policy pundits interviewed further cautioned that the FAR's language regarding terminating contracts and reporting to the Inspector General when violations are suspected or identified may unintentionally discourage companies from analyzing their supply chains closely due to the vendor's concern of media backlash, loss of a contract, or legal liability.<sup>312</sup> For these reasons and others, experts in the field conveyed the importance of governments leading by example. If legislation is developed or government policies are implemented, they should help reframe ethical sourcing as an operational tactic and focus on clean supply chain standards that foster sustained relationships between businesses, governments and vendors.<sup>313</sup> To promote productive relationships and practices, implementation should be executed in tiers.<sup>314,315</sup> The first step would be to identify and respond to immediate risks and then move through the supply chain to refine and implement anti-human trafficking practices.

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<sup>XLV</sup> Compliance plans are required for any portion of a contract that is "for supplies, other than commercially available off-the-shelf items, acquired outside of the United States, or services to be performed outside the United States; and has an estimated value that exceeds \$500,000." FAR 52.222-50(h).

The enhancements to the FAR and anticipated implementation challenges demonstrate how human rights abuses are greatly woven into the fabric of our everyday lives. Therefore, the power of government intervention through financial incentives and public leadership is necessary. As one of the largest national governments to embark on an initiative to create a cultural shift in global business, there are nuances that will need to be refined with the evolution of the policy and practice.

As Robert Stumberg from Georgetown Law shared, the question is not whether supply chain mapping and due diligence are too complex, the question is, where do you start? Supply chain management is a cultural and operational shift. Even for companies with a robust social responsibility practice, supply chain management still requires incentives and support from the public, private and not-for-profit community. Zero tolerance and total elimination of human trafficking is the ideal outcome. To bring about this change, it is important to strengthen and reward companies that do well and want to do more.

The FAR's anti-human trafficking intent and policies represent an important step in supply chain management. The FAR is an example of how public agencies can use their power to encourage all their vendors to value workers' lives and monitor the treatment of workers around the globe.

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#### COALITION OF IMMOKALEE WORKERS (CIW)

The Coalition of Immokalee Workers (CIW), a worker-based human rights not-for-profit organization founded by the farmworker community in Immokalee, FL, introduced a revolutionary program that redesigned Immokalee's agricultural industry's approach to labor rights monitoring. The Fair Foods Program (FFP) brings together farmers, farmworkers, and retail food companies to "harness the power of consumer demand, give farmworkers a voice in the decisions that affect their lives, and to eliminate the longstanding abuses that have plagued agriculture for generations."<sup>316,XLVI</sup> The unique and highly successful component of the FFP's monitoring system is its grass-roots approach to auditing. The Fair Food Standards Council (FFSC), the arm responsible for monitoring, completes off-site audits including interviews at workers' homes and on morning bus rides to facilitate honest dialogue. The council also provides education to workers about their rights, which subsequently empowers workers to use the 24-hour complaint hotline included in the program, requires timely investigations for worker complaints, and offers compliance resources for buyers and growers.<sup>317</sup> In addition to farm worker interviews, the FFSC audits member farms' payrolls to ensure that the workers receive appropriate

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compensation and the buyer's supply chain records to affirm that they are exclusively sourcing Florida produce from FFP participating growers in compliance with their contract with the Fair Food Program.<sup>318</sup>

Since the inception of the Fair Food Program in 2011, the FFSC has interviewed over 12,000 workers, resolved 1,100 worker complaints, and received nearly \$20 million in fair food premiums, which are collected from tomato buyers.<sup>XLVII,319</sup> The program is backed by binding agreements between the CIW and some of the largest tomato buyers in the world, including Subway, Walmart, Trader Joe's, Chipotle, Burger King, Taco Bell, McDonald's, and more.<sup>320</sup> The CIW's work has been praised by leaders such as Secretary of State John Kerry, President Bill Clinton, President Jimmy Carter, as well as the New York Times, the Washington Post, and the UN Working Group on Business and Human Rights.<sup>321</sup>

The success of the Coalition of Immokalee Worker's programs stems from a structure that combines binding agreements, fair food premiums and market incentives with worker education, complaint mechanisms, and audits. This creates a comprehensive labor rights monitoring system powered by the people.<sup>322</sup> This past 2015-2016 season, the FFP expanded for the first time into crops other than tomatoes and with the help of Walmart, Compass Group and Whole Foods, the FFP will now work with several major strawberry and bell pepper growers in Florida. Also in the summer of 2015, the FFP extended operations to growers in Georgia, North Carolina, South Carolina, Virginia, Maryland and New Jersey.<sup>323</sup>

The Fair Food Program and Fair Food Standards Council offer a successful and proven model of monitoring and supply chain management that has the potential for tremendous impact if replicated nationwide and across industries.

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<sup>XLVII</sup> The Fair Food Program includes a wage increase supported by a "penny per pound" price premium that participating buyers pay for their tomatoes. The premium collected goes directly to farmworkers on participating farms.

## THE CALIFORNIA TRANSPARENCY IN SUPPLY CHAINS ACT (THE ACT)

"She [the trafficker] told me she could kill me and no one would ask her for me. She told me dogs have more rights than I have in this country."– Florencia Molina<sup>324</sup>

Florencia Molina worked 4am to 9pm sewing garments for well-known department stores.<sup>325</sup> After painfully long days, she retired to a thin mattress on the floor that she shared with her peer, also a victim of human trafficking. Every day of her captivity, Molina was fed one meal per day, always rice and beans.

Molina is a Mexican national and mother of three children, who like all caring parents, was searching for the means to provide for her family. In Mexico, Molina worked two jobs and studied sewing, but still could not make ends meet – particularly after her ex-husband kicked her and her children out of the house.<sup>326</sup> What seemed like a prize opportunity at the time, Molina's sewing instructor connected her with an American woman who promised her a good job as a seamstress with a decent salary and housing.<sup>327</sup> Shortly after she accepted the opportunity, travel arrangements were made and Molina made her way to the U.S., planning on staying no more than six months — just long enough to earn enough money to return to her children in Mexico and open a sewing shop.

Upon arrival in Southern California, she knew she was in trouble. Molina's boss confiscated her identification and immediately instilled fear of law enforcement in her and her peers. The factory entrances were locked during the day and watchmen guarded the doors at night, prohibiting anyone from escaping.<sup>328</sup>

Molina's wages were withheld under the guise of repaying the debt she had incurred during the trip from Mexico to California, which further bonded Molina to her employer. Molina's boss threatened to harm her if she tried to contact the authorities and forbade her to communicate with her family back home.<sup>329</sup> In an interview with *Ms. Magazine*, Molina recounted her trafficker's words, "she told me she could kill me and no one would ask her for me. She told me dogs have more rights than I have in this country." Day after day Molina and her peers were abused and threats to the lives of their loved ones back home were used as psychological warfare.<sup>330</sup>

One sweet Sunday morning, forty days into the abuse, Molina was permitted to attend a church service and without looking back, she escaped. Molina reported the traffickers to the FBI, who connected her with the Coalition to Abolish Slavery & Trafficking (CAST) for services.<sup>331</sup> Molina's trafficker got off easy with a labor abuse type charge and a light sentence of six months' house arrest.<sup>332</sup>

Since her escape, Molina has become a well-known community activist and outspoken advocate for survivors of human trafficking. Molina received a T-Visa, a special status created as a part of the 2000 Trafficking Victims Protection Act (TVPA) to allow trafficking victims to remain in the U.S. Later Molina applied for permanent residency. Molina's children have since joined her in California.<sup>333</sup> She is a leader in the CAST survivor network, was a champion of California's Transparency in Supply Chains Act, was recently recognized by President Obama, and was appointed to the United States Advisory Council on Human Trafficking.<sup>334</sup>

Using Molina and countless other cases of forced labor as motivation, the California Transparency in Supply Chains Act (the Act) exemplifies a groundbreaking shift in State leadership and California's relationship to corporate sourcing practices. Passage of the law illustrated to all states that California recognized the normalcy of human rights abuses in manufacturing retail items, identified its relationship to forced labor as a heavily traded state, listened to its constituents, and responded with legislation to help consumers make informed choices and solidify the State's opposition to enabling trafficked labor.<sup>335</sup> The Act offers a template of requirements for manufacturers and retailers with gross sales over \$100 million. The requirements are to disclose their verification, audits, certification, internal accountability, and training efforts related to human trafficking in their product supply chains.<sup>336</sup> For this reason, supporters of the Act praise the law's far-reaching impact and impetus for a nationwide conversation.<sup>337</sup>

As the first state in the nation to pass such a measure, California's law offers other states a wealth of lessons and perspectives. One significant limitation of the Act is that it requires companies to disclose their efforts but does not require companies to actually investigate their supply chain and make corrections as necessary. Rather, a company can disclose that it is not taking any action to prevent human trafficking and still be in compliance with the law. Advocates for greater impact encourage strengthening the Act and similar legislation to require companies to go a step beyond disclosure and diligently evaluate their supply chain as well as resolve areas of risk and abuse where present.<sup>338</sup> As of September 30, 2015, KnowtheChain identified 500 of the 1,700 companies they believed were required to comply. Unfortunately, only 155 (31%) were reported to have had a disclosure statement in compliance with the Act's requirements.<sup>339, XLVIII</sup>

Enforcement mechanisms are another significant limitation of the law. As the Act is written, the Attorney General (AG) has exclusive authority to enforce the law through injunctive relief, which essentially is an order to take action.<sup>340,341</sup> Advocates instrumental in creating the laws explained how their ideal situation was to include a private right of action, which

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<sup>XLVIII</sup> SB 657 does not require that the names of the companies that are subject to the law be made public, making it difficult for third-parties to track compliance.

offers citizens the authority to bring a lawsuit and in theory, offers some relief to the AG's office as the sole enforcer, but ultimately, this was negotiated out of the final language.<sup>342</sup>

In addition to the lack of depth in requirements and enforcement, additional perspectives on how the Act can be enhanced include the following steps:

- Require the AG's office, Tax Franchise Board, or appropriate office to release a list of companies required to comply with the Act to further encourage transparency and accountability;<sup>343</sup>
- Include services in the definition of supply chains to encompass the treatment of workers such as janitorial staff, hospitality and restaurant workers, and others as a link in the supply chain of facilities;
- Include clear implementation dates and definitions, and if using similar language, define what "visible on the website" means;<sup>344</sup>
- Include a fine for companies not in compliance that can generate revenue for the State for monitoring and enforcement;<sup>345</sup>
- Include a bi-annual renewal of disclosures or certification that the company's existing disclosures are current, functioning, and accurate;<sup>346</sup>
- Create a task force of key stakeholders to support implementation, evaluation, and evolution of policy to facilitate compliance;<sup>347</sup> and
- Require transparent enforcement, including access to complaints filed, actions sought, and penalties imposed.<sup>348</sup>

California's Supply Chain Transparency Act is an important first step towards a higher standard of corporate transparency and draws attention to supply chain practices, which has led to drafting Federal legislation. Furthermore, the Act could hold companies responsible for false statements in their disclosures, although there has not been a successful case to date.

#### CALIFORNIA CLIENT EMPLOYER LAW

In 2014, California passed what was coined a "client employer" law (AB 1897) that imposes civil liability and legal responsibility on certain businesses for violations of wage-and-hour laws regardless of layers of contractors and subcontractors.<sup>349</sup> Qualifying businesses include: "a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor".<sup>XLIX, 350</sup>

According to California Labor Commissioner Julie Su, the law has the potential to be very powerful. Furthermore, the client employer statute surpasses the implementation

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<sup>XLIX</sup> Exceptions include: 1) A business entity with less than 25 workers, including those hired directly or provided by a labor contractor, 2) a business entity with five or fewer workers supplied by a labor contractor or labor contractors at any given time, or 3) the state or any political subdivision of the state, including any city, county, city and county, or special district.

challenges of the previous joint employer laws, as it eliminates some of the ambiguous language and arduous requirements of proof that limit the other laws.<sup>351,L</sup>

While it is a powerful law in its own right, we have identified two significant opportunities for strengthening California's client employer law. First, the contracted labor must occur within the usual course of business of the employer, which may not capture all populations vulnerable to exploitation. For example, if a potato farm owner hired a contractor to fix the office air conditioner, that transaction is arguably not within the farm's usual course of business. If a farm owner used contracted farm laborers during harvest season to pick potatoes, that transaction would presumably be within the usual course of business and thus, those workers would presumably be protected under the law. Secondly, the contracted labor must occur on the business' premises, which seemingly limits the scope, as it is common for goods to be manufactured in a third-party facility, such as a factory, and not the brand's headquarters or storefront. Expanding the law to capture the true scope of supply chain workers would make this already influential law a more effective tool for litigation focused on labor abuse.

As a new law, Commissioner Su explained that its enforcement is still underway, but expressed excitement and hope that the law will offer meaningful advancement to workers' rights. California's client employer statute holds great promise and provides a template for other states to strengthen the connection between corporations and the workforce. If enforced and implemented in Washington State, the client employer law would support a cultural change to enhance the employers' responsibility to honor the human rights of all who help businesses be successful.

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<sup>L</sup> When a business is classified as a joint employer, they are liable for their workforce and compliance with pertinent labor laws. Along with a host of conditions, the U.S. Department of Labor highlights two common joint employment scenarios: (1) Horizontal Employment: "the employee has two or more technically separate but related or associated employers" and (2) Vertical Employment: "where one employer provides labor to another employer and the workers are economically dependent on both employers," which is commonly used in industries such as agriculture, construction, warehouse, logistics, and others. Proof of joint employment is determined through a series of broadly defined criteria that contribute to the degree of association between potential joint employers and employees.

In 2008, a University of Washington (UW) faculty member led graduate students from the Evans School of Public Policy and Governance (formerly, School of Public Affairs) to a factory visit in Guatemala City. While traveling, they discovered that roughly 1,000 workers producing apparel for Champion/Hanesbrands, Phillips Van Heusen, and other brands for U.S. universities had a significant portion of their promised severance pay withheld when the Estofel factory closed. As a member of the Worker Rights Consortium (WRC), the UW played a significant role in resolving the case.

Disturbed, the UW promptly audited its vendor agreements to discover that its licensee, Gear for Sports Inc. (GFSI), used the Esotel factory in 2007 to produce 13,000 units of blank sweatshirts that were later branded and embellished with the UW logo in the United States. In light of this information, the UW administration championed the effort to rectify the labor rights violations. The UW helped convene an ad hoc group consisting of the WRC, the Fair Labor Association, Gear for Sports, Hanesbrands, and the Collegiate Licensing Company. The WRC conducted an in-depth investigation of Estofel and hired a fellow labor rights monitoring organization to determine the value of wages lost. As a member and with the weight of the WRC, the UW held steadfast to their commitment to uphold workers' rights and honored this resolution until payments to the workers in question were issued. In the end, 95% of the workers affected were located and a total of \$534,288 was distributed in back pay.<sup>352</sup>

Founded in 2000, the Worker Rights Consortium (WRC) is an independent labor rights monitoring organization that conducts investigations of working conditions in factories around the globe. The organization is a product of a student and consumer led movement, United Students Against Sweatshops, in consultation with workers and human rights groups that demanded improved working conditions for workers producing collegiate apparel.<sup>353</sup>

To date, 186 universities and colleges have signed on and agreed to a code of conduct developed by the WRC. The code involves schools requiring their licensees (for example, Nike, Reebok, Under Armour, and Gear for Sports) to adhere to the following conditions: they ensure the human rights of all workers in their supply chains are protected, they verify workers are receiving a living wage and are offered the right to organize when the source country permits, they comply with public disclosure requirements, and they permit independent third-party monitoring.<sup>354</sup>

The collaborative licensing model that the WRC facilitates is one of praise. Serving as an independent, third-party support system, the WRC binds affiliate schools together and provides the institution members with the information and tools to collectively support



improved factory working conditions. The successful resolution in the Estofel factory case is one example of how transparency, information sharing and collective action can institute positive change and favorable outcomes for workers.

Funded through an affiliation fee, WRC is able to conduct audits, publish unbiased reports, and organize a collective response when the integrity of its collegiate partners' supply chains is compromised.

#### DELL AND SWEDISH COUNTY COUNCILS CASE STUDY

“Findings of human rights and labor rights violations in the supply chain should influence companies' overall business activities, not just corporate social responsibility programs.” – Swedish County Councils

As the University of Washington's involvement in the Worker Rights Consortium illustrates, collaborative contracts yield great power and leverage.

The Swedish County Councils' relationship with Dell offers a similar case for a smart, best practice. The Swedish County Councils are collectively responsible for the procurement of products and services valued at more than €13 billion, many of which are commodities made wholly or in part by factories abroad and in industries known to be vulnerable to human rights abuses, such as forced labor and sweatshops in the Information and Communications Technology (ICT) sector.<sup>355</sup> Acknowledging the country's ethical responsibility to its citizens and to our global community, the Councils established the Social Responsibility in Public Procurement Network, which represents the Country's 21 county councils.<sup>356</sup>

All 21 county councils use the same code for labor standards and contract performance conditions. The network evaluates supply chains, engages with suppliers and takes action collectively, all of which offer more negotiation power to each county and have resulted in more transparent supply chains.<sup>357</sup> To facilitate nationwide coordination and social auditing work by Electronic Watch, each council contributes €0.04 per capita.

In 2013, the Danish nonprofit organization, DanWatch, released a report highlighting labor rights and safety violations in four electronic factories in China that supply various electronic brands, including Dell, ASUS, HP, Samsung, Microsoft, and IBM.<sup>358</sup> At the time, the Stockholm County Council (and others) held a contract with a reseller, Atea, for computers worth €17 million, many of which are supplied through Dell. Promptly after this report was released, the county council network contacted Dell to confirm their supply and start the arduous process towards reconciliation.<sup>359</sup>

The DanWatch report uncovered that laborers were required to work excessive hours, up to 74 hours per week, were subject to forced overtime and wages below the local legal minimum wage, and had worked under inadequate occupational health and safety conditions.<sup>360</sup> Over the course of approximately two years, the Social Responsibility in Public Procurement Network worked with Atea and Dell to resolve most of the labor rights violations in their factory suppliers. The resolution included strengthening Atea's and Dell's due diligence to ensure their supply chains were acceptable, improving risk identification, increasing supply chain transparency and supporting a more robust monitoring practice. Through this process, important lessons were learned that can be used to support other public agencies with an appetite to curb human rights violations in their vendor's supply chains (See Sweden County Councils Lessons Box for more information).<sup>361</sup>

## Lessons Learned by the Swedish County Councils

Lesson 1: Legally binding contract performance clauses that require human rights due diligence are necessary to hold contractors accountable.

Lesson 2: Long-term contractor engagement may be necessary to improve human rights due diligence.

Lesson 3: Public buyers should strive to increase leverage through collaboration to address difficult-to-solve violations.

Lesson 4: Suppliers should also strive to increase leverage to exercise human rights due diligence effectively.

Lesson 5: Public buyers should build the internal capacity to hold contractors accountable for their failure to perform human rights due diligence.

Lesson 6: Resellers and distributors are capable of exercising effective due diligence.

Lesson 7: Transparency is a necessary step to improving human rights due diligence.

Lesson 8: Public transparency is important to the integrity of socially responsible public procurement systems.

Lesson 9: Public buyers need the capacity to verify factories' compliance with human rights and labor rights standards independently of the industry and through engagement with workers.

Lesson 10: Findings of human rights and labor rights violations in the supply chain should influence companies' overall business activities, not just corporate social responsibility programs.

## MADISON SWEATFREE PURCHASING POLICY AND COOPERATIVE CONTRACT

In early 2016, the City of Madison, WI opened a Request for Proposals (RFP) for a uniform rental contract valued at \$750,000 annually and included a set of sweatfree compliance requirements. On the first pass, the City received zero proposals. The City released the RFP a second time, and did not receive any proposals. Surprised, the City reached out to their contacts at different companies. In sincere conversations, the companies expressed that while they support the spirit of the sweatfree requirements, they were reluctant to commit the resources required to track their supply chain without an intent to contract agreement. Further conversation revealed that one of the companies in particular did not want their factory disclosures as public record, but that was not an accommodation that Madison was in a position to negotiate. Madison re-opened the RFP a third time, amending the language and outlining that additional information about vendor supply chains was required if the vendor is selected. In this round, they did receive a promising proposal. After six months of negotiations, the vendor was not able to sign a contract based on the City's affirmative action policy. The City of Madison is still working to find a vendor to sign a contract for Uniform Rentals.<sup>362</sup>

Madison's sweatfree ordinance, effective since 2005, offers the public a model of dedication and a wealth of lessons learned from their experience with their uniform rental contract. Among a variety of standards, Madison's ordinance encourages contractors to pay employees a "dignified fair wage for workers and their families," limit workers' hours to no more than a 48-hour work week, pay hourly workers overtime at a premium rate, and prohibit child labor and forced labor, along with a number of other provisions.<sup>363</sup>

The terms of their sweatfree purchasing ordinance apply to all apparel contracts over \$5,000 and require that bidders effectively conduct a risk assessment of their supply chain from the points where textiles are manipulated to the distribution point.<sup>364</sup> Contracts are awarded on five-year terms and the apparel includes police, fire and metro driver uniforms, including ballistic vests (fire safety and fire-retardant apparel is currently under review by the Committee). Interested bidders are required to work with their suppliers to disclose the factories used and share information about the employment conditions of workers along the production value chain. Bidder disclosures include workers' pay rates, benefits, standard work hours, overtime eligibility, and more.<sup>365</sup> All this information is collected before the contract is signed and sent to the Sweatfree Purchasing Consortium<sup>LI</sup>

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<sup>LI</sup> The Sweatfree Purchasing Consortium (SPC) is a membership organization for public entities that seek to purchase apparel and related products made under ethical working conditions. The SPC's mission is to end public purchasing from sweatshops and to aid its members in making informed sweatfree purchases at reasonable prices.

as a way for the Sweatfree Purchasing Committee to verify that no known bad-actor factories are being used.

Madison uses a tiered approach to compliance where during the course of the contract the city works with the vendor to increase their compliance threshold each year (established at the initial bidding qualification phase).<sup>366</sup> Furthermore, each contract with a total value of \$25,000 or more is required to include a compliance plan, which states what the vendor would do if they were found in breach of the ordinance.<sup>367</sup> Because sweatfree purchasing is still a relatively young practice, at present, vendor compliance is monitored through a complaint mechanism and the aforementioned pre-award bidder disclosure screening.<sup>368</sup>

Built into the ordinance is a finance system in which a percentage of the contract value is allocated to a monitoring and enforcement fund.<sup>369, LI</sup> According to Kathy Schwenn, a member of the City's purchasing team, the rebate system has not seemed to have had an impact on sale price.<sup>370</sup>

As the Swedish County Councils discovered, collaboration and a long-term, sustained relationship with vendors are crucial to the success and ease of supply chain mitigation. Once vulnerabilities are identified in a supply chain, as with the Dell case, it takes time and resources from all parties to resolve the issue. Because global supply chains are complex and interwoven, a sustainable resolution will most likely require an operational change and a commitment of all relevant parties.

Replicating Sweden's collaborative procurement approach nationally and across industries would undoubtedly be a great challenge with great benefits, which is why the City of Madison has initiated a small-scale pilot collaborative program. Over the past year, Madison has negotiated with Galls Inc. in consultation with the Sweatfree Purchasing Consortium to develop a contract for apparel typically purchased by Fire, Metro Transit, Police and other municipal operations agencies. Public agencies are welcome to join this pre-vetted contract, which will help stimulate a collective movement and support ethical procurement. With the purpose of creating a collective fund to support monitoring and evaluation of Galls and their subcontractors, the contract includes the City's rebate funding model.

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<sup>LI</sup> 2.8.1. The awarded vendor for apparel, footwear or textiles by the City of Madison as a result of this solicitation shall be subject to a rebate fee structure as follows:

- 1% rebate as the proposed incentive provided by the Contractor when the total volume of purchases reaches \$100,000.
- 1-1/2% rebate as the proposed incentive provided by the Contractor when the total volume of purchases reaches \$200,000.
- 2% rebate as the proposed incentive provided by the Contractor when the total volume of purchases reaches \$300,000.

Madison’s experience with the uniform rental contract highlights a pragmatic solution to the logistical and operational challenges of a robust commitment to eradicate human trafficking from public supply chains. The City worked with vendors to assess the best option to meet both their needs, ultimately agreeing to vet vendor compliance plans in the final stages of contract negotiations. Furthermore, the budget neutral rebate incentive, the commission committed to advancing the City’s social footprint, their progressive approach to compliance, and their cooperative “piggyback” contract with Galls Inc. offers governments an innovative model for public procurement.

#### SAN FRANCISCO AND LOS ANGELES SWEATFREE PROCUREMENT

Through action and financial commitment, Los Angeles and San Francisco<sup>lIII</sup> offer the sweatfree procurement movement policies on supply chain monitoring. Their policies include living wage provisions as well as monitoring and enforcement mechanisms that are necessary for a robust clean supply chain policy.

The City of Los Angeles adopted the first iteration of their Sweatfree Procurement Ordinance in 2004, which requires vendors to comply with a code of conduct that includes a living wage and compliance with internationally recognized human and labor rights, and prohibits child labor, labor trafficking, and other forms of forced and exploitative labor.<sup>371</sup> Rather than using a certification tool that procurement officers feel draws concern for pragmatic implementation, the policy requires that contractors “take good faith measures” to ensure subcontractors also comply with the City’s Code.<sup>372</sup>

About a year later, the City of San Francisco instituted a similar policy, with arguably firmer statutes that included certification-style language and the creation of a Sweatfree Advisory Group. The group is comprised of city representatives as well as citizen stakeholders who are jointly responsible for working through implementation challenges and overseeing enforcement.<sup>373</sup>

Both Los Angeles’ and San Francisco’s Sweatfree Ordinances stand out among others for their strong enforcement arms, which are made possible through a \$50,000 contract<sup>374</sup> with the Worker Rights Consortium. The WRC offers suppliers and subcontractors (foreign and US-based) on-going monitoring, enforcement support, and general consulting services.<sup>375</sup> At present, it is our understanding that the City of San Francisco has paused their contract with the WRC, as they are undergoing an in-depth evaluation and potential overhaul to strengthen their sweatfree purchasing policy. Items currently being deliberated include incentivizing vendors that employ clean supply chains with longer

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contracts (which also supports a stronger working relationship) and initiating contracts with Source America and the National Industry for the Blind – two US non-profits designated by the U.S. AbilityOne Commission– to manufacture the City’s apparel.

Similar to Madison’s experience, the City of San Francisco initially struggled with holding a policy so strict that it dissuaded potential vendors from bidding.<sup>376</sup> Recognizing this implementation challenge, the City moved toward a scoring process where bids were evaluated from the vendors most able or willing to comply with the ordinance. This amendment to the policy has offered a solution for the time being and has stimulated an important conversation regarding the balance between a policy that is intentionally strong versus one that is cautiously pragmatic, which limits the potential for impact.<sup>377</sup>

The power behind language that is intentionally strong, such as certifying the absence of labor abuses in all aspects of a supply chain, is that it forces vendors to be serious about using only ethical suppliers and building human rights values into their business practice. If universally applied, this approach has the potential for a profound impact on how vendors with public contracts manage their global supply chains. Alternatively, as some cities have shared with us, a zero tolerance policy without an adequate infrastructure conducive to supporting change, monitoring compliance, and effective enforcement is problematic. Therefore, it is important for public procurers and corporate buyers alike to invest in a reputable independent, 3<sup>rd</sup> party contractor with the expertise and capacity to promote a clean supply chain initiative.

Recognizing the challenges of an unforgiving certification, public agencies can take an alternative approach by crafting a policy that continues to hold vendors and their subcontractors accountable through a mutually agreed upon and legally binding contract. This contract should support a sustained relationship to provide time for vendor due diligence and positive change. For example, policy language should require an in-depth review of the vendor’s supply chain followed by a requirement to produce and execute an enforcement plan that is reasonable and action-oriented.

Costco, the City of Madison, the Swedish County Councils, the Coalition of Immokalee Workers, Worker Rights Consortium and others all offer public agencies a best practices template for working with their vendors to produce positive results over time.

#### PROCUREMENT STATUS QUO IN WASHINGTON

Washington is currently operating on a \$93.7 billion biennial budget, presumably some of which is invested in goods produced or services performed under conditions of labor trafficking.<sup>378</sup> In Fiscal Year (FY) 2015, the State spent an estimated \$4.3 billion on goods and services, which covers items such as supplies and food at colleges and universities, and

small equipment.<sup>379</sup> Furthermore, \$2.2 billion was spent on capital expenditures, which paid for highway construction (\$1 billion), buildings (\$316 million), architectural & engineering services (\$263 million), and more<sup>380</sup>.

All State-sponsored purchasing (except for Higher Ed, RCW 28B.10.029) is centralized with the Washington State's Department of Enterprise Services (DES). A massive overhaul of state procurement in 2014 (RCW 39.26) consolidated the existing practices and made the whole procurement process "more transparent, competitive and efficient."<sup>381</sup> The reform charged the DES director with the responsibility to establish policies that delegate procurement authority to state agencies, as well as specify dollar thresholds and types of goods and services. Currently, agencies are responsible for their own specific procedures, but all are rooted in DES's prescribed policies.

There are several options for businesses to contract with the State, such as through convenience contracts or cooperative purchasing agreements, but the DES's most highly recommended option is to apply for a master contract.<sup>382</sup> A master contract<sup>LIV</sup> is a contract for specific goods and services, solicited and established by the department in accordance with procurement laws and rules on behalf of and for general use by agencies. These contracts are designed to make it easier for various public agencies to focus on their mission by offering accessible contracts that have already been negotiated to meet state requirements.<sup>383</sup>

Through master contracts, the State has the power to leverage change within its vendors' supply chains. DES maintains master contracts with several leading technology companies, such as Dell, HP Inc., IBM, and Microsoft. Between 2014 and 2016, one of Washington's largest electronics vendors, Dell, held a master contract with the State valued at approximately \$181 million.<sup>384</sup> In this period, as many as 102 cities used the Dell master contract along with 494 other public entities.<sup>385</sup> Similarly, between 2014 and 2016, HP Inc.'s master contract was valued at approximately \$128 million and 84 cities in Washington used the contract, including the City of Seattle and numerous towns and counties.<sup>386</sup>

At present, Washington State does not have a law mandating that State agencies procure from sweatfree or otherwise ethically sourced vendors. However, DES did begin the process of preparing a sweatfree purchasing policy informed by the Sweatfree Purchasing Consortium when DES was overhauled. Currently, DES requests that departments purchase sweatfree when possible, but it has yet to formally ratify and implement the policy.<sup>387</sup>

Recognizing the great importance for local governments to support ethical companies and disable the use of unethical labor practices in their supply chain, both the Cities of Olympia

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<sup>LIV</sup> RCW 39.26.010

and Seattle manage sweatfree guidelines. These Cities offer the State lessons on pragmatic implementation and enforcement.

#### CITY OF SEATTLE SWEATFREE PROCUREMENT

The City of Seattle Purchasing and Contracting Services department oversees a revenue neutral policy championed by Councilmen Nick Licata and Tom Rasmussen and now Councilwoman Lisa Herbold in 2010.<sup>388</sup> The policy requires uniform textile vendors – with contracts valued at \$49,000 or more, per Seattle Municipal Code 20.60.106 – and their subsequent subcontractors and manufacturing plants to comply with a code of conduct.<sup>389</sup> <sup>390</sup> This code includes provisions such as labor standards, freedom of association, and prohibition of forced and child labor. Furthermore, the code includes an agreement that the vendor will hire and pay for a Fair Labor Association-accredited third-party monitoring agency to evaluate and support improvements to their supply chain if a complaint has been filed.<sup>391</sup> To date, it is our understanding that no complaints have been submitted and therefore, no monitoring has been required by the policy guidelines.

While the policy was originally intended to apply to all apparel, because of the way purchasing is structured, first-year law enforcement officer uniforms are the only eligible apparel product included in the statute.<sup>392</sup> For most other apparel such as construction and law enforcement uniforms, the City either rents or provides an allowance for individual workers to purchase their own clothing. Bidding for uniform contracts opens every five years with an opportunity for a five-year renewal. The City has experienced one round of sweatfree bidding and shared that the quantity and value of bids received were not noticeably impacted by the added requirement for vendors to uphold clean supply chains.<sup>393</sup>

The City of Seattle shows great leadership by adopting a sweatfree purchasing policy, a promising step for Washington's largest city. The realization of the policy's practical scope highlights the importance of expanding ethical sourcing. Requirements should be monitored and applied beyond garments purchased in rental contracts (where labor is likely local) and to various industries, such as technology, where forced labor is rampant and contract amounts are significant. The adoption of a sweatfree purchasing policy that applies beyond apparel will offer greater leverage and impact.

#### CITY OF OLYMPIA SWEATFREE PURCHASING RESOLUTION

The City of Olympia initiated their first version of a sweatfree purchasing policy in 2004 as a two-year pilot program that included ball caps, t-shirts, and sweatshirts.<sup>394</sup> Under this policy, vendors were required to self-report and certify under penalty of perjury that they were not purchasing or contracting with an organization using sweatshop labor. At its onset, this policy was problematic for City contract bidders. Although they applauded the



spirit of the policy, they also recognized the possibility that somewhere along the supply chain a person may be exploited,<sup>LV</sup> hence some were uncomfortable certifying under absolute terms. Ideas such as offering preferential treatment to those who could certify were discussed, but as a code city, Olympia was not able to devise such a strategy.<sup>395,LVI</sup> Following the pilot program, the City voted to uphold the policy as a resolution to purchase sweatfree whenever possible. This vote signified their interest in preserving the human rights of all those impacted by City purchasing.

The City of Olympia offers our community some perspective on operational hurdles they experienced in pragmatic implementation and impact, including:

- Decentralized purchasing: Although the threshold for a purchase order to require a competitive bid is \$50,000, contracts are managed on a departmental level. Therefore, the City's collective leverage is limited to individual department contracts. For example, a vendor could have three separate contracts with City of Olympia departments, all worth \$45,000 and totaling \$135,000, but not be required to use suppliers practicing ethical sourcing because the individual contracts are under \$50,000.
- Limited contract length: Variable contract lengths limit the City's power to affect change, as remediating an issue may take longer than the life of the contract.
- Hesitation from bidders: Unforgiving policy language presumably made some potential bidders wary about certifying the actions of operators deep within their supply chain.
- Capacity for enforcement: Personnel and financial resources limit the City's ability for meaningful monitoring and enforcement.

Given the realities of the City's size and infrastructure, which we suspect is true for many agencies in Washington State, state guidelines with master contracts vetted for forced labor and ethical treatment of workers would be very useful. Such leadership from the State would help mitigate the capacity limitations of cities like Olympia by reducing the workload on municipal governments and offer greater leverage for change rather than purchasing in silos. Furthermore, master contracts vetted by the State will help alleviate the issue of limited enforcement due to contract length because encouraging vendor supply chain management practices could be influenced in a collaborative way.

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<sup>LV</sup> Similar to City of Madison vendor RFP experience

<sup>LVI</sup> RCW 35A.01.035, "Code city" means any city without a charter. Code cities possess a great degree of control under their local self-government, but must not violate any provisions in state constitution or law.

In our interviews, we found that hesitation from vendors, buyers, brands and other businesses to assume ownership of their entire supply chain appeared as a reoccurring challenge. We recognize that the solution to this problem is multifaceted. One of the reasons that the human trafficking industry continues to flourish is due to the race to the bottom mentality that exists in the corporate world. To eradicate human trafficked labor, both the corporate and civic communities must commit to changing the mentality and culture manifested from the underside of globalization.

Sweatfree and anti-forced labor policies should be created in a way that sets companies up for success; they need to continuously evolve the culture to promote transparency and corrective actions in the supply chain. It is not surprising that a company may not want to sign a legally binding document guaranteeing there is no human trafficking in their supply chain, because the current environment of commerce does not encourage such behavior. Thus, requiring a critical mass of companies to openly map their supply chain and develop solutions to these challenges will affect change. Such strategies must include risk assessment, investment in worker protections, timely resolution of vulnerabilities, due diligence, and accountability. We believe that through government contracts and policies, Washington State can help eradicate human trafficking.

## RECOMMENDATIONS: HOW TO EVALUATE AND MONITOR SUPPLY CHAIN PRACTICES WITHOUT BIAS

Monitoring and evaluation is a necessary but cumbersome exercise that requires the expertise and resources of both private and public entities. Repeatedly, we heard from public procurement professionals and advocates that gathering support to eliminate forced and child labor in State supply chains was relatively easy. The challenging piece of ethical purchasing was enforcement, as monitoring international supply chains exceeds the capacity of many agencies.

Over the years, the market has grown for supply chain diagnostics. Now, there are various organizations dedicated to conducting factory audits. These organizations consult with both private companies and public agencies to ensure their suppliers are operating in accord with human and labor rights standards.

Below are three examples of organizations working with public agencies that we recommend the State of Washington explore as a non-biased contractor to evaluate and monitor vendor practices.

FOR APPAREL MONITORING, WE RECOMMEND CONTRACTING WITH WORKER RIGHTS CONSORTIUM (WRC) FOR MONITORING STATE VENDOR SUPPLY CHAINS

The Worker Rights Consortium is an independent labor rights monitoring organization dedicated to protecting the rights of workers who are making apparel and similar products in sweatshops across the globe for colleges, universities, and cities.

As a means to assist the student movement against sweatshops and forced labor and enforce universities' labor rights code of conduct, university administrators, students and labor rights advocates founded the WRC. Until recently, the WRC had worked exclusively with colleges and universities. However, as a pilot project, the WRC has opened its services to cities, state governments, and school districts. In 2006, the WRC included the cities of Los Angeles and San Francisco in their cohort of affiliate organizations.

The WRC conducts factory audits and in-depth investigations on working conditions, issues public reports, and works with public entities to ensure their vendors comply with their prescribed code of conduct. Furthermore, the WRC includes a living wage provision that applies to all licensees with WRC member institutions.<sup>396</sup> For global workers, the WRC calculates a living wage using figures from the World Bank to define the wages necessary to meet the poverty line in the respective country and adds 20%.<sup>397,398</sup> This supplement is essential, as government-mandated minimum wage rates often do not reflect the true cost of living and substandard wages push individuals into vulnerable positions.<sup>399</sup>

The WRC is funded primarily through college and university affiliation fees and grants from the federal government and philanthropic foundations. The WRC does not accept

contributions from for-profit corporations nor from labor unions, to prevent any concerns about influence in their investigations.

More information about the Worker Rights Consortium can be found on their website: <http://www.workersrights.org/>

FOR ELECTRONIC PRODUCTION MONITORING, WE RECOMMEND CONTRACTING WITH ELECTRONICS WATCH

Electronics Watch is an independent monitoring organization that supports public buyers' efforts to protect the workers in their global electronics supply chain in a financially efficient manner.

Similar to the WRC model, public sector affiliate members pool their resources through Electronics Watch affiliate fees to receive information about working conditions in their supplier's factories and to garner the support to influence change. Electronics Watch includes language and conditions for affiliates to insert in their Information and Communications Technology (ICT) hardware contracts that require contractors to exercise due diligence to ensure labor rights and safety standards are met in factories that assemble or make electronic parts. Affiliate members receive access to an extensive international network of monitoring organizations, the capacity to investigate and reduce risks in electronic supply chains, support for front-line procurement staff to engage contractors on social responsibility in supply chains, and more.

Electronics Watch affirms their monitors are experts in international, regional and national labor laws; occupational health and safety; audits of financial and personnel records; operating independent hotlines or complaint mechanisms; and worker interviewing.

Leading the organization is Björn Claeson,<sup>LVII</sup> who is also the co-founder of the US national advocacy network, Sweatfree Purchasing Consortium, which has been instrumental in dozens of state and local campaign successes aimed at protecting workers' rights in global supply chains. Björn has more than 15 years of experience addressing public procurement and labor rights in global supply chains and was highly regarded by those we spoke with regarding apparel and electronics supply chain procurement.

Electronics Watch began with European Public entities and has broadened its affiliate membership to include the Ethical Culture Fieldston School in New York. The organization welcomes U.S. public agencies.

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<sup>LVII</sup> Björn Claeson is currently director of Electronics Watch, an independent monitoring organization based in Sweden that assists public sector buyers with purchasing in electronics supply chains to meet their social responsibility goals and protect the labor rights of their workers.

For more information, please visit Electronics Watch website:  
<http://electronicswatch.org/en>

FOR FOOD PROCUREMENT MONITORING, WE RECOMMEND EXPLORING THE SERVICES OF THE GOOD FOOD PURCHASING PROGRAM AND BUILDING COALITIONS ON THE GROUND

The Good Food Purchasing Program (GFPP) aims to transform the way that public institutions are purchasing food, while also growing the market for fair, humane, local, nutritious, and sustainable sustenance. The GFPP provides a metric-based, flexible framework that encourages public institutions to direct their buying power to uphold five core values: local economies, environmental sustainability, valued workforce, animal welfare and nutrition. The Good Food Purchasing Program provides a comprehensive set of tools, monitoring, technical support, and a rigorous verification system to assist institutions meet their goals over time.

Once an institution adopts the Good Food Purchasing Policy, they work collaboratively with the Center for Good Food Purchasing and local lead partner organizations to implement the Program. Implementation involves a baseline assessment, goal setting, progress tracking, and celebrating success. The Center provides resources for affiliate institutions through every step of implementation and adoption.

The Good Food Purchasing program has been implemented by the City of Los Angeles, the Los Angeles Unified School District, San Francisco Unified School District, and the Oakland School District (pending). Campaigns have also been launched in Chicago, New York, Twin Cities, Cincinnati, and Austin. In cities where the campaign is underway, coalitions with local leadership and organizations are in development to prepare for official city involvement. The GFPP has had a massive impact in both local and regional supply chains in Los Angeles, creating over 12 million dollars in locally produced food and 150 new, well-paying jobs in LA County.<sup>400</sup>

The Center for Good Food Purchasing will work with each institution to estimate the amount of time anticipated for participation and develop a customized projection of program costs to the institution in addition to supporting the institution throughout the implementation process.

For more information about the good Food Purchasing Program, visit their website at <http://goodfoodpurchasing.org/>

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Similar to the aforementioned public agency options, private businesses have a variety of industry specific supply chain monitoring and compliance services available to assist corporations. These services typically include consultation on how to meet the requirements of the various federal and state laws governing supply chains and fulfill their

internal ethical sourcing benchmarks. Organizations such as Verité, KnowtheChain, and Perkins Coie's Supply Chain Compliance & Corporate Social Responsibility arm are examples of such monitoring and compliance agencies.

Conversations with industry experts, a review of corporate social responsibility initiatives, and forced labor scandals have underscored the importance of continuous and thorough third-party monitoring to support unbiased data collection of working conditions on the ground. In addition, supply chain mapping is essential to a transparent and rigorous analysis of forced labor risks. As Ben Hensler of the WRC shared, disasters such as Rana Plaza never should have happened. The fact that it did highlights the importance of a system that is transparent and includes independent monitoring.<sup>401</sup>

## RECOMMENDATIONS: HOW TO DESIGN COMPREHENSIVE, PRAGMATIC, AND ENFORCEABLE LEGISLATION ON GLOBAL ETHICAL SOURCING PRACTICES

Human trafficking is a vast and complex trade that requires a multifaceted response often summarized as prosecution, prevention, protection and partnership. Ethical sourcing is one such approach that will in part, address the root causes of human trafficking, promote best practices in clean supply chain management, and incentivize compliance.

Over the past two decades, much meaningful work has been done in the anti-sweatshop movement within garment factories and more recently, in technology manufacturing facilities. Public and private supply chain management and procurement policies have become a widely recognized mechanism for the abatement of labor trafficking and forced labor. This report compiles a collection of knowledge and resources available across the country that Washington can use to develop influential public policy.

Washington is well poised to lead by example. The University of Washington Women's Center recommends the State Legislature introduce and pass legislation that will accomplish the following:

- 1) implement anti-human trafficking public procurement policy that addresses supply chain management;
- 2) encourage corporations with a significant presence in Washington State to transparently and diligently manage clean supply chains;
- 3) strengthen the Washington Farm Labor Recruitment Act;
- 4) contract with a third-party and/or independent agency to monitor and support enforcement of vendor supply chain practices;
- 5) invest in research to map and analyze risk in Washington's current supply chain;
- 6) revive the Joint Legislative Oversight Committee on Trade Policy; and
- 7) leverage Washington Ports as an enforcement mechanism.

Details of the Women's Centers seven recommendations are outlined below.

### ***1. IMPLEMENT ANTI-HUMAN TRAFFICKING PUBLIC PROCUREMENT POLICY THAT ADDRESSES SUPPLY CHAIN MANAGEMENT***

The Women's Center recommends that the Washington State Legislature encourage the Department of Enterprise Services (DES) to develop, implement and enforce an anti-human trafficking procurement policy that requires vendors to map and manage an ethical supply chain. This policy should be informed by the successful practices and lessons learned from existing public and private procurement and supply chain management practices highlighted in the Corporate and Public Leadership: Case studies and best practices in ethical sourcing section of this report (see pages 39-65).

Below is a selection of provisions and management practices that we recommend the Washington Department of Enterprise Services include in their statewide anti-human trafficking procurement requirements:

A. **Collaborate on and monitor contracts statewide.** For optimal impact, we encourage DES to develop and implement a policy that is applied to all contracts, particularly master contracts. Inclusion of anti-human trafficking policies in master contracts will further support affiliated counties, cities, and towns in implementing their respective anti-human trafficking procurement initiatives. Furthermore, we encourage DES to manage their master contracts collectively by using the weight of the total value of business with the vendor to leverage outcomes as Swedish County Councils and the Worker Rights Consortium affiliates' have successfully done.

Additionally, to produce unbiased audits and support, we encourage all applicable vendor supply chains to be monitored by an independent monitoring agency, preferably the Worker Rights Consortium for apparel and Electronics Watch for electronics contracts.

B. **Include anti-human trafficking language in service contracts.** Human trafficking and forced labor are not restricted to international supply chains. Labor conducted to supply a service are also a part of a public or private supply chain, such as laundry services for a uniform rental contract or room service at a hotel. Therefore, anti-human trafficking supply chain management practices should be extended to contracts related to the procurement of services in addition to goods.

C. **Include language that regulates foreign labor recruiters and prohibits these recruiters from charging workers any fees.** Labor recruiters are a key driver of the human trafficking industry. A common tactic of unscrupulous recruiters known to exploit workers is the practice of charging exorbitant fees that results in workers who are debt-bonded and vulnerable to a host of human rights abuses. This practice has led to countless cases of human trafficking, including the Global Horizons case in Washington State. Public and private procurement experts alike have identified the prohibition of labor recruitment fees to be a best practice for reducing risk of forced labor in supply chains.

The above three recommendations were informed by interviews with procurement officers, policy analysts, elected officials and other experts and constitute our primary suggestions to the Washington DES. Additional recommendations can be found in Appendix A.



2. *ENCOURAGE CORPORATIONS WITH A SIGNIFICANT PRESENCE IN WASHINGTON STATE TO TRANSPARENTLY AND DILIGENTLY MANAGE CLEAN SUPPLY CHAINS*

Transparency in supply chains is a necessary first step toward due diligence, but alone is not sufficient to eliminate forced labor and other labor rights violations. The Women's Center recommends that the Washington State Legislature encourage corporations, through legislation, to transparently and diligently manage ethically sourced supply chains. We believe this will reduce Washington's investment in forced labor practices abroad. Furthermore, public policy should be informed with the successful practices and lessons learned from existing policies both nationally and globally.

Below is a collection of provisions and management practices that the Women's Center recommends the Washington State Legislature include in corporate supply chain transparency and due diligence policy:

- A. **Public disclosure of due diligence.** Encourage corporations with a significant presence in Washington State, defined by the Legislature, to implement and publicly disclose their specific actions to eradicate human trafficking and the risk of human trafficking from their supply chains. This offers a next step for companies already complying with the California Transparency in Supply Chain Act and offers consumers information to make an educated purchasing decision.
- B. **Incentivize compliance.** Consider financial accountability mechanisms for non-compliance and fraudulent reporting. The use of financial incentives could then be collected and allocated to a fund to monitor and enforce the law.
- C. **Use an inclusive definition of supply chains.** Include goods and services produced locally and internationally in the definition of supply chains. Human trafficking and forced labor are not restricted to international supply chains. Labor conducted to supply a service is also a part of a public or private supply chain, such as farm labor to harvest or package local crops.
- D. **Release list of companies required to comply.** Encourage the Attorney General's office, Secretary of State, Department of Labor & Industries or appropriate agencies to release a list of the companies deemed to have a significant presence in Washington State and therefore are required to comply with the Act to further encourage transparency and accountability.

The above four recommendations were informed by interviews with procurement officers, policy analysts, elected officials and other experts and constitute our primary

suggestions to the Washington State Legislature. Additional recommendations can be found in Appendix B.

3. ***STRENGTHEN THE WASHINGTON FARM LABOR RECRUITMENT ACT TO PROTECT WORKERS FROM TRAFFICKED LABOR***<sup>402,403,404</sup>

The Washington State Farm Labor Contractor Act (FLCA) is a long-standing law that governs farm labor contractor licensing and can be used to protect workers from exploitation. Below is a selection of three recommendations Columbia Legal Services shared with us that would strengthen FLCA to help reduce forced labor in agriculture product supply chains.

A. **Ban recruitment fees:** In cases such as Global Horizons, recruitment agencies charge foreign workers in Washington State unconscionable fees, which leave them debt bonded and vulnerable to exploitation. In agreement with Columbia Legal Services' proposed amendment to the Farm Labor Contractor Act (FLCA) in 2009, recruitment fees should be banned and a remedy should be provided for workers to recover illegally charged fees. No worker should have to pay thousands of dollars for temporary agriculture employment.

B. **Strengthen anti-retaliation provisions:** Previous interviews with farm workers and farm worker advocates (not in direct association with this report) have illuminated a recognized culture of helplessness among foreign agriculture workers due to fear of retaliation. Strengthen the FLCA to guarantee the fair treatment of all workers and protect those who assert their rights.

C. **Require due diligence for license acquisition:** One of the many valuable lessons learned from California's Supply Chain Transparency law is the importance of due diligence. Disclosures and certifications are helpful, but meaningful action to curb practices that directly or indirectly exploit people is necessary to protect workers' rights. Therefore, the FLCA should require contractors to prove full compliance with the law and ensure outstanding debts owed to workers are paid before a license is issued.

4. ***CONTRACT WITH A THIRD-PARTY AND/OR INDEPENDENT AGENCY TO MONITOR AND SUPPORT ENFORCEMENT OF VENDOR SUPPLY CHAIN PRACTICES***

Third party, independent auditing and monitoring services are essential for unbiased reporting. When these services are performed solely in-house, there is the risk of conflict between honest reporting and various brand interests. Sophorn Yang, a former

garment worker and the president of the Cambodian Alliance of Trade Unions shared on her U.S. speaking tour that she has personal experience with non-independent auditing firms withholding or overlooking labor rights abuses and advocating on behalf of the brand in question. One example she shared was the recent Nike factory audits, where she explained that the Fair Labor Association was aware of abuses, but never reported the violations and continues to encourage schools to sign licensing agreements with the brand.<sup>405</sup> Independent monitoring is essential to accountability and unbiased reporting. Organizations such as the Worker Rights Consortium and Electronics Watch represent independent, unbiased services.

#### 5. *INVEST IN THIRD-PARTY RESEARCH*

Having a clear picture of the risk in Washington's supply chains is an important step to human trafficking risk abatement and removal of forced labor practices in public procurement. We recommend Washington State invest in additional research to investigate Washington's supply chains to capture which vendors the state is buying from, what the state is buying from them, where those goods and services are being produced and where there is likely risk. This overview will then provide information for a targeted intervention.

#### 6. *REVIVE THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON TRADE POLICY*

The Women's Center encourages the Joint Legislative Oversight Committee on Trade Policy to review the impact of trade agreements on international supply chains and make recommendations to trade representatives on solutions to eliminate forced labor in global supply chains. Concurrently, we encourage this committee to work with Congressional Delegates to renegotiate international trade agreements as they greatly impact forced migration, job opportunities and other social factors that leave workers vulnerable to human trafficking. To oversee the State's anti-human trafficking procurement policy, we encourage the Committee to create an Advisory Board or sub-committee to make recommendations for and oversee the evolution of improvements on supply chain management, procurement practices, and support services.

#### 7. *LEVERAGE WASHINGTON PORTS AS AN ENFORCEMENT MECHANISM*

Port, transportation, and warehouse workers play a key role in global supply chains, as their work frequently focuses on the distribution sector of supply chains. Goods manufactured abroad generally pass through transportation "nodes" before reaching American storefronts. Dr. Edna Bonacich, labor rights scholar, sociology professor, and author of the book *Getting the Goods: Ports, Labor and the Logistics Revolution* surmised that these nodes are leverage points.<sup>406</sup>

Policy should be developed to prohibit the transportation of products known to be made with sweatshop labor and the port's position as a chokepoint should be used as leverage. This will help enforce state policy, as supported by the recent amendments to the U.S. Tariff Act of 1930 that mandates goods made with slave labor shall not be allowed entry at any U.S. port, thus prohibiting the importation of forced-labor produced goods.<sup>407</sup>

Creating legislation that effectively uses seaports, airports, and other chokepoints as leverage would be a vital method to enact change. The goal of this move would be to create a policy where companies would rather meet the demands of the port than risk having their goods cut off and lose revenue.

## CONCLUSION

As the first state in the nation to criminalize human trafficking and as a state that continues to pass laws and policies that protect individuals, prevent scenarios conducive for human trafficking, and offers support to survivors, Washington State is a pioneer and a leader in the anti-human trafficking movement. Our state has an opportunity to continue this momentum and initiate meaningful and impactful laws that will reduce the State's investment in forced and trafficked labor, which no other state has accomplished with an enforcement mechanism to-date. Instances of forced labor and abuse are well documented in various industries from which Washington public and private entities likely benefit.

California, multiple municipal governments, the Federal Government and many businesses have created a solid foundation for law and policy that Washington can use and enhance. Presumably, many corporations with a significant presence in Washington State are already disclosing their clean supply chain practices in compliance with the California Supply Chain and Transparency Act and/or UK Modern Slavery Act and therefore, any statewide policy would in effect be building on an established precedent.

We strongly encourage Washington to be leaders on this important human rights issue and implement anti-human trafficking procurement policy, encourage corporations to diligently manage a clean supply chain, strengthen the farm labor recruitment act, use the ports as leverage, invest in more research and revive the Joint Legislative Oversight Committee on Trade Policy. These recommendations will position the State to support risk reduction in public and private supply chains, serve as a model for other States to follow, and we believe, help reduce human trafficking in our State and support a global culture intolerant of human trafficking and forced labor.

## Appendix A: Additional Recommended Provisions To Include In An Anti-Human Trafficking Procurement Policy

- a. Hold vendors jointly accountable for activities in their supply chain.
- b. Require vendors to disclose all the factories and business locations used in their supply chain.
- c. Require vendors to ensure third-party auditors are permitted access to all factories and businesses in their supply chain.
- d. Include a living wage clause that is representative of the source country's cost of living.<sup>408,409,410,LVIII</sup>
- e. Encourage the use of hotels with good labor practices. Reduce patronage of hotels and motels that are known to be at risk of becoming labor trafficking sites and/or are in violation of other labor rights.
- f. If diligently managing supply chains from raw material to distribution is not feasible for vendors, develop language that requires vendors to focus on the most vulnerable points in their supply chain and collectively agree on a step-by-step compliance plan and a strategy to scale-up over time.
- g. Establish a rebate fee-structure, similar to the City of Madison's ordinance, that is applied to all contracts. Revenue generated from the fee should then be used to hire a third-party monitoring agency.
- h. Require vendor suppliers to uphold the same or applicable requirements as the Bangladesh Accord.<sup>LIX</sup>
- i. Include an anonymous complaint system and requirements for timely reconciliation.
- j. Work with vendors to improve their supply chains and reward those with clean supply chains, such as offering longer contracts to these vendors.
- k. Prioritize the scope of an anti-human trafficking policy on big-ticket items, at-risk industries, and at-risk source countries such as textiles, electronics, and food.
- l. Scale-up the anti-human trafficking policy over time.
- m. Require vendors with suppliers in Bangladesh to sign the Accord.

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<sup>LVIII</sup>The implementation of a living wage is a promising means of combating the vulnerable and exploitative circumstances that many workers in global supply chains experience. Workers who are not afforded a living wage are particularly vulnerable to be forced to work for their salary under inhumane conditions out of desperation to survive. Requiring vendors and suppliers to provide a living wage to all workers in the supply chain will help mitigate the vulnerability of low-wage workers.

<sup>LIX</sup> See "The Bangladesh Accord" section.

- n. Review and consult with the Sweatfree Purchasing Consortium, Workers Rights Consortium and Electronics Watch to build on existing model language and policy experiences.
- o. Build coalitions and launch the Good Food Purchasing Program.
- p. Review the City of Madison's cooperative contract with Galls Inc. and collaborate on the Galls Inc. contracts if it meets the needs of Washington State.

## Appendix B: Additional Recommended Provisions To Include In Legislation Encouraging Corporations Transparently And Diligently Manage Clean Supply Chains

- a. Include private rights of action.
- b. Require that information about non-compliant companies and their detailed compliance plan be accessible to the public.
- c. Include an annual renewal of disclosures so that the company's existing disclosures are current, functioning, and accurate.
- d. Include a joint liability provision detailing that businesses are responsible for the labor rights violations of their suppliers.
- e. Include an anonymous complaint system and requirements for timely reconciliation.
- f. Include clear implementation dates and definitions, and if using similar language as the California Transparency in Supply Chains Act, define what "visible on the website" means.
- g. Create a commission including the Attorney General (or agency with jurisdiction to enforce the law) and non-governmental actors, human trafficking survivors, the business community and other interested parties to review policy effectiveness and offer guidance. Include a formal mechanism for annual consultation on how guidance documents can be strengthened and improved to facilitate businesses compliance.
- h. Encourage a company's CEO/President to sign-off on supply chain practices (the Federal Bill requires SEC oversight).

## Appendix C: Sweatfree Procurement Policies And Resolutions Adopted In The United States

**STATES** \*State of California, \*State of Illinois, \*State of Maine - 2001 law, 2006 law, 2007 law, vendor fee rules, \*State of New Jersey, State of New York - Labor Law 213-A, State of Ohio, \*State of Vermont

**CITIES** \*City of Berkeley - Resolution to join Consortium, Ordinance, \*City of Los Angeles - Ordinance, Report, Contract with WRC, \*City of San Francisco - Amended Sweatfree Ordinance, Original Sweatfree Ordinance, Fair Trade, Organic, Port of Los Angeles, \*City of Chicago, City of Bangor, City of Biddeford, City of Orono, \*City of Scarborough, \*City of Boston, City of Fall River, City of Pittsfield, City of Minneapolis, City of St. Louis, \*University City, City of Camden, \*City of Clifton, City of Deptford, \*Township of East Brunswick, City of Neptune, \*City of Newark, City of Redbank, City of Albuquerque, \*City of Santa Fe, \*City of Albany, \*City of Ithaca, \*Village of New Paltz, \*City of Durham, City of Bedford Heights, City of Berea, City of Brookpark, City of Elyria, City of Fairview Park, City of Lakewood, City of North Olmstead, City of Parma, \*City of Toledo, City of Ashland: Resolution; Dec. 2008; Policy, June 2009, \*City of Portland: Resolution, Aug. 2007; Policy, Oct. 2008, City of Pittsburgh Ordinance (Dec 2004), Proclamation (July 2006), Resolution (February 2007), \*City of Providence, \*City of Austin, \*City of Seattle: Statement of Legislative Intent; Policy, \*City of Olympia, \*City of Madison - Resolution, Report, Ordinance, \*City of Milwaukee - Ordinance, April 2003, Ordinance, Oct 2007

**COUNTIES** \*County of San Francisco - Amended Sweatfree Ordinance, Original Sweatfree Ordinance, Fair Trade, Organic, County of St. Louis, Bergen County, \*Cumberland County, Essex County, \*Gloucester County, Hudson County, Mercer County, Middlesex County, \*Passaic County, County of Albany, Suffolk County, \*Cuyahoga County, \*Lucas County, Allegheny County, Northampton County, Travis County, \*County of Milwaukee

**DIOCESES** Archdiocese of Newark, Albany Diocese, Buffalo Diocese, Rockville (Long Island) Diocese

**SCHOOL DISTRICTS** Los Angeles Unified School District - Report, Motion, Policy, \*Santa Monica-Malibu Unified School District, Minneapolis Public School District, Saint Paul Public School District, Stillwater Public School District, Addison School District, Albany City School District, Alfred-Almond School District, Akron School District, Amherst School District, Andover School District, Averill Park Central School District, Belfast School District, Berne-Knox-Westerlo Central School District, Bethlehem School District, Blind Brook-Rye School District, Bradford School District,



Brasher Falls School District, Brentwood School District, Brushton-Moira School District, Burnt Hills-Ballston Lake School District, Camden School District, Carthage School District, Central Islip United Free School District, Churchville-Chili School District, Clarence School District, Colton-Pierrepont School District, Cooperstown School District, Duanesburg School District, East Greenbush School District, East Islip School District, East Moriches School District, East Rochester School District, Edinburg Common School District, Eldred School District, Ellenville School District, Ellicottville School District, Elmira Heights School District, Fabius-Pompey School District, Fayetteville-Manlius School District, Fonda-Fultonville School District, Fort Plain School District, Frontier School District, Glens Falls Common School District, Gloversville School District, Gouverneur School District, Greater Amsterdam School District, Guilderland, Central School District, Hammondsport School District, Harrisville School District, Herkimer School District, Heuvelton School District, Hoosick Falls School District, Jamesville-Dewitt School District, Jordan Elbridge Central School District, Lancaster School District, Lansingburgh Central School District, Lawrence School District, LeRoy School District, Livonia School District, Little Flower School District, Long Beach City School District, Longwood School District, Moravia School District, New Lebanon School District, New Paltz School District, Newburgh City School District, North Colonie Central School District, North Rose-Wolcott School District, Northport United Free School District, Northport-East School District, Norwich School District, Odessa-Montour School District, Oneonta City School District, Onondaga School District, Onteora School District, Patchogue-Medford United Free School District, Pembroke School District, Penn-Yan School District, Phelps-Clifton Springs School District, Pine Plains School District, Plattsburgh School District, Randolph School District, Ravena-Coeymans-Selkirk School District, Red Creek School District, Riverhead School District, Rondout Valley Central School District, Rotterdam-Mohonasen School District, Roxbury School District, Scio School District, Sharon Springs School District, Sodus School District, South Colonie Central School District, South Glens Falls Central School District, Southern Cayuga School District, South Country School District, St. Johnsville Central School District, Taconic Hills School District, Three Villages Central School District, Troy City School District, Valley Stream 13 School District, Valley Stream 30 School District, Voorheesville Central School District, Walkill School District, Waterloo School District, Watervliet School District, Wayne School District, Weedsport School District, Wellsville School District, West Seneca School District, Wheatland-Chili School District, Wheelerville School District, \*Milwaukee Public School District

## INDIVIDUAL HIGH SCHOOLS

Oak Park and River Forest High School, \*City of Portland Public Schools, City of Bangor Public Schools, Brattleboro Union High School

The \* indicates that the policy requires factory disclosure.

## Gratitude and Acknowledgements

The Women's Center is grateful for the many individuals and organizations who collaborated on this report to offer valuable insight and perspective on public policy, supply chain management practices, lessons learned, monitoring and evaluation resources, survivor experiences, and more. Additionally, we acknowledge and appreciate all the organizations named and unnamed in this report that are working tirelessly to create a culture that values human rights.

We extend a special thank you to the following individuals who generously offered their time and expertise and their affiliate organizations for providing Washington with models for change.

\*\*\*

**David Abramowitz, J.D.**, Managing Director at Humanity United

**Joanne Alcantara**, Executive Director of API Chaya

**Kelsey Beck**, Senior Policy Advisor, City of Seattle

**Kristen Beifus**, Community Organizer at UFCW21 and labor rights advocate

**Edna Bonacich, Ph.D.**, Author of the book *Getting the Goods: Ports, Labor, and the Logistics Revolution*, labor rights scholar, and professor at University of California Riverdale

**Jeremy Blasi, J.D.**, Senior Consultant at Worker Rights Consortium

**Melanie Buechel**, Sole Source Oversight Manager, Washington State Department of Enterprise Services (DES)

**Emma Catague**, Domestic violence, sexual assault and human trafficking survivor advocate, and community activist

**Björn Claeson**, Director of Electronics Watch

**Jill Espenshade, Ph.D.**, Professor of Sociology at San Diego State University and author of the book, *Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry*

**Liana Foxvog**, ILRF Director of Organizing and Communications

**T. Markus Funk, J.D.**, Partner and firmwide Co-chair of Perkin Coie's Supply Chain Compliance Practice

**Robert Henning**, FUSE Fellow with the City of San Francisco's Office of Contract Administration,

**Ben Hensler, J.D.**, General Counsel and Deputy Director at WRC

**Keith S. Kawamura**, Deputy Assistant Director for Procurement, Washington State Department of Enterprise Services (DES)

**Jane Kirkemo**, City Clerk for the City of Olympia, Washington

**Vanessa Lanza**, Anti-human trafficking community advocate and former Director of Partnerships at CAST

**Nancy Locke**, Director of City Purchasing and Contracting Services for the City of Seattle

**Shawn MacDonald, Ph.D.**, CEO of Verité

**Dick Meyer**, Owner of Traditions C.A.F.É. & World Folk Art and labor rights advocate,

**Neha Misra, J.D.**, Senior Specialist on Migration and Human Trafficking with the Solidarity Center

**Killian Moote**, Project Director of KnowtheChain

**Teresa Mosqueda**, Political and Strategic Campaign Director, WA State Labor Council, AFL-CIO

**Hao Ngyuen**, Anti-Human Trafficking Program Coordinator at API Chaya.

**Jose Oliva**, Co-director OF Food Chain Workers Alliance (FCWA)

**Katie Quan**, Senior Labor Specialist at University of California Berkeley's Center for Labor Research and Education

**Stephanie Richards, J.D.**, Policy & Legal Services Director at CAST

**Rebecca R. Riley**, Enterprise Procurement Policy Manager, Washington State Department of Enterprise Services (DES).

**Andrea Schmitt, J.D.**, Staff Attorney with Columbia Legal Services

**Kathy Schwenn**, Accountant for the City of Madison, Wisconsin's finance department

**Nancy A. Sienko**, Director of U.S. EEOC Seattle Field Office

**Rebecca Smith, J.D.**, Deputy Director, National Employment Law Project

**Scott Smith**, State IT Procurement Manager, Washington State Department of Enterprise Services (DES).

**Christina Spach**, the National Good Food Purchasing Campaign Coordinator for the Food Chain Workers Alliance (FCWA) and

**Robert Stumberg, J.D.**, Professor of Law at Georgetown University, Director of Harrison Institute for Public Law

**Julie A. Su, J.D.**, State of California's Labor Commissioner

**William R. Tamayo, J.D.**, Director U.S. Equal Employment Opportunity Commission (EEOC), San Francisco, CA Field Office

**Pam Tokanoga**, City purchasing manager, City of Seattle

**Honorable Velma Veloria**, Community activist and WA State Legislator (1992-2004)

**Julie G. Wade, J.D. (retired)**, Former Starbucks Director, Corporate Counsel

**Christine Warnock**, CPPO, CPPB, Strategic Business Initiatives Manager, Washington State Department of Enterprise Services.

**Sophorn Yang**, President of the Cambodian Alliance of Trade Unions (CATU)

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## **API CHAYA**

API Chaya is a Seattle-based organization dedicated to ending systematic violence in Asian, South Asian, and Pacific Islander communities. API Chaya works with survivors of domestic violence, sexual assault, human trafficking, and other crimes to provide various support services including, resources and referrals, advocacy-based counseling, support groups, safety and support planning, and basic legal advocacy.

For more information about API Chaya's work, see their website at <http://www.apichaya.org>

## **CITY OF MADISON, WI**

In 2015, the City of Madison passed an ordinance that creates a procedure to ensure that city purchased apparel (\$5,000 or more) are not made from a sweatshop labor. Apparel included in the ordinance are police, fire and metro driver uniforms. Interested bidders

are required to work with their suppliers to disclose the factories used and share information about the employment conditions of workers along the production value chain. Bidder disclosures include workers' pay rates, benefits, standard work hours, overtime eligibility, and more.

For more information about the City of Madison's sweatfree ordinance, visit:  
<http://buysweatfree.org/files/madisonpolicy.pdf>

### **CITY OF OLYMPIA, WA**

The City of Olympia initiated their first version of a sweatfree purchasing policy in 2004 as a two-year pilot program that included ball caps, t-shirts, and sweatshirts. Under this policy, vendors were required to self-report and certify under penalty of perjury that they were not purchasing or contracting with an organization using sweatshop labor. Following the pilot program, the City voted to uphold the policy as a resolution to purchase sweatfree whenever possible.

For more information about the City of Olympia's Resolution establishing responsible and ethical purchasing guidelines, visit  
<http://olympiawa.gov/~media/Files/Executive/CouncilResolutions/M-1545.pdf?la=en>

### **CITY OF SAN FRANCISCO, CA**

The City of San Francisco established a sweatfree procurement policy and contracting effort in 2005 with the passage of Administrative Code Chapter 12U. Since then, the Ordinance has been strengthened and other policy changes have been instituted. The Sweatfree Contracting Ordinance covers "apparel, garments and corresponding accessories, materials, supplies or equipment" as well as textiles, meaning "all items of cloth that are produced by weaving, knitting, felting, sewing, or similar production processes." The Office of Contract Administration is in charge of writing specifications, conducting procurement processes and awarding contracts, with the assistance of other city department staff.

For more information about the City of San Francisco's Sweatfree Contract Ordinance, visit  
<http://sfgov.org/olse/sweatfree-contracting-ordinance>

### **CITY OF SEATTLE, WA**

In 2010, the Seattle City Council adopted the Statement of Legislative Intent 119-1-A-2, which requests the Department of Executive Administration (DEA) develop and implement a policy to ensure City purchased apparel are manufactured using fair labor standards. Per the Policy's guidelines, City Purchasing requires bidders to agree to sweatfree requirements for designated products, which include uniform garments (shirts, trousers and jackets). Requirements include sign and submit a prescribed Code of Conduct, provide

a list of all manufacturing facility locations (including names and addresses) used in product manufacturing and assembly, and agree to cooperate with compliance monitoring upon the City's request.

For more information about the City of Seattle Sweat-free procurement policy, visit: <http://buysweatfree.org/files/cpadoptedsweatfreepolicy6-28-10.pdf>

### **COALITION TO ABOLISH SLAVERY AND TRAFFICKING (CAST)**

Coalition to Abolish Slavery and Trafficking (CAST) is Los Angeles-based nonprofit, that provides comprehensive services to survivors of human trafficking and advocates for survivor-focused policy development. CAST's client services programs include emergency response, counseling and skills training, shelter, legal advocacy and survivor leadership. CAST is original co-sponsor and/or played a lead role in advocating for several pieces of enacted legislation including the California Transparency in Supply Chains Act.

More information about CAST can be found on their website at <http://www.castla.org/>

### **COLUMBIA LEGAL SERVICES**

Columbia Legal Services is a nonprofit, civil legal aid program with a long history of defending the rights of historically marginalized communities, including Washington's agricultural workers. Their work includes policy reform, litigation and partnership to support five-program areas: basic human needs, children & youth, institutions, working families and economic justice.

For more information, see CLS's website at <http://www.columbialegal.org/>

### **DEPARTMENT OF ENTERPRISE SERVICES (DES)**

Washington State Department of Enterprise Services (DES) is the state agency responsible for facilitating state contracting & purchasing, printing & mail, facilities & leasing, risk management, surplus, and more. DES oversees more than 1,500 vendors through open, competitive business opportunities for goods, services, and construction projects available to state, local, and tribal governments.

For more information, see DES website at <http://www.des.wa.gov/>

### **ELECTRONICS WATCH**

Electronics Watch is an independent monitoring organization that supports public buyers' efforts to protect the workers in their global electronics supply chain effectively and in a financially efficient manner.

For more information, please visit Electronics Watch website: <http://electronicswatch.org/en>

### **FOOD CHAIN WORKERS ALLIANCE (FCWA) GOOD FOOD PURCHASING PROGRAM (GFPP)**

The Food Chain Workers Alliance (FCWA) Good Food Purchasing Program (GFPP) aims to

transform the way that public institutions are purchasing food, while also growing the market for fair, humane, local, nutritious, and sustainable sustenance. The GFPP provides a metric-based, flexible framework that encourages public institutions to direct their buying power to uphold sustainable values – including a provision against forced labor. The GFPP provides a comprehensive set of tools, monitoring, technical support, and a rigorous verification system to help institutions meet their goals over time.

For more information about the GFPP, visit: <http://goodfoodpurchasing.org/>

### **HUMANITY UNITED (HU)**

Humanity United (HU) is a foundation founded in 2008 as a part of the Omidyar Group that is dedicated to “bringing new approaches to global problems that have long been considered intractable.” Humanity United’s work includes financial support, network development, advocacy, strategic communications, and specific HU-led initiatives. Humanity United’s portfolio includes: human trafficking & labor migration, supply chains & forced labor, public policy & government relations, peacebuilding & conflict transformation and strategic media.

For more information about Humanity United, visit: <https://humanityunited.org/>

### **INTERNATIONAL LABOR RIGHTS FORUM (ILRF)**

International Labor Rights Forum (ILRF), a human rights organization that advocates for workers’ rights globally. ILRF’s work is rooted in three core pillars: to hold global corporations accountable for human rights violations in supply chains, support policy development that advances workers’ rights, and strengthening workers’ ability to advocate for their rights. Strategies to achieve these goals include driving corporate accountability, leveraging government procurement, promoting trade justice, and supporting worker empowerment.

For more information about the International Labor Rights Forum visit: <http://www.laborrights.org/>

### **NATIONAL EMPLOYMENT LAW PROJECT**

For more than 45 years, the National Employment Law Project (NELP) has sought to create an economy in which *all* work provides economic security, opportunity and prosperity to *all* of America’s workers, especially those who, because of race, color or other discriminatory considerations, are more likely to encounter workplace injustice and unfairness. NELP works from the ground up to build systemic change, collaborating with community partners on advocacy campaigns, developing and testing innovative policy ideas in cities and states, then scaling them up to effect change nationally.

For more information about the National Employment Law Project, visit: <http://www.nelp.org/about-us/>

### **SWEATFREE COMMUNITIES**

Sweatfree Communities, a campaign of the International Labor Rights Forum, assists sweatshop workers globally to improve working conditions and form strong independent unions. The campaign encourages sweatfree procurement through broad coalition building, grassroots organizing, and cooperation between advocates and government representatives. The campaign also maintains resources for education and policy development, and research on supply chain transparency and working conditions in government supplier factories.

For more information about Sweatfree Communities, visit: <http://www.sweatfree.org/>

### **SWEATFREE PURCHASING CONSORTIUM**

The Sweatfree Purchasing Consortium (SPC) is a membership organization for public entities that seek to purchase apparel and related products made under ethical working conditions. The SPC's mission is to end public purchasing from sweatshops and to aid its members in making informed sweatfree purchases at reasonable prices.

For more information about Sweatfree Communities, visit: <http://buysweatfree.org/>

### **PERKINS COIE LLP**

The Supply Chain Compliance & Corporate Social Responsibility (CSR) practice at Perkins Coie LLP counsels businesses on how to comply with anti-trafficking laws, such as the California Transparency in Supply Chains Act and the Federal Acquisition Regulation (FAR) on Trafficking in Persons in Federal Contracts. Services include risk assessment, evaluation, investigation and remediation of client supply chains.

For more information about Perkins Coie LLP Supply Chain Compliance & Corporate Social Responsibility (CSR) Practice, visit: <https://www.perkinscoie.com/>

### **SOLIDARITY CENTER**

The Solidarity Center is the “largest U.S.-based international worker rights organization helping workers attain safe and healthy workplaces, family-supporting wages, dignity on the job and greater equity at work and in their community. Allied with the AFL-CIO, the Solidarity Center assists workers across the globe.” Among their many initiatives, the Solidarity Center’s labor migration and trafficking program focuses on counter-trafficking strategies that emphasize prevention, protection and the rule of law.

For more information about the Solidarity Center’s research and initiatives, visit: <http://www.solidaritycenter.org/>



## **STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, LABOR COMMISSIONER'S OFFICE**

The mission of the California Labor Commissioner's Office is to "ensure a just day's pay in every workplace in the State and to promote economic justice through robust enforcement of labor laws." This office is also known as the Division of Labor Standards Enforcement (DLSE). The Labor Commissioner's office enforces labor laws under the following units: Wage Claim Adjudication, Retaliation Complaint Investigation Unit, Licensing & Registration, Public Works, and Bureau of Field Enforcement.

For more information about the Labor Commissioner's Office, visit <https://www.dir.ca.gov/dlse/AboutUs.htm>

## **WASHINGTON STATE LABOR COUNCIL, AFL-CIO**

The Washington State Labor Council, AFL-CIO's core programs are legislative advocacy, political action, communications and media relations, plus assistance with organizing campaigns. The Washington State Labor Council, AFL-CIO's has been a key advocate in supporting policies to prevent situations that directly and indirectly result in human trafficking and forced labor.

For more information about Washington State Labor Council, visit: <http://www.wslc.org/>

## **WORKER RIGHTS CONSORTIUM (WRC)**

Worker Rights Consortium is an independent labor rights monitoring organization dedicated to protecting the rights of workers who are making apparel and similar products in sweatshops across the globe for colleges, universities, and now, cities. The WRC conducts factory audits and in-depth investigations on working conditions, issues public reports, and works with public entities to ensure their vendors are in compliance with their prescribed code of conduct.

For more information about the Worker Rights Consortium, visit: <http://www.workersrights.org/>

## **UNIVERSITY OF CALIFORNIA BERKELEY CENTER FOR LABOR RESEARCH AND EDUCATION**

As the research arm of the UC Berkeley Institute for Research on Labor and Employment, since 1964, the Center for Labor Research and Education has trained labor leaders on issues related to labor and employment. The Labor Center works with a range of stakeholders – unions, government and employers – to "develop innovative policy perspectives and programs." They also offer perspectives on "unions and the changing workforce for students, scholars, policymakers and the public."

For more information about the UC Berkeley Labor Center, visit:

<http://laborcenter.berkeley.edu/>

### **U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for “enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.”

Anti-discrimination laws, particularly those prohibiting discrimination on the bases of race, national origin, and sex, including sexual harassment, are an integral part of the fight against human trafficking. “When force, fraud, or coercion are used to compel labor or exploit workers, traffickers and employers may be violating not only criminal laws but also the anti-discrimination laws enforced by the EEOC”, such as in the case of Global Horizons.

For more information about the EEOC and their anti-human trafficking cases, visit

<https://www.eeoc.gov/eeoc/>

### **VERITÉ**

Verité is a “global, independent, non-profit organization that conducts research, advocacy, consulting, trainings, and assessments with a vision that people worldwide work under safe, fair, and legal conditions.” Founded in 1995, Verité partners with multinational brands, suppliers, and international institutions to improve working conditions and social performance within global supply chains.

For more information about Verité, visit: <https://www.verite.org/>

### **A SPECIAL THANK YOU TO:**

**Alison Forsyth** for online research and interview transcription in support of this project.

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