

# Forced Labor and Forced Labor Risks in Ecuador's Cocoa Sector



 **FREE THE SLAVES**

**Free the Slaves** (FTS) was founded in 2000 and has since committed to the mission of ending modern slavery. Today, FTS is widely recognized as a leader and a pioneer in the modern abolitionist movement. Through its work, FTS has assisted individuals in slavery to regain their freedom, has helped officials to bring slaveholders to justice, and has supported survivors to rebuild their lives and reclaim their future. To advance its mission further, FTS has developed a multi-dimensional strategy: policy and advocacy, to advocate for the reform of laws and regulations; engagement of local communities, to provide training and resources to vulnerable communities; movement building, to encourage knowledge-sharing and collective action; continuous learning, to produce research that enhances understanding and guides responses.

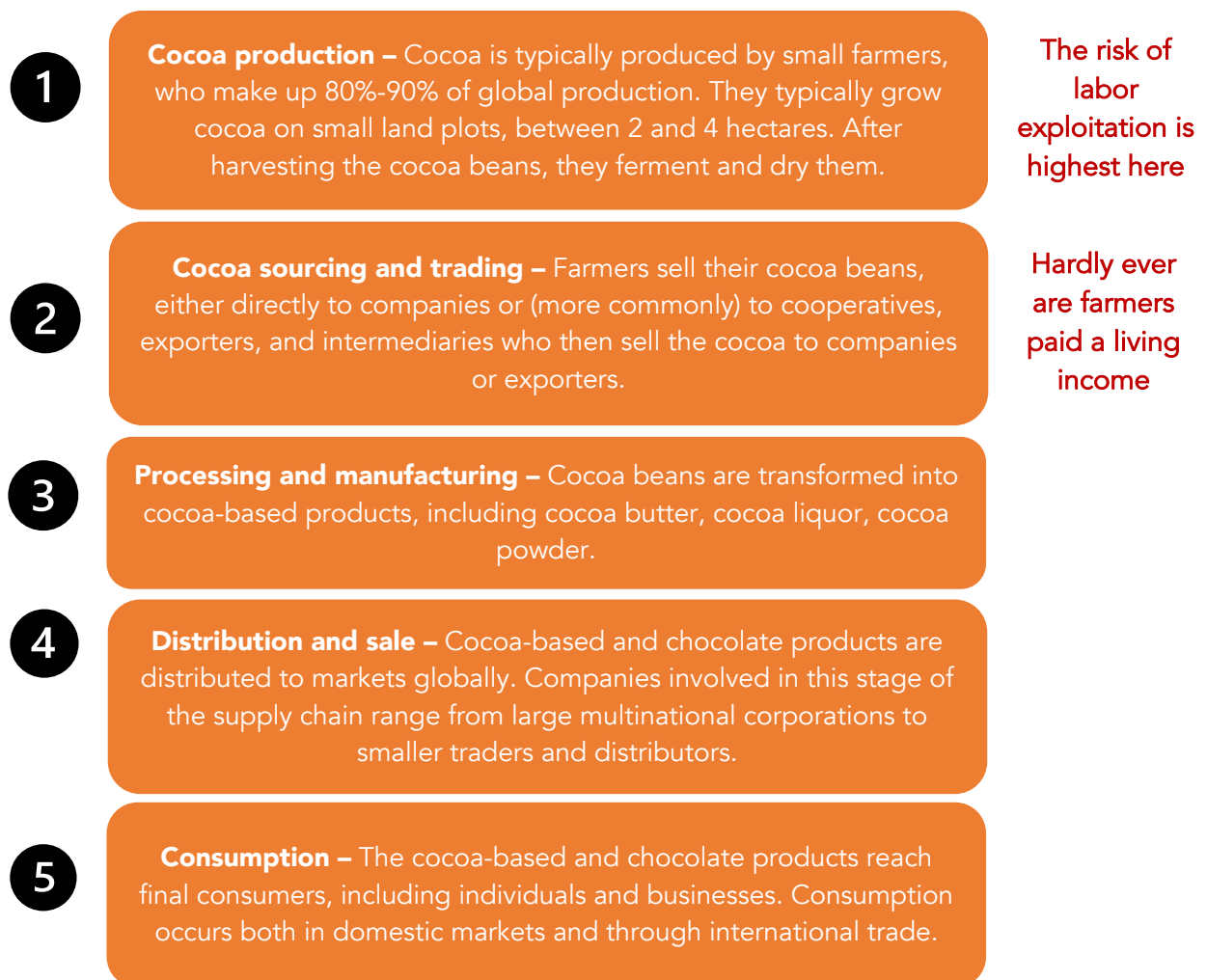
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## Introduction

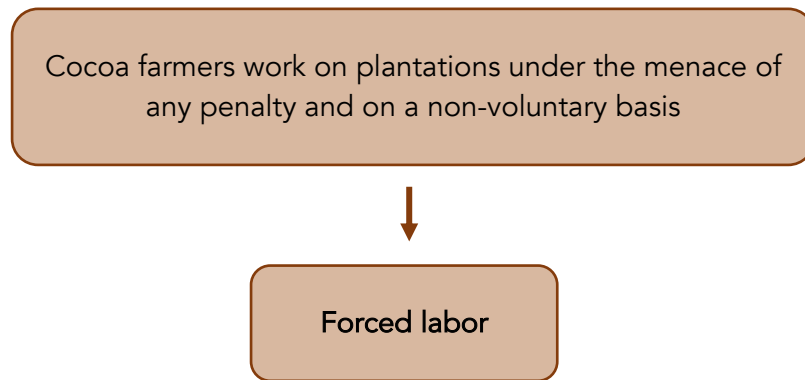
Chocolate, one of the most popular products worldwide, comes from a long and labor-intensive process. First, cocoa farmers must clear the land, plant seedlings, weed their plantations, prune trees, and apply pesticides and fertilizers. Once cocoa pods grow, farmers must harvest them by hand, using machetes or hooks. They then open the pods, so that the beans inside can be removed. They let the beans ferment for several days and later spread them to dry in the sun. After storing the beans in sacks, farmers can sell their cocoa down the supply chain, where it goes through collectors, transporters, traders, grinders, manufacturers, and retailers. Finally, it reaches consumers, pleasing them with a great variety of flavors and aromas.

Figure 1. The cocoa supply chain



However, the sweet taste and the pleasant smell of chocolate hide a bitter reality. In fact, the production of cocoa beans is particularly vulnerable to the exploitation of adults and children, especially into forced labour and child labor.

Figure 2. Forced labor in the cocoa sector



According to the International Labor Organization (ILO) Convention No.29, forced labour is “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. The menace of any penalty refers to the means of coercion used to impose work on someone. This may take place during the recruitment process or once the person is working. Involuntary work refers to work or services that take place without the worker’s free and informed consent.<sup>1</sup> Significantly, both conditions of involuntary work and coercion must be present simultaneously for work to be statistically regarded as forced labour.<sup>2</sup> For its part, the existence of one or more conditions of either involuntary work or coercion indicates a situation of forced labor risk, which may degenerate into a situation of forced labour in the lack of timely interventions.<sup>3</sup>

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<sup>1</sup> ILO, *Guidelines concerning the measurement of forced labor*, Geneva October 2018.

<sup>2</sup> ILO, *Hard to See, Harder to Count* (Geneva: ILO, 2024), 5.

<sup>3</sup> *Ibid.*, 19.

Table 1. *Involuntary and coercive labor in the private economy (ILO)*

Involuntariness	Coercion
Forced recruitment	Physical or sexual violence
Deceptive or fraudulent recruitment	Abuse of isolation
Recruitment linked to debt	Restrictions on workers' movement
Hazardous or degrading working conditions	Retention of cash, assets, or identity documents
Onerous working hours or work schedule	Withholding of wages
Degrading work-related living conditions	Abuse or manipulation of debt
Abusive additional obligations	Abuse of vulnerability
Sexual abuse	Induced addiction
Inability to terminate employment	

While the past two decades have witnessed many promises to address forced labor in the cocoa industry, exploitation in cocoa farms continue to be widespread, representing a major source of concern when interrogating our capacity to meet SDG 8 and Target 8.7 by 2030. Oblivious to human rights, in fact, major cocoa companies continue to engage in exploitative practices and to unilaterally reap the benefits of an ever-expanding chocolate industry.

It is thus unsurprising that cocoa was listed in the latest 2023 Global Slavery Index as one of the products imported by G20 countries that is most at risk of modern slavery.<sup>4</sup> Also, in the 2022 List of Goods Produced by Child Labor or Forced Labor released by the US Department of Labor, cocoa was listed as one of the goods produced by child labor and forced labor as well as one of the goods “with the most child labor listings by number of countries”.<sup>5</sup>

In this report, Free the Slaves aims to focus on forced labor and forced labor risks in the cocoa sector in Ecuador. The decision to focus on forced labor was not casual but was rather informed by the consideration that while great attention has traditionally been devoted to child labor,

<sup>4</sup> Walk Free, *Global Slavery Index*, 2023.

<sup>5</sup> US Department of Labor, 2022 List of Goods Produced by Child Labor or Forced Labor.



forced labor has remained widely overlooked – in Ecuador as well as in most other cocoa-producing countries. At the same time, recognizing that forced labor does not occur in a vacuum but is more commonly observed in contexts where human rights violations are widespread, the report seeks to place the discussion on forced labor in the cocoa sector in the context of Ecuador’s wider human rights situation.

The first part offers an overview of the human rights situation in Ecuador, identifying the most common forms of violations and the most vulnerable groups. The second part introduces cocoa production in Ecuador. From there, an overview of forced labor and forced labor risks in the cocoa sector follows. In the fourth part, the conditions and root causes that determine vulnerability to forced labor on Ecuador’s cocoa plantations are discussed. After that, attention will be given to relevant laws, policies, and programs that have been implemented to counter forced labor. Building on those considerations, in the final part a series of recommendations are offered to ensure greater protection of human rights in Ecuador’s cocoa sector.

## 1. The Human Rights Situation in Ecuador

Overall, the human rights situation in Ecuador remains of concern. In a context marked by fragile democratic institutions, thriving organized crime, systemic discrimination, and patriarchal norms, human rights violations and abuses are a pervasive reality. From our analysis, it emerges that this is especially the case for ethnic minorities (Indigenous people and Afro-Ecuadorians), for women and girls, for sexual and gender minorities belonging to the LGBTQI+ community, for migrants and refugees, as well as for Ecuadorians from poor, neglected, and marginalized backgrounds.

Indigenous and Afro-Ecuadorian communities have historically been affected by discrimination and – more recently – by stereotyping in the national media. This is a legacy of Ecuador’s colonial past that has been resulting in significant barriers to justice, security, land, employment, education, healthcare, housing, and other essential services for those ethnic communities. Significantly, the barriers created by racial discrimination within Ecuadorian society have been further exacerbated by the incapacity and by the unwillingness of the state to adequately enforce inclusive laws and policies. For instance, while the Ecuadorian Constitution guarantees the right of Indigenous children to a bilingual, intercultural education, many community schools catering to Indigenous children have been closed over the past decade. Those changes to the educational system – designed to promote, or rather impose, cultural and linguistic homogeneity – have de facto deprived Indigenous communities of the right to protect and transmit their languages, cultures, and traditions.

It is thus unsurprising that during recent visits paid to Ecuador by the UN Working Group of Experts on People of African Descent and by the UN Special Rapporteur on the Rights of Indigenous Peoples the situation of those communities was deemed to be concerning.<sup>6</sup> This is even more so the case for Indigenous and Afro-Ecuadorian women, as they are affected by multiple and intersecting vulnerabilities associated with their ethnic identity, with their cultural identity, and with their gender identity. In other words, the co-existence of those dimensions of identity exposes ethnic minority women to unique forms of discrimination, marginalization, and violations that can

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<sup>6</sup> UN Human Rights Council, Visit to Ecuador: Report of the Working Group of Experts on People of African Descent, August 21, 2020, <https://documents.un.org/doc/undoc/gen/g20/214/86/pdf/g2021486.pdf>; UN Human Rights Council, Visit to Ecuador: Report of the Special Rapporteur on the rights of Indigenous people, July 4, 2019, <https://documents.un.org/doc/undoc/gen/g19/204/05/pdf/g1920405.pdf>.



only be understood through the framework of intersectionality. Examples in this regard include the arbitrary and systematic exclusion of their products from markets, the lack of culturally appropriate and bilingual reproductive healthcare services, and gender-based violence in its different forms, such as rape, feminicide, and sex trafficking – a topic to which we will return below.

Besides, an area where human rights violations against Indigenous people have been systematic is that of land ownership and use of natural resources – a reality that is observed in Ecuador as much as in many other South American countries with a significant presence of Indigenous peoples. While the Constitution recognizes the right of Indigenous peoples to own their communal lands and to participate in the use, administration, and conservation of the natural resources found thereon, those provisions have hardly ever been enforced. To worsen this state of things, in May 2023 an Executive Decree formally allowed mining companies to commence activities of extraction on Indigenous lands without Indigenous peoples' consent.<sup>7</sup> Dramatically, these extraction projects have not only deprived Indigenous communities of their constitutional rights over their ancestral lands but have also exposed them to the loss of livelihoods and to health complications, due to the water pollution and environmental degradation associated with the extractive industry.

On the background of these violations, prominent members of Ecuador's Indigenous communities have raised their voices in protest, demanding from the state the recognition and respect of their rights. However, those protests have thus far failed to convince the Ecuadorian state to abandon its utilitarian and production-oriented approach to the land. On the contrary, they have exposed human rights defenders to the risk of violence, criminalization, threats (including against family members), defamation, and murder. Many among them, for instance, have been persecuted, forced to leave their territories, criminalized under fabricated terrorism charges, and imprisoned.<sup>8</sup>

As noted above, women belonging to ethnic minorities are especially vulnerable. However, it is noticeable that discrimination in job recruitment, housing access, and judicial proceedings affects many other women as well, regardless of their ethnicity. This is encouraged by values prevalent in the Ecuadorian society, where patriarchal norms that reproduce gender stereotypes

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<sup>7</sup> UN Human Rights Office of the High Commissioner, "Ecuador: UN human rights chief concerned at spike in violence and backward step on Indigenous people's rights", July 27, 2023, <https://www.ohchr.org/en/press-releases/2023/07/ecuador-un-human-rights-chief-concerned-spike-violence-and-backward-step>.

<sup>8</sup> Alianza por los derechos humanos Ecuador and Amazon Watch, "Situation of human rights defenders in Ecuador", [https://docs.google.com/document/d/114Z0MkfsXVs7kXny\\_45hR96bGTcEf3cr/edit](https://docs.google.com/document/d/114Z0MkfsXVs7kXny_45hR96bGTcEf3cr/edit).

and relegate women to a submissive position with respect to men are still dominant. Women, even those who have an education and harbor professional ambitions, are too often dictated what to do by the men of their own families, who expect them to stay at home, raise the children, and take care of the household chores. Conversely, the role of income earners is seen as an exclusively male-specific role, and even women who do have jobs are hardly taken seriously as productive members of the family and the society. Unsurprisingly, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) expressed its concern over the prevailing social and cultural stereotypes in Ecuador,<sup>9</sup> on which the different forms of discrimination against women are based and continuously perpetuated.

Most worryingly, though, the persistence of a patriarchal culture imbued with machismo has been exposing Ecuadorian women and girls to the risk of femicide, domestic violence (including physical, sexual, and psychological abuse), and sexual violence. Data collected by the National Statistics Institute in this regard reveals that 65% of women have been victims of some form of violence.<sup>10</sup> However, despite these staggering numbers, many women do not go to the authorities due to fear of retribution from the perpetrator (especially when the perpetrator is a partner), due to a lack of trust in law enforcement agencies, due to the low quality of services and protection mechanisms for victims of violence, and due to the fear of stigma within the society, where girls and women victims of gender-based violence are too often regarded as culprits rather than as victims. Women living in rural areas encounter further difficulties reporting assaults due to the limited presence of government offices and healthcare services in their towns and villages. Also, the lack of regular status also prevents many Venezuelan female migrants who are survivors of gender-based violence from accessing protection and care services.

Sexual violence also remains a problem in public and private schools, as was most recently denounced by the UN Special Rapporteur on Violence Against Women.<sup>11</sup> Many incidents of sexual violence, in fact, are perpetrated by teachers and/or school administrators, who abuse their position of authority to intimidate students, exact sexual favors, and instil fear. Threats against the girls, manipulation of their vulnerability, and forced abortions are also

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<sup>9</sup> CEDAW 2015, Recommendations to the reports 8th and 9th. <http://acnudh.org/comite-para-la-eliminacion-de-todas-las-formas-de-discriminacion-contra-la-mujer-cedaw-ecuador-2015/>.

<sup>10</sup> INEC, Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres.

<sup>11</sup> UN Human Rights Council, Visit to Ecuador: Report of the Special Rapporteur on violence against women, its causes and consequences, May 22, 2020, <https://documents.un.org/doc/undoc/gen/g20/121/43/pdf/g2012143.pdf>.

characteristics of violence perpetrated against schoolgirls in Ecuador's education system. Significantly, the dynamics of underreporting noted above are particularly acute in the case of girls, who are afraid of being punished by their teachers and school principals, of being expelled from school, and of bringing shame to their families.

The conservative norms prevalent in Ecuador's society that have traditionally encouraged discrimination against women are found to also encourage discrimination against LGBTQI+ individuals, who do not conform to gender roles widely regarded as "standard" and who challenge the traditional view of the nuclear family as led by a man and a woman. Importantly, Ecuador's Constitution provides for the citizens' right to equal treatment and non-discrimination. However, the full implementation of those provision is still unsatisfactory in many regards. For instance, non-binary gender in Ecuador is not legally recognized, there are no explicit protections for housing discrimination against LGBTQI+ people (who often are unwanted as tenants and neighbors), and adoption is only permissible to different-sex unions. Moreover, the prevailing discrimination against LGBTQI+ people at all levels of society (including among authorities) has meant that cases of abuse and violence against sex and gender minorities have not been thoroughly investigated by police and prosecutors.

Finally, and as noted in the introduction, another group of people who are particularly vulnerable to human rights violations and abuses in Ecuador is represented by migrants and refugees. This has been encouraged by pronouncements by government officials in national media that unjustly associate migrants with the high rates of criminality in the country<sup>12</sup> – a pervasive problem that the government has found more convenient to blame on migrants and refugees rather than on its own failures. Widespread feelings of xenophobia and the perception among large parts of Ecuadorian society that migrants are responsible for unemployment only adds to the climate of discrimination. This, in turn, creates barriers for migrants to find work, afford housing, access healthcare services, and enrol their children in school. Specific barriers for refugee and migrant children in the school system include a lack of information on the right to education among their parents, hidden costs of schooling (e.g., uniforms), lack of classroom space, and arbitrary documentation requirements. In the most extreme cases, xenophobia among some sectors of Ecuador's society

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<sup>12</sup> Open Global Rights, "Refugees and migrants in Ecuador face rising risks among decreased protections", August 13, 2020, <https://www.openglobalrights.org/refugees-and-migrants-in-ecuador-face-rising-risks-among-decreased-protections/>.

has even led to violent attacks – including deadly attacks – against migrants, their living quarters, and their belongings.

Besides, irregular migrants and refugees are also increasingly victims of forced labor (in the informal sector), sex trafficking, and forced criminality (such as drug trafficking and robbery). Women and girls are especially vulnerable, with traffickers exploiting Colombian, Peruvian, and Venezuelan women and girls in sex trafficking, domestic servitude, and forced begging.<sup>13</sup> Similar to what noted above in the case of Indigenous and Afro-Ecuadorian women, here as well migrant status and female gender identity intersect to create unique and mutually reinforcing vulnerabilities for those women and girls who enter Ecuador as foreign nationals. This is further exacerbated if women and girls travel to Ecuador unaccompanied.

At the same time, however, it is not only foreigners that risk being victims of trafficking. Traffickers exploit Ecuadorian adults and children – especially those from poor, neglected, and marginalized backgrounds – in sex trafficking, begging, and forced labor in agriculture, floriculture, fishing, sweatshops, street vending, mining, and other areas of the informal economy. Child labor has also been increasing since 2014, with children employed in the production of bananas, rice, coffee, cocoa, palm oil, sugarcane, vegetables, citrus, and flowers.<sup>14</sup> As the country faces an increase in violence tied to criminal organizations and gangs, forced child recruitment into criminality and armed conflict has also been growing – and promises to grow further in the absence of a strong response from the state to the proliferation of criminal gangs.

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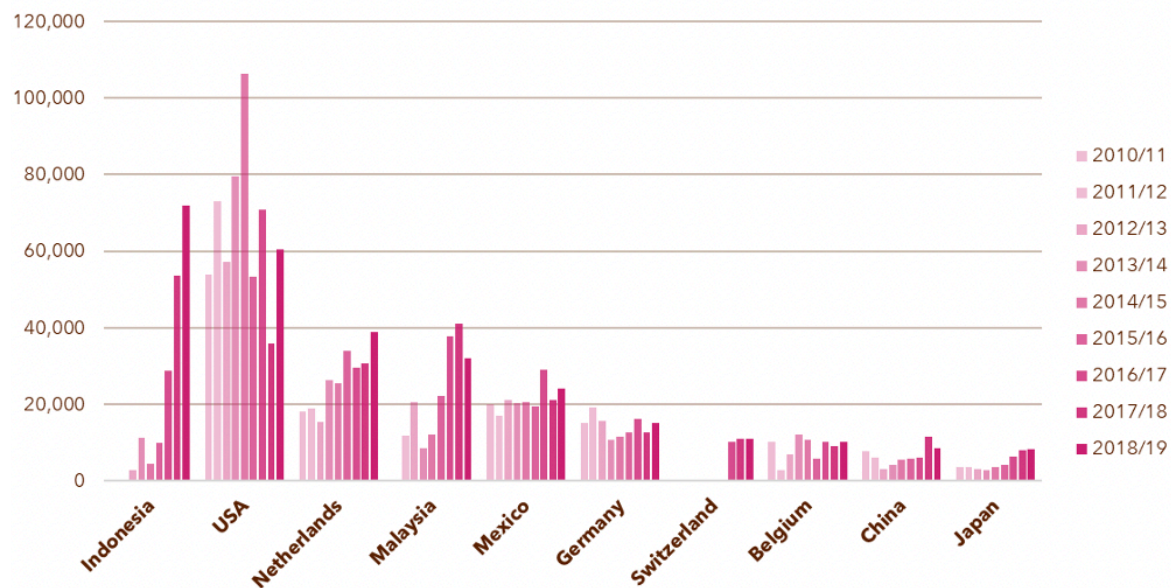
<sup>13</sup> US Department of State, 2024 Trafficking in Persons Report: Ecuador, <https://www.state.gov/reports/2024-trafficking-in-persons-report/ecuador/>.

<sup>14</sup> US Department of Labor, Worst Forms of Child Labor: Ecuador, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador>.

## 2. An overview of cocoa production in Ecuador

The cacao tree (*Theobroma cacao* L.) is native from the Amazon basin on the foothills of the northern Andes, a region that spreads across modern-day Ecuador and Colombia. Traces of cacao in Ecuador’s southern Amazonian regions date back more than 5,000 years.<sup>15</sup> Ecuador’s cocoa production has grown remarkably over just a few years, increasing from 235,000 tons in 2014 to 365,000 tons in 2020–2021.<sup>16</sup> Today, Ecuador is the 5<sup>th</sup> producer of cocoa worldwide (after Cote d’Ivoire, Ghana, Indonesia, and Nigeria),<sup>17</sup> and the largest producer of fine flavour cocoa. Most of the cocoa production in Ecuador is aimed at the export market. Approximately 90% of the cocoa in Ecuador is exported as cocoa beans, while 5% undergoes processing, mainly for export. An additional 5% is utilized for artisanal processing directed to the domestic market.<sup>18</sup>

Figure 3. Cocoa exports from Ecuador<sup>19</sup>



<sup>15</sup> Chocolate Class, “The Cacao Production Workforce in Ecuador Throughout History”, March 7, 2018, <https://chocolateclass.wordpress.com/2018/03/07/the-cacao-production-workforce-in-ecuador-throughout-history/>.

<sup>16</sup> See: <https://www.statista.com/statistics/497880/production-of-cocoabeans-in-ecuador/>.

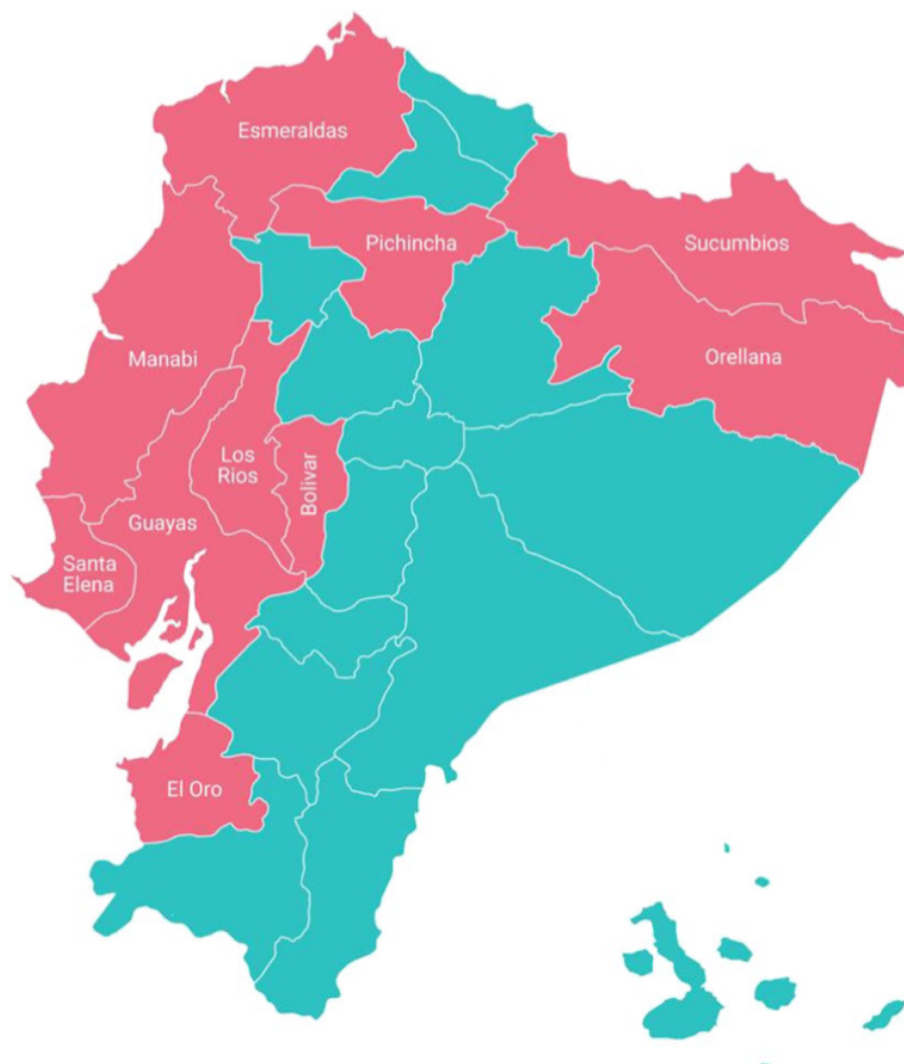
<sup>17</sup> FAOSTAT 2020.

<sup>18</sup> A. Avadí et al., *Análisis de la cadena de valor del cacao en Ecuador. Reporte para la Unión Europea*, DG-INTPA. Value Chain Analysis for Development Project (VCA4D CTR), 2021, 14.

<sup>19</sup> Cocoa Barometer Latin American Baseline, September 2022, 17, <https://voicenetwork.cc/wp-content/uploads/2022/09/220923-Cocoa-Barometer-Americas.pdf>.

Agriculture in general plays an important role in the country's economy, with almost 30% of the Ecuadorian workforce and 27% of the female workforce officially employed in agriculture in 2019.<sup>20</sup> Within agriculture, the cocoa industry alone employs 12% of the economically active population, including 5% of the economically active rural population.<sup>21</sup> More specifically, the cocoa sector provides livelihoods to approximately 150,000 and 190,000 families who reside in the coastal regions, in the Andes foothills, and in the Amazon area.<sup>22</sup>

Figure 4. Cocoa production in Ecuador by region<sup>23</sup>



<sup>20</sup> M. Kuhn et al., "Gender Inequality in the Cocoa Supply Chain: Evidence from Smallholder Production in Ecuador and Uganda", *World Development Sustainability*, Vol.2 (2023).

<sup>21</sup> Ibid.

<sup>22</sup> R. Munoz Sevilla et al., Assessment Report Task 5.1.6.: Assess Efforts of Governments, Industry, and Workers' Organizations to Address Child Labor and Forced Labor in the Cocoa Sector in Brazil, Ecuador, Indonesia", America Institute for Research, 2024, 11.

<sup>23</sup> J. Cadby, T. Araki, "Towards ethical chocolate: multicriterial identifiers, pricing structures, and the role of the specialty cacao industry in sustainable development", *SN Business & Economics*, Vol.1 (2021).



Most cocoa in Ecuador is grown in the provinces of Guayas, Los Ríos, Manabí, and Esmeraldas. As in most other cocoa-producing countries, cocoa in Ecuador is harvested primarily on small family farms. About 70%-85% of cocoa farmers work on farms smaller than 4–5 hectares. For their part, medium-scale farms make up about 15-20% of all cocoa farms and large-scale farms account for just 10%.<sup>24</sup> Significantly, even though cocoa in Ecuador is mainly grown using eco-friendly methods, 12% of the country’s forests were replaced by fields between 2008 and 2015.<sup>25</sup>

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<sup>24</sup> Munoz Sevilla et al., Assessment Report, 9.

<sup>25</sup> GiZ, “Savouring chocolate, saving the forests”, April 26, 2024, <https://www.giz.de/en/worldwide/122247.html>.

### 3. Cocoa production, forced labor and forced labor risks

In the Caribbean and Latin America, chocolate was historically the business of colonial powers, such as the British Empire, the Spanish Empire, and the Portuguese Empire, that used slave labor to farm cocoa plantations. Initially, colonial powers relied on the labor of local, Indigenous populations, who were forced to work under conditions of slavery. Over time, as demand for chocolate in Europe grew, African men and women subjected to slavery were transported across the Atlantic to the Caribbean and South America and forced to work on cocoa (and sugar) plantations there.<sup>26</sup>

Today, just as in the past, cocoa production in the region continues to be at risk of labor exploitation, including in Ecuador.<sup>27</sup>

The biggest challenge in Latin America's cocoa production is that of labour rights, especially for hired labour. Most of the Latin American countries are known for problems concerning labour rights. Annually, the International Trade Union Confederation (ITUC) publishes an analysis on labour rights violations, where Brazil, Colombia, and Ecuador were most recently rated with “no guarantee of rights” (the worst possible rating).<sup>28</sup> As many Ecuadorian cocoa farmers use hired laborers, especially during harvest time, the issue of labor rights for hired labor is quite prominent in the cocoa sector.

As early as 1920, it was noted that in the Ecuadorian cocoa production Indigenous and Afro-Ecuadorian communities – that are especially concentrated in Ecuador's cocoa-growing regions – were realizing the cocoa harvesting in conditions akin to slavery. They were forced to indebt themselves to buy the equipment needed to work on the plantations. Once indebted, there was no way they could realistically pay their debt back, if not by working tirelessly and under any conditions. Unfortunately, as of the twenty-first century, the labor situation of many

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<sup>26</sup> York's Shockolate Story, <https://www.yorkschocholatestory.com/the-chocolate-industry-and-slavery/#:~:text=By%20the%20late%2017th,South%20America%20and%20the%20Caribbean>; Cocoa Runners, “Not so sweet: the dark history of chocolate and slavery”, <https://cocoarunners.com/chocopedia/the-dark-history-of-chocolate-slavery/>.

<sup>27</sup> Munoz Sevilla et al., Assessment Report, 9.

<sup>28</sup> Cocoa Barometer Latin American, 8.

members of ethno-linguistic minority groups who work on cocoa farm as hired labor has only limitedly improved.<sup>29</sup>

The risks of exploitation in the cocoa sector are also high for migrants, mostly coming from Venezuela, Colombia, and Peru.<sup>30</sup> The main barrier to entry in the cocoa industry is related to land ownership. Because migrants have no land property on which they can start to grow cocoa, they cannot but work as hired laborers for farm owners.<sup>31</sup> The irregular and undocumented status of many of those migrants makes them especially vulnerable to exploitation and abuse. In fact, the lack of legal protections accorded by official residency and work permits, as well as the lack of support networks, creates a situation of total dependence on the employer, whereby walking away from the farm amounts to losing one's only source of income.

More recently, there have also been increased cases of trafficking in persons from Venezuela to the Andean region of Ecuador for agricultural work.<sup>32</sup> While it was not possible to confirm the specific sectors in which those trafficked migrants are employed, the prominence of cocoa cultivation in the Andean region suggests that the trafficking of those migrants for labor exploitation is likely to occur on cocoa plantations as well.

**Box 1** – As the international price of cocoa has grown, so has the interest of criminal gangs for the crop. In Ecuador, cocoa growers have been systematically kidnapped, and trucks loaded with cocoa pods have been repeatedly stolen by criminal gangs.<sup>33</sup>

Laborers on Ecuador's cocoa farms – Indigenous, Afro-Ecuadorian, irregular migrants – find themselves in precarious situations, whereby they work under informal conditions (i.e., without a proper contract and without social security)<sup>34</sup> and are paid very little – lower than the

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<sup>29</sup> Ibid.; U.S. Department of State, Trafficking in Persons Report, Ecuador, 2024.

<sup>30</sup> See: <https://datosmacro.expansion.com/demografia/migracion/inmigracion/ecuador>.

<sup>31</sup> ILO, USAID, “Sectores economicos con pontecial para la inclusion labor de migrantes y refugiados venezolanos e Quito y Guayaquil”, 85, 2020.

<sup>32</sup> UNODC, “Cross border support for victims of human trafficking in Peru and Ecuador”, 2023, <https://www.unodc.org/unodc/en/frontpage/2023/December/cross-border-support-for-victims-of-human-trafficking-in-peru-andecuador.html>.

<sup>33</sup> TRT, “Cacao el nuevo oro de Ecuador que atrae al crime organizado”, July 2024”.

<sup>34</sup> Avadí et al., *Análisis de la cadena*, 99.

minimum wage established under Ecuador’s law – according to the hours or to the days of work (depending on the specific arrangement wanted by the farm owner).<sup>35</sup> Besides, some cocoa laborers find themselves forced to work under hazardous circumstances. Although the use of pesticide is relatively low in Ecuador’s cocoa cultivation compared to other crops, the risk of health damage from their inappropriate use, especially on small farms, is a matter of growing concern.<sup>36</sup> However, the main risks of occupational accidents on cocoa farms are related to the transport of heavy loads, as cocoa is usually stored in very heavy sacks that are then moved manually by workers.<sup>37</sup>

In some cases, cocoa laborers work on the farms with their entire families. In exchange for their work, they are allowed to live on the land. Sometimes they are paid a low daily wage, or they are given a fixed amount per sack of cocoa pods collected. The children and the wife, also involved in the cocoa harvesting, do not receive any wage. Also, employers typically refuse to include the laborers in social security schemes under the justification that they already provide them and their families with a place where to live.<sup>38</sup> Those who do not agree to those conditions are forced to leave (a choice that for most is not realistic due to the lack of alternatives), as no space for negotiation is accorded to the laborers.<sup>39</sup>

**Box 2** – Rural communities, Indigenous populations, and Afro-Ecuadorian populations show a higher prevalence of child labor.

Migrant and refugee children from Colombia and Venezuela, especially if in the country irregularly, are also more vulnerable to child labor, including in agriculture.

However, child labor in agriculture is also observed among non-Indigenous and non-Afro Ecuadorian households, where poverty drives parents to use the help of their children on the cocoa plantations.

This is especially the case on small-scale family farms, where financial constraints prevent the parents from hiring laborers.<sup>40</sup>

<sup>35</sup> ILO, USAID, “Sectores economicos”, 87.

<sup>36</sup> Avadí et al., *Análisis de la cadena*, 99.

<sup>37</sup> *Ibid.*, 100.

<sup>38</sup> G.L. Valarezo et al., “Personas en Riesgo de Trabajo Forzoso y en Situación de Trabajo Infantil en los Cantones Quininde y Esmeraldas, Provincia de Esmeraldas, Ecuador”, 2014, 65.

<sup>39</sup> *Ibid.*, 74.

<sup>40</sup> US Department of Labor, Findings on the Worst Forms of Child Labor, Ecuador; Valarezo et al., “Personas en Riesgo”, 81-2.

Finally, it is noticeable that cocoa production in Ecuador is characterized by high levels of gender inequality. While Ecuador has a solid legal framework of gender equality, this has not yet translated into widespread gender equality among rural and cocoa-growing communities. Thus, female cocoa farmers have significantly lower cocoa revenues (\$812 difference per year), are more exposed to property rights violations, and are more likely to be asset-poor due to inheritance laws that favor men.<sup>41</sup>

*Figure 5. Elements of concern in Ecuador’s cocoa sector that may lead to forced labor situations if unaddressed*



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<sup>41</sup> Kuhn et al., “Gender Inequality”.

#### 4. Drivers of vulnerability to forced labor in cocoa farms

Within cocoa-growing communities, forced labor is driven by a series of intersecting factors:

**Poverty within rural cocoa-growing communities.** Most cocoa farmers in Ecuador receive a very low income from the sale of cocoa beans (lower than average income and lower than living income) and find themselves below the poverty line.<sup>42</sup> While the global chocolate industry is expected to reach an annual value of \$263 billion by the end of the decade,<sup>43</sup> cocoa farmers worldwide continue to earn very little. In Ecuador, the limited earnings obtained from cocoa means that many farmers who hire laborers may not be in the condition to pay their laborers adequately or to offer adequate living and working environments. Importantly, the poverty to which cocoa-producing communities are exposed is linked to three main factors:

- **Low international market price for cocoa.** Low cocoa prices often mean that farmers struggle to make enough income to cover production costs. At best, farmers will get only a small profit margin. In remote areas, the purchase price practiced by some buyers who source directly from farmers may be even lower than the international market price.
- **Price fluctuations of cocoa beans.** Cocoa prices are constantly fluctuating, making farmers highly susceptible to price fluctuation shocks. When cocoa prices are low, farmers often have no savings to rely on, which exposes them to even greater poverty. Because farmers bear the burden of market volatility, whether driven by commodity prices or by changes in demand, they are exposed to economic precarity and indebtedness.

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<sup>42</sup> Instituto Nacional de Estadística y Censos, "National Survey of Employment, Unemployment and Underemployment, Poverty and Inequality Indicators," 2023, [https://www.ecuadorencifras.gob.ec/documentos/web-inec/POBREZA/2023/Junio/202306\\_PobrezayDesigualdad.pdf](https://www.ecuadorencifras.gob.ec/documentos/web-inec/POBREZA/2023/Junio/202306_PobrezayDesigualdad.pdf); <https://www.ofi.com/content/dam/olamofi/products-and-ingredients/cocoa/cocoa-pdfs/cocoa-compass-impact-report-final.pdf>

<sup>43</sup> A. Brudney, R. Taylor, *There Will Be No More Cocoa Here: How Companies Are Extracting the West African Cocoa Sector to Death*, Corporate Accountability Lab, September 2023, 6.



- **Limited bargaining power of farmers.** Cooperatives can support farmers in many ways, including price negotiation with buyers (collection centers, exporters, and processing companies), which leads to greater profitability. According to estimates, however, only 20% of cocoa farmers in Ecuador are organized in cooperatives.<sup>44</sup> The cocoa industry in Ecuador is mostly made up of small farmers who supply middlemen and collection centers, which in turn supply the exporters. The middleman could come to the farmer to purchase cocoa beans directly – which is especially the case in remote areas where there is poor infrastructure – or the farmers could travel to a middleman to sell the cocoa beans. In any case, selling the beans to the middlemen leaves to farmers little power to bargain for better prices and leads to less profitable sales.<sup>45</sup>

**Lack of cocoa farmers-specific unions.** Workers organized in unions have greater bargaining power. However, Ecuador’s cocoa farmers (who are part of the wider agricultural industry) face challenges in terms of union representation, especially in rural areas, where union presence is generally weak. This can be attributed to the geographic isolation of these communities, with dispersed farms and farmers who are difficult to reach; the lack of awareness among farmers about the potential benefits of joining a union; and a fear of retaliation from buyers and landowners.<sup>46</sup>

**Limited access to essential services and infrastructure** such as education, healthcare, and social protection – especially in the rural areas inhabited by Indigenous and Afro-Ecuadorian communities. In this context, rural communities have limited education and employment opportunities, thus remaining trapped at the bottom of Ecuador’s socio-economic ladder. Forced labour is also negatively correlated with the education level, as more education empowers individuals with the human capabilities needed to secure decent work in the formal economy. For Indigenous and Afro-descendant communities, discrimination only adds to the barriers to better employment opportunities.

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<sup>44</sup> Cocoa Barometer Latin American, 16.

<sup>45</sup> Munoz Sevilla et al., Assessment Report, 16.

<sup>46</sup> Ibid., 42-3.

## 5. Relevant laws, policies, and programs

### Government

Ecuador has ratified the Forced Labor Convention, 1930 (No.29) and the Abolition of Forced Labor Convention, 1957 (No.105).

Article 66 of the Ecuadorian constitution states that contemporary forms of slavery are illegal, and national law acknowledges the right to personal integrity and a life free from violence. Article 33 of the constitution demands that the State guarantee the “performance of a healthy job that is freely chosen”. Article 138 of the Labor Code prohibits slavery and slavery-like practices, and Article 82 of the Organic Integral Criminal Code criminalizes slavery. Provisions related to forced labour are also found in the 2014 Organic Integral Criminal Code, which prohibits forced labour and labour exploitation at Articles 91 and 105. However, Ecuadorian law does not prohibit labor recruitment practices that traffickers commonly exploit, such as charging workers’ recruitment fees, confiscating workers’ passports, or allowing migrant workers to change employers without obtaining special permissions or losing their work permit.

The Ministry of Labor requires employers to register the contracts of all foreign workers so authorities could verify they had adequate work conditions and salaries. However, mechanisms for workers to report cases of abuses are hardly accessible to people in rural areas (i.e., far from the administrative centers and with limited access to digital technologies), people with a minimum (or no) level of education (i.e., unfamiliar with the legal language and unaware of their rights and existing mechanisms for reporting and redress), and people without official identification number (i.e., irregular migrants).

The government revised resources and tools for the implementation of the forced labor victim identification protocol and referral mechanism. However, insufficient human resource allocation has been hindering enforcement efforts, especially in the informal sector and in rural areas. The fact that many cocoa-growing regions in Ecuador are remote and lack adequate transportation infrastructure such as roads, adds to the challenges of monitoring and addressing forced labor issues. Cases of forced labor that were brought to court were sometimes closed following the payment of bribes to judges on part of implicated companies. The most infamous case is that of the abaca plantations (Farukawa case).

The Government has been implementing a Program for the Protection of Vulnerable Migrants in Host Cities that aims to provide vulnerable migrants with access to public and private social protection services. It also provides orientation on regularization and offers trainings on human rights violations, including human trafficking, child labor, smuggling.

## NGOs & private sector

Cocoa Horizon Program by Barry Callebaut is an impact driven program focused on cocoa prosperity. It aims to improve the livelihoods of cocoa farmers through the promotion of sustainable farming, improved productivity, and community development. All registered farmers are trained on good agricultural practices, traceability, human rights (including child protection, forced labor, and gender issues), and environmental protection.

Nestle launched the Cocoa Plan program in Ecuador to help improve the lives of cocoa-growing communities. It seeks to professionalize the local agricultural workforce, improve the production of registered farmers, generate jobs in rural areas. It also provides training sessions and awareness raising campaigns to farmers on issues such as child labor and gender equality.

Hershey has expanded its Cocoa for Good program to Ecuador. The program provides improved nutrition for schoolchildren, works with communities to combat child labor and improve the quality of education, economically empowers women, provides training and financial support to farmers, and advances environmentally responsible agricultural practices.

Olam Ecuador and MOCCA have been implementing a program to strengthen cocoa production and the family economy through capacity building for the sustainable management of the crop, applying organic practices agroforestry and rehabilitation. As women are also included in the program, their access to income and economic independence have been improving.

Mondelez has been implementing the Cocoa Life program in Ecuador. The program focuses on helping tackle the root causes of complex systemic issues in cocoa farming, such as the risk of poverty, farm productivity, farmer livelihoods, gender inequality, lack of basic infrastructure, child labor, and deforestation.

Lindt has been implementing the Farming Program in Ecuador, involving more than 8,800 farmers. The program aims to contribute to creating decent and resilient livelihoods for cocoa farmers and their families and to encourage more sustainable farming practices. Specifically, the program has three main outcomes: increasing resilience of farming households, reducing the risk of child labor, and conserving biodiversity.

NGOs have been active in the identification of victims of labor trafficking. They have also been providing identified victims with services and shelters. However, the lack of consistent government funding represents a barrier to those NGOs' capacities.

## Recommendations

### Companies that supply cocoa from Ecuador

**Partner with civil society organizations to implement credible, sustainable, and effective projects aimed at addressing forced labor** in cocoa-producing regions (e.g., Community Vigilance Committees) as well as to share experiences and good practices and accelerate progress. While the issue of child labor on cocoa farms has been the object of extensive attention and commendable efforts, **there is a need for programs more clearly targeted to address forced labor risks among cocoa farmers.**

**Implement a holistic human rights due diligence policy.** Embed responsible business conduct into policy and management systems; identify and assess adverse impacts in operations, supply chains, and business relations; cease, prevent, or mitigate adverse impacts; track implementation and results; communicate how impacts are addressed; provide for, or cooperate in, remediation when appropriate.

**Pay a living income to cocoa farmers** and make sure that the full amount of the living income reaches farmers, rather than brokers who act as middlemen.

**Establish long-term contracts at fixed prices with cocoa farmers** that distribute the risk of price fluctuations to supply chain actors who are better situated to absorb it, resulting in greater stability across the supply chain.

### Government of Ecuador

**Implement a better regulatory system for companies sourcing cocoa** from the country. This includes ensuring that the cocoa that farmers are paid fairly for their cocoa.

➤ **Support the establishment of farmer cooperatives** to improve the bargaining power of cocoa producers vis-à-vis middlemen and support the sector-specific unionization of cocoa farmers.

➤ **Invest more in rural infrastructure** such as schools, roads, water, electricity, and other necessary services, in order to reduce the isolation of rural communities, mitigate the vulnerability of cocoa-growing farmers, and ensure that rural household can have access to a higher quality of life. This is also important to ensure that cocoa producers can transport their cocoa beans, rather than waiting for the middlemen to come and collect them, which creates an imbalanced power relationship.


➤ **Enhance the enforcement of the legal and policy framework.** Specifically, increase the number of labor inspectors, train labor inspectors and strengthen their capacities to effectively identify indicators of forced labor and investigate cases, provide the labor inspectorate with sufficient funding, and expand (unannounced) labor inspections to all sectors including informal sector workplaces such as small-scale, family-owned cocoa farms.


➤ **Invest in comprehensive studies and official statistics** to understand the full extent of forced labor in the cocoa sector, so as to address the current lack of data disaggregated by sector.


➤ **Fight corruption in the judiciary**, where bribes paid to judges by powerful and wealthy companies have been enough in the recent past to silence cases of forced labor or deliver verdicts stating that forced labor allegations were not found to be substantiated.


### Civil Society Organizations

➤ **Launch education campaigns on forced labor** among cocoa-producing communities aimed at addressing misconceptions, identifying the risks, and encouraging an enduring change.


 **Train farmers on their rights** as well as on how to file complaints and reports to Ecuador's relevant authorities in order to obtain redress in case of abuses.


 **Carry out research to improve understanding** of the causes of forced labour in the cocoa sector and to identify effective mechanisms to address these phenomena.

 **Provide technical assistance to government and cocoa companies** to support the development of effective projects aimed at addressing and reducing the risk of forced labor on cocoa plantations.

 **Initiate forums, conferences, and workshops** aimed at encouraging a constructive multi-stakeholder dialogue on successes, challenges, and failures in addressing the risk of forced labor in cocoa supply chains.

### Countries where cocoa companies are registered

 **Introduce mandatory human rights due diligence** requiring companies to conduct due diligence to prevent, mitigate, and remedy modern slavery in their operations and cocoa supply chains, in line with the UN Guiding Principles on Business and Human Rights.

 **Provide access to remedy for victims**, including a robust liability regime and strong enforcement measures that ensure accountability for harm arising out of human rights abuses caused, or contributed to, by a cocoa company or by entities with which the cocoa company has a business relation.