



HARNESSING THE
POWER OF BUSINESS
**TO END MODERN
SLAVERY**



WALK FREE
FOUNDATION



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This image was taken in India, in a community recently liberated from intergenerational debt bondage under the control of a landlord. The community now uses their carpet weaving skills to generate a fair income, empowering them to be part of a wider community, generate local revenue and send their children to school.

FOREWORD



I am fortunate to be the Chairman of Fortescue Metals Group (Fortescue), a global leader in the iron ore industry. Fortescue generated over US\$7.1 billion in revenue in 2016, and has had the fastest growth in the entire resources sector to become the world's fourth largest seaborne iron ore producer.

Fortescue also has developed some of the largest mines in the world, the highly efficient Herb Elliot Port in Port Hedland, and the fastest, heavy haul railway in the world. In order to support this level of infrastructure and output, Fortescue's supply chain necessarily comprises more than 2,000 suppliers doing business in more than 20 countries.

I first became concerned about modern slavery when my daughter, who was volunteering overseas, uncovered what we suspect was an orphanage selling children. Later, I began to appreciate the real risk of modern slavery within company supply chains, including my own company.

In 2012, with my full support, Fortescue made a commitment to deal with slavery in its supply chain. Fortescue wrote to its suppliers asking them to thoroughly review their first and second order supply chains and to ensure they had no forced labour or slavery type practices in their supply chains. Importantly, Fortescue agreed to not penalise a business unless they did not cooperate.

Several indicated difficulty with their contract labour supply conditions. We then asked labour auditing experts Verite to investigate the working conditions of the employees of one of our suppliers. Through the auditor's interviews with over 100 workers, a confronting fact emerged – there were people working in Fortescue's supply chain whose passports were being held. Due to excessive fees paid to recruiters, these workers had crushing debts to repay. They were unable to leave their employers and had no ability to report the completely inhumane conditions in which they worked.

Were the workers being deliberately enslaved by the corporate leaders and suppliers we dealt with? No – but through their failure to check recruitment practices of the company serving them, and their combined practice of holding passports, the company was creating the conditions that allow modern slavery to thrive. As a customer of that supplier, Fortescue's leverage could be applied to ensure that all passports were returned, illegal recruitment fees were back-paid – including to workers who had since left the company, and major overhauls were made to ensure this did not happen again. This is the power of business.

Since that time, Fortescue has worked hard to put systems in place business-wide, to give effect to a zero-tolerance policy for modern slavery in its supply chain. This is not a one-step exercise. We began by ensuring we had the right policies in place approved at the board level. We continue to work on this issue every day, through risk assessments we undertake in the procurement process, our contracting processes and the strategic engagement we undertake with suppliers.

Not all business leaders will willingly prioritise this issue but all of us, without doubt or exception, know that it is right. In this regard governments have a critical leadership role to play so companies like Fortescue are encouraged to scour their supply chains and feel safe in doing so - and safe in revealing the results publicly!

Laws are a key first step to require companies to report on the steps they are taking to identify slavery in their supply chains, such as the UK Modern Slavery Act. We must encourage companies to both look and know how to find instances of modern slavery, so these situations can be remedied.

I am a strong believer in not punishing companies who take the initiative to look deeply in their supply chains only to find problems. Companies must be encouraged, not dissuaded, to look hard. However, I am also a strong believer that those who seek to remain wilfully blind cannot be allowed to hide behind a failure to look. Again, government has a critical role to play here. Companies that fail to exercise due diligence – who simply look the other way – must be held to account. Without this, we punish those who put the time and effort into ensuring they have clean supply chains, while rewarding those who do nothing.

Globally, the laws around transparency in supply chains are rapidly developing. What is clear is that even ground breaking reporting requirements like the UK Modern Slavery Act, represent the bare minimum standard. In my home country, Australia, laws are needed to ensure the reputation of our businesses matches our foreign policies and moral expectations. Australia, and other countries, that have not yet introduced compulsory reporting regimes should build on the precedent set by the UK.

Companies need to accept that addressing the risk of modern slavery within their value chain is no longer an option. Continued inaction should attract not only reputation risk but also legal sanction.

Andrew Forrest

Chairman, Fortescue Metals Group,
Walk Free Foundation

EXECUTIVE SUMMARY

Many governments, and thousands of civil society organisations, have been active over several decades addressing the crime of modern slavery. Nearly all countries have laws criminalising slavery and most have laws that outlaw human trafficking and forced labour. Globally, there are many civil society organisations who fill critical gaps in services, whether it is providing telephone hot-lines through which these crimes can be reported, or front line services such as shelter and legal services.

The level of corporate engagement on modern slavery has been considerably less.

For many businesses, modern slavery is not a board agenda item. But this is changing.

In this report, case studies highlight how wide spread modern slavery is today and its relevance to business. Examples include the widely reported abuses in the textiles and garments sector in Brazil, the investigative journalists uncovering horrific abuses in the Thai seafood industry, forced labour of many construction workers in the Middle East, modern slaves producing electronic goods in Asia that implicates the supply chains of many household brands for smart phones and computers, and the migrant workers being forced to work in factories in the UK.

The global map produced in this report illustrates the impact of modern slavery, highlighting high risk products and regions where goods have been produced by workers subjected to forced labour. Modern slavery affects every large global business and every region of the world.

There are increasing legal imperatives for organisations to identify and address labour abuses in their supply chains. This report focuses on the new body of emerging voluntary initiatives, regulations and laws that are holding organisations to account for their role in modern slavery within their own organisations and supply chains.

There is a clear regulatory trend in favour of requiring larger organisations to, at a bare minimum, focus on the issue of modern slavery and publicly report what they are doing. The detailed legislation table at Annex 1 to this report provides further details of the key

current global laws and initiatives.

Mandatory reporting is designed to enable the court of public opinion to rank how organisations respond to the issues. Investors and consumers will lead with their wallets.

Voluntary initiatives, which are often sector or geographically focused, complement mandatory reporting regimes, allowing organisations to collaborate and share resources. Voluntary initiatives work best for organisations already wanting to do the right thing. They are not a replacement for regulation.

Following the introduction of laws such as Section 54 of the Modern Slavery Act, there has been greater board level engagement with the issues across the UK. Issues are being identified, and reported, and organisations are learning how to respond. In most cases, simply ending ties with suppliers will not be the answer. Rather, capacity building and engagement with suppliers will lead to sustainable change in order to move towards the eradication of modern slavery from supply chains.

Global legal trends are pointing towards greater regulation, with risks ranging from reputational damage, to civil fines and sanctions, to criminal liability at a company level and attracting personal liability for directors in the most grievous cases.

Organisations cannot continue to ignore or avoid the issue. No single organisation, government or individual can end modern slavery. Collaboration is required across all sectors and continents. Ending modern slavery is no longer just a moral imperative, it is a collective business and political imperative.



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A young boy, protected from the sun by only an umbrella, crushes bricks into chippings at a brick making factory. He earns 80 taka (US \$1) daily for his 12-hour job. Then he spends the rest of the day collecting charcoal for cooking purposes for his family. Dhaka, Bangladesh. While child labour is not always considered to be modern slavery there is a close connection between child and forced labour, with children often forced to work because of their parents debt.

Photo credit, GMB Akash

WHAT IS MODERN SLAVERY?

Many think of slavery as a relic of history, eradicated in the nineteenth century by the abolitionist movement. Unfortunately, slavery continues to flourish in the modern world.

Today, criminals use deceptive means to hold captive their workforce and exploit their labour. Criminals target children and vulnerable workers, using control tactics such as charging extortionate recruitment fees, threatening deportation, retaining passports and withholding wages. Modern slavery is not the same as simply poor working conditions or low pay.

Modern slavery refers to situations of exploitation that a person cannot refuse or leave, because of threats, violence, coercion, abuse of power or deception.

Modern slavery exists because it is profitable.

In an increasingly global trade system, modern slavery is often hidden within the supply chains of most large organisations.

For example, in 2015 Associated Press uncovered hundreds of mainly Myanmar and Cambodian men held captive, and put to work fishing near remote islands in Indonesia.¹ Some had been beaten with stingray tails, held in cages and forced to work for many years without pay. The seafood they caught was sold through international markets and stocked on the shelves of thousands of supermarkets.

Investigating supply chains for modern slavery is challenging.

Often these crimes are deliberately kept out of sight. Many companies have limited visibility over what is occurring in complex multi-tier supply chains, particularly where there is outsourcing or sub-contracting. Suppliers may actively deceive their customers about working conditions, sub-contracting in breach of contract terms or using unauthorised third party recruiters. Workers may not speak up because they are heavily indebted and fear recrimination.





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The men in this photo are raising their hands, having been asked “who wants to go home?” by the Indonesian authorities who came to rescue them in April 2015. These men were saved by government intervention. Their efforts need to be matched by business action.

Photo credit, AP Photo/Dita Alangkara

HOW BIG IS THIS ISSUE?

THE GLOBAL SLAVERY INDEX 2016 ESTIMATES
THE NUMBER OF PEOPLE IN MODERN SLAVERY GLOBALLY

45.8 MILLION

58%
OF THOSE LIVING
IN SLAVERY ARE IN

5

COUNTRIES

INDIA

CHINA

PAKISTAN

BANGLADESH

UZBEKISTAN

Each of these countries are powerhouses of the global economy.

India, China, Pakistan and Bangladesh all provide low-skilled labour for industries such as food production, textiles and technology.

Uzbekistan is a major cotton exporter.

The countries with the highest proportion of their population in modern slavery are:

North Korea
Uzbekistan
Cambodia
India
Qatar
Pakistan
Democratic Republic of the Congo

Sudan
Iraq
Afghanistan
Yemen
Syria
South Sudan
Somalia

Libya
Central African Republic
Mauritania
Haiti
Dominican Republic
Myanmar
Bangladesh

EVERY REGION IN THE WORLD AND EVERY ECONOMY IS IMPLICATED, WHETHER INDUSTRIALISED, DEVELOPING OR IN TRANSITION.

FOR EXAMPLE IN:

ASIA

the most populous region in the world, an estimated two thirds of the total number of people in modern slavery are located. This region provides low skilled labour for the production stage of global supply chains for industries including food processing, garments and technology.

LATIN AMERICA

recent court cases highlight the systemic use of forced labour in the textile industry.

EUROPE

the massive influx of migrants and refugees has resulted in a group that is highly vulnerable to abuse and exploitation, whether in factories or farms across the region.

AFRICA

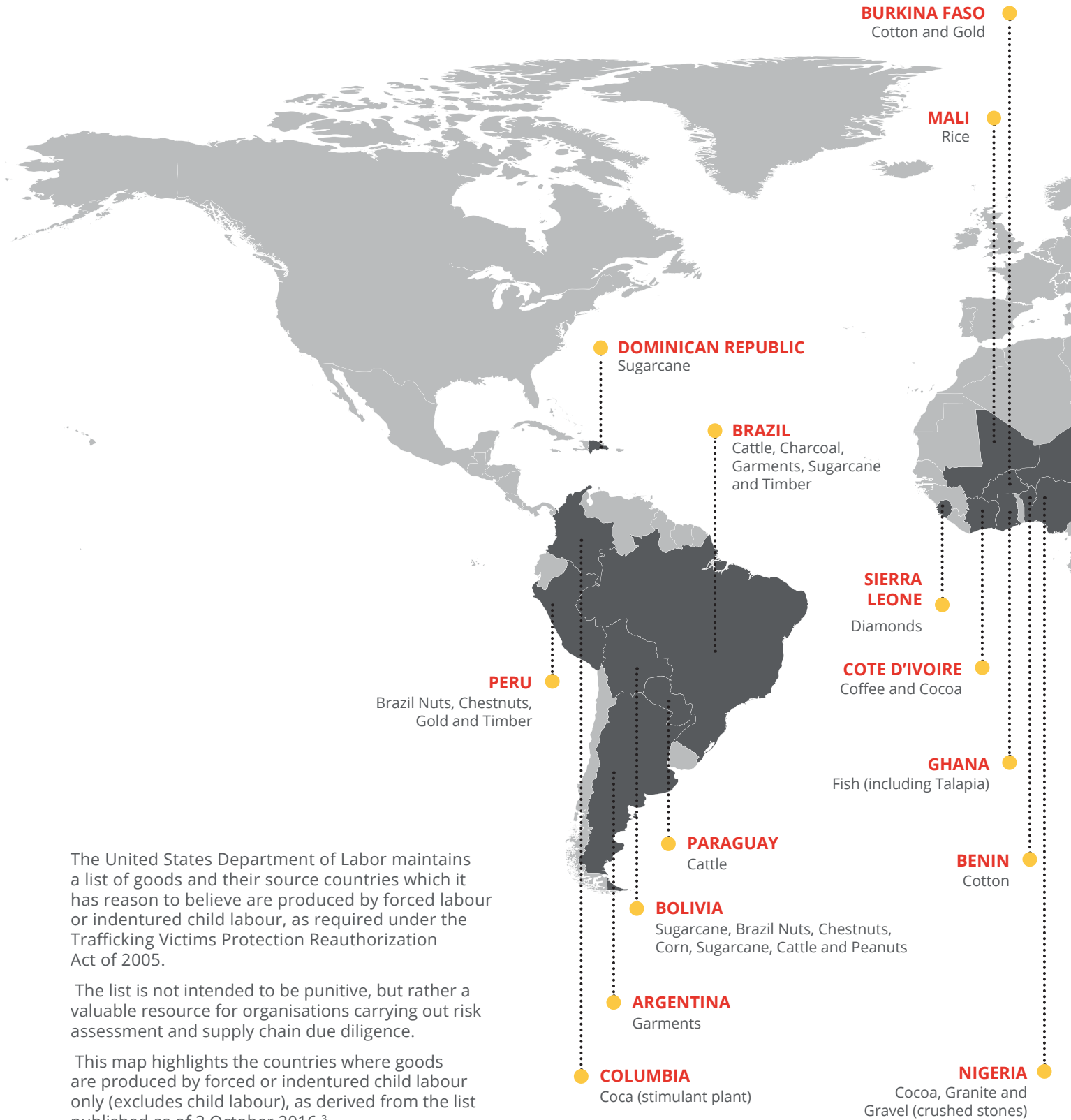
the rich resources and agricultural sector are at high risk for modern slavery, including in coffee farms, gold mines and other minerals mined in conflict regions.

AUSTRALIA

there have been reported cases of migrant workers being forced to work in many different agricultural settings, with passports withheld and receiving little to no pay. Australian brands, such as RipCurl, have been implicated in using forced labour in their supply chains in North Korea.²



GOODS PRODUCED BY FORCED LABOUR



The United States Department of Labor maintains a list of goods and their source countries which it has reason to believe are produced by forced labour or indentured child labour, as required under the Trafficking Victims Protection Reauthorization Act of 2005.

The list is not intended to be punitive, but rather a valuable resource for organisations carrying out risk assessment and supply chain due diligence.

This map highlights the countries where goods are produced by forced or indentured child labour only (excludes child labour), as derived from the list published as of 3 October 2016.³

THE POWER OF BUSINESS

No single business, government or individual can end modern slavery. Rather government, civil society and business must collectively harness their resources and there must be a change in governance and corporate culture across all sectors and continents.

There are many issues faced by businesses in the short to long term when addressing modern slavery in supply chains. On the surface, it may appear there is an inherent tension between corporate responsibility and maximising profits of shareholders. The complexity of supply chains can seem insurmountable to inexperienced personnel with insufficient internal resources.

However, it is important to understand what businesses are being asked to do.

Businesses are not expected to monitor every single supply chain back to source. They are, however, increasingly being asked to look at and understand the risk of modern slavery in their supply chains, and to put reasonable steps in place to respond to this risk. Just as businesses are routinely asked to manage risk in relation to the environment, safety, bribery and corruption, they are being asked to respond where there is a risk of modern slavery in supply chains. For most businesses, focusing on first tier, higher risk sectors and higher risk supplier relationships will be a realistic first step.

When responding to issues of modern slavery, leadership must be engaged. Senior leaders need to see the issues first hand, and often this will lead to open doors to resources and culture change within an organisation. In addition, sector collaboration is necessary, even with direct competitors. When resources are shared and supplier lists made public, issues can be addressed on a sector basis and help to create a level playing field.

Businesses will have different amounts of leverage. Those at the top of supply chains have significant negotiation power over production deadlines, pricing, contract conditions and ultimately working conditions of those further down the supply chain.



WHAT CAN BUSINESSES DO?

The Walk Free Foundation has prepared a "Tackling Slavery in Supply Chains" toolkit for businesses wondering what to do next. It is an introduction for organisations wondering how to design a strategy to address modern slavery, including practical approaches to address risk and how to engage with stakeholders.

Full details can be found at: business.walkfreefoundation.org/

The following are examples of recommendations from the toolkit.

EXECUTIVE LEADERSHIP

Senior leadership must be engaged early on to understand and appreciate the risks, to ensure appropriate resourcing and staffing and corporate culture transformation.

Set short to long term key performance indicators to ensure a transparent and efficient strategy.

RISK ASSESSMENT

Internal - what areas of your business are vulnerable – focusing on high risk regions, high risk sectors, use of labour recruitment.

External - what areas of your supply chain are vulnerable – again focusing on high risk regions and sectors.

RESPONSIBLE SOURCING

Initial focus on first tier and strategic contracts (those which company can influence and control) and high risk goods and services.

Build better relationships with suppliers to ensure supply chains are robust, resilient and efficient.

Review ethical sourcing policies and contracts (e.g. warranties, termination rights, and terms about personnel).

AUDIT AND COMPLIANCE

Consider which audits (internal and external) need to be undertaken.

Engage with external consultants and third party accreditation schemes as appropriate.

Decide how to respond to breaches - noting that immediately terminating supplier relationships will rarely provide a long term answer.

SECTOR & GOVERNMENT COLLABORATION

Collaborate with governments to strengthen existing regulation.

Pool resources across the sectors (such as voluntary initiatives, shared training, providing supplier lists, non-sensitive audit results etc).

Review existing statements online, e.g. one well maintained registry is business-humanrights.org/en/uk-modern-slavery-act-registry.

TRAINING

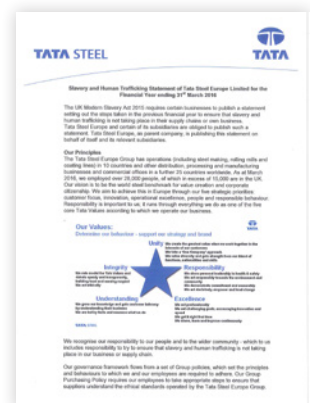
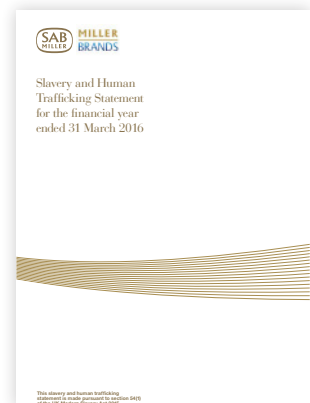
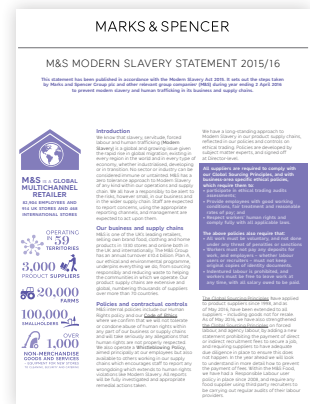
Immediate training for key members of staff.

Consider longer term training and policies that will be given regularly and for new starters.

WHISTLEBLOWING

Ensure company has a whistleblowing policy and that employees and suppliers know how to use it.

Work with local workers organisations to ensure workers can access their rights with freedom and without discrimination.



SLAVERY AT SEA

CASE STUDY 1: GLOBAL SHIPPING

Businesses are dependent on the shipping industry to transport materials and finished products to markets, employing 1.6 million seafarers globally.⁴ There are many documented cases of modern slavery involving abuse and exploitation of seafarers.

For example, in 2016, in Scotland, an offshore shipping vessel servicing oil and gas rigs was detained for several months for failing to pay the wages of its Indian crew members.⁵

In 2015, the Australian Maritime Authority detained the 'Bulk Brasil' after authorities discovered 21 Filipino crew members who had not been paid for four months and had minimal access to food.⁶

The global shipping industry is complex, operating between national borders. The Flag of Convenience system allows ship owners to register ships in countries with little or no requirements for compliance with labour standards.⁷ This leaves crew members vulnerable to exploitation.

Poor working conditions on ships undermine progress made elsewhere in combatting forced labour and modern slavery across the supply chains.

CASE STUDY 2: SEA FOOD

From deep-sea vessels to shrimp farming and processing, the global seafood industry is rife with working conditions akin to modern slavery.

As fish stocks have declined off the coasts of Western countries, deep-sea fishing expanded off the coasts of Indonesia, India and East Africa.⁸ More than 23 million tonnes of fish and seafood is caught from the Western Central Pacific and Indian Ocean regions.⁹

There are risks at every level of the fishing supply chain.

Fishing boats (typically Thai owned, registered to owners from Taiwan, South Korea and China)¹⁰ reel in profits by using the forced labour of thousands of undocumented migrant workers, with many reported cases of physical abuse, excessive overtime up to 20-hours a day and inadequate access to food.¹¹

Transshipment, the practice where trawler boats unload fish stocks out to sea, further poses the risk of entrapment with crew members forced to remain on boats for months on end.¹²

Processing factories have come under scrutiny for reported slave-like conditions scattered around port towns in Thailand. An investigation by the Associated Press discovered factories in the port town of Samut Sakhon, West of Bangkok, where as many as 100 workers had their passports confiscated and were unable to leave the facility.¹³

This seafood has been tracked and found in the supply chains of major retailers and restaurants across the world, including Walmart, Red Lobster, Coles, Aldi, Tesco, Costco and Carrefour.¹⁴



From the 'Less than Human' photography series. A large cargo boat is seen in Songkla Port, Thailand, March 9, 2014. Photographer Chris Kelly worked undercover to expose the link between prawns being sold in big name supermarkets, and the slaves who live and work on Thai fishing boats miles out to sea.

Photo credit, Chris Kelly





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Rescued bonded labourers gather at a non-governmental organisation office in New Delhi, India on 8 April 2016. According to the press release issued by the NGO, around 18 men, 12 women, and 15 children from Andhra Pradesh state in India were rescued from a construction site in the North West of Delhi.

Photo credit, Rajat Gupta

THE EVERYDAY BUSINESS OF SLAVERY

CASE STUDY 3: CONSTRUCTION

The construction industry is rife with modern slavery risks that can leave companies directly liable.

French construction firm Vinci faced severe reputational damage following links to illegal recruitment of workers in the Qatari World Cup sites, and claims the company had confiscated the passports of migrant workers and were forcing them to work a 66 hour working week.¹⁵ Qatar is the fifth ranking country for prevalence of slavery per capita, as ranked by the Global Slavery Index (2016).

The risk to business of being associated with cases of modern slavery extends to raw materials. Across the raw materials sector cases of modern slavery have been found in mahogany imports from Brazil and Peru,¹⁶ sandstone imported from India and used to make paving and granite.¹⁷ Until recently, North Korea was a large exporter of sand to China, risking links with North Korean forced labour entering the supply chains of many sand-based products,¹⁸ for instance roads, concrete, bricks, pipes, glass, roof shingle and water filtration devices. The Global Slavery Index reported that North Korea has over one million people enslaved in 2016, with the highest rate of prevalence of slavery per capita in the world.

CASE STUDY 4: COFFEE

Child labour and forced labour are across the whole of the coffee industry, with the United States Department of Labor linking coffee to child labour and forced labour in 12 countries across Africa and Latin America.¹⁹ Slavery-like conditions have been reported in farms across Brazil, with both Nestlé and Jacobs Douwe Egberts admitting that there is a strong likelihood that their coffee product supply chains are linked to forced labour of some sort.²⁰ While both companies have clear ethical policies, coffee sourced through middlemen and agencies removed direct accountability.

CASE STUDY 5: ELECTRONIC GOODS

According to research conducted by labour auditing experts Verite, one in three foreign workers in the Malaysian electronics industry are in situations of forced labour.²¹ The electronic industry is vast, covering components to consumer goods to electrical products. Huge factories form part of the supply chain of global public facing companies with well-known brands. Thousands of migrant workers are lured into working in the electronics workforce, on the promise of a good salary and steady work. Many are required to pay excessive recruitment fees, are deceived about wages and work expectations, housed in poor living conditions and have passports removed.

CASE STUDY 6: MANUFACTURING

In February 2016 Mohammed Rafiq, Director of Kozee Sleep in West Yorkshire, was the first UK executive convicted of human trafficking.

Rafiq employed large numbers of men from Hungary who were forced to work excessive hours for little to no pay, and forced to live in substandard conditions (42 men living in a 2 bedroom house) as part of a bed manufacturing company. These beds were supplied to major retailers including John Lewis. Notably, John Lewis had conducted ethical audits and required compliance with ethical policies, but had failed to spot the criminal activity. No allegations were made against the retailers.

Rafiq was sentenced to two years imprisonment, together with charges brought against the labour intermediaries. When sentencing Rafiq, the judge said *"you accepted the cheap labour that he [the labour agent/ co-defendant] found you regardless of how they were being treated. I'm satisfied you did nothing to help, you did not care."*²²

THE SHARED INTEREST IN CLEAN SUPPLY CHAINS

Governments, businesses and the community have a shared interest in ensuring that modern slavery does not find its way into supply chains of either businesses or governments.

Many governments have worked hard to put criminal laws in place to combat modern slavery, alongside other criminal justice and victim support initiatives. Governments need to ensure their investments are not undermined by businesses inadvertently using goods produced by slavery.

Responsible businesses do not want slavery in their supply chains. Aside from being morally repugnant, it exposes them to litigation risk and presents a major brand and reputation risk. Also, given slavery is often closely related to other criminal acts such as corruption, environmental concerns and major safety breaches, this is not a risk responsible companies want to take.

Consumers do not want to inadvertently support slavery through the food they eat or the electronics they buy. However, it can be very difficult for consumers and businesses to know how to identify the risks.

Businesses can bring unique strengths and advantages to this issue. Whereas government capacity tends to be confined with national borders, businesses are very used to operating across borders. With relative freedom to innovate, businesses have developed many different systems and processes that allow identification and rapid response to risk, whether in relation to safety, environmental, corruption or modern slavery offences. This might take the form of contract terms, audit processes, site visits or even by managing relationships of trust with suppliers.

In short, businesses have a different set of tools and leverage to respond to the risk of modern slavery, and these are mostly yet to be fully harnessed.

Modern slavery in supply chains is an abuse of human rights in the pursuit of profit.

While some businesses have begun to respond to this reality voluntarily, governments are also increasingly recognising the need to regulate to ensure businesses take action.



THE EMERGING LEGAL FRAMEWORK

Until very recently, multi-national organisations buying and selling across international borders, were rarely held to account for abuses perpetrated by their suppliers. This is changing.

In recent years, there has been a rapid growth in voluntary initiatives that focus, for example on 'fair trade', or ensuring decent working conditions in a specific region or sector. While useful, voluntary initiatives are most effective for those who already have some incentive to comply. Voluntary initiatives do not reach the actors who are wilfully blind or deliberately negligent.

In the past four years, there has been a shift from voluntary initiatives to mandatory reporting laws.

The laws in the United Kingdom, the Modern Slavery Act, in California and the EU Directive are all examples of this shifting approach (see further, pages 17 to 19). While there are some exceptions, typically, these laws do not require a company or organisation to undertake any particular steps or due diligence – they simply require an organisation to report on what due diligence they are in fact doing, leaving it to the market to judge what is and what is not acceptable.

This ensures that requirements are focused either on organisations that either have the most capacity to act, or must act because they operate in sectors or regions at high risk.

Recently there has been a global trend for mandatory supply chain reporting by large global organisations. The definition of "large" is often linked to domestic regulations that categorise an organisation's size based on annual turnover for tax and accounting purposes.

LAWMAKERS ARE PRIMARILY TARGETING:

- Large global and influential organisations
- High risk sectors and high risk regions
- Government procurement

High risk sectors such as extractive industries, retail and product manufacturing have also been a target of lawmakers. For example the Californian Supply Chain Act focuses only on manufacturing and retail sectors. Section 1502 of the Dodd Frank Act regulates companies using conflict minerals sourced from the Democratic Republic of Congo. The Dodd Frank Act imposes very strict due diligence obligations in addition to reporting requirements.

Finally, lawmakers recognise that public spending contributes significantly to the global economy and governments can exercise significant influence over their suppliers. A good example are the measures introduced by President Obama under a series of US laws.²³ These laws aim to ensure all US government contracts are performed free of trafficking and forced labour, with powers to audit and investigate suppliers, and require compliance plans and certification for high value contracts.

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Female workers in a brick field. They come as seasonal labourers with their family to work in the brick field for six months in a year. Most of the families take a loan from the brick field owner so these labourers have to work harder to repay the loan. At the end nothing remain to take back to their village.

Photo credit, GMB Akash

ADVANTAGES OF MANDATORY REPORTING LAWS

MANDATORY REPORTING LAWS AIM TO:

Require organisations to consider the social impact of their operations

Enable sector-wide transparency and create a level playing field

Encourage business interest in brand management and protecting its reputation

Leverage the influence of the consumer to demand slavery-free goods

Mandatory reporting obligations have the advantage over voluntary initiatives as they require all players to meet the same standard, thereby ensuring a more level playing field.

Without this, there is a risk of penalising organisations that put the hard work into doing the right thing, while benefiting those who are negligent or unwilling to focus on this issue.

The three laws affecting most global organisations doing business in the UK, US and European Union are likely to be Section 54 of the Modern Slavery Act (UK), the Californian Supply Chain Transparency Act and the EU Directive on Non-Financial Reporting.

Each of these laws are summarised in this report, together with other key laws, regulations and initiatives as set out in the tables at Annex 1.

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A member of the Special Group of the Repression of Forced Labour, or GERTRAF, interviews a sugarcane cutter in Mato Grosso do Sul, Brazil. GERTRAF is made up of mobile groups that work in different regions of Brazil, investigating accusations of work conditions analogous to slavery. They are officials of the Ministry of Labour and they have support from the Federal Police.

Photo Credit: Ricardo Funari





LEGISLATION SNAPSHOT 1

Modern Slavery Act 2015 (UK)

Section 54 of the Modern Slavery Act requires large organisations to annually publish a statement outlining what it does to ensure there is no slavery within its own organisation, and crucially within its supply chains.

WHO:

Every organisation (whether British or foreign) that carries on business in the UK supplying goods or services with a turnover of more than £36 million. Section 54 covers every sector, not just the perceived 'higher risk' sectors such as manufacturing or food suppliers.

FORMALITIES:

The statement must be (i) approved by the board of directors; (ii) signed by a director; and (iii) published on a prominent place on the organisation's website.

CONTENT:

The statement can (but doesn't have to) cover six main areas: structure of business and supply chains, internal and external policies, due diligence processes, risks identified and mitigation strategies, KPIs to demonstrate effectiveness of policies, training and whistleblowing policies.

TIMING:

The first statement should be published promptly after the company's year end, but an informal six month grace period has been relied upon by many organisations.

RISKS:

The only requirement is to sign and publish a statement annually. Failure to publish a statement could result injunctive proceedings being brought to require compliance. Continued resistance could result in unlimited civil fines. The content of the statement is not regulated, but anticipated to be enforced by the court of 'popular opinion'.

While a huge step forward, there are early teething problems with the implementation of Section 54. To date, there is no official central repository of statements, making it difficult to hold organisations to account. NGOs have begun to collate independent repositories including Business Human Rights Resource Centre and Transparency In Supply Chains Report. From the first round of statements published, many fail to comply with the formalities and demonstrate weak risk assessment and due diligence.²⁴ However, the focus of civil society on these statements suggests that the court of public opinion is operating.



LEGISLATION SNAPSHOT 2

California Transparency in Supply Chains Act, 2010

California is the only state in the United States to have enacted supply chain transparency legislation, with the California Transparency in Supply Chains Act 2010 effective 1 January 2012. The law requires affected companies to disclose its efforts to eradicate modern slavery from its direct supply chain for tangible goods offered for sale. California is the sixth largest economy in the world and is home to strong and diverse economies including Silicon Valley and Hollywood.

WHO:

Every retail seller and manufacturer (wherever incorporated) doing business in California and having a global annual revenue of over US\$100 million. Californian law does not apply across all sectors. The Franchise Tax Board is required to keep a list of retail sellers and manufacturers required to disclose, based on tax returns. The list is submitted annually to the Attorney General by November 30 each year but is not publicly available.

FORMALITIES:

Companies are required to publish reports on its homepage.

CONTENT:

Companies must at a minimum report on the extent to which it (i) engages in verification of supply chains to evaluate and address risks of modern slavery, (ii) conducts audits of suppliers, (iii) requires direct suppliers certify materials incorporated into the product, (iv) maintains internal accountability standards and (v) provides employee training.

TIMING:

There is no timing requirement, but it is expected that statements will be updated regularly.

RISK:

Failure to comply can result in an action being brought by the Attorney General for injunctive relief. The Justice Department has been sending letters to companies believed to fall within the Act, which suggests they may move towards enforcement for those who fail to publish. To date we are not aware of any action taken.

A criticism of the Californian law is that the Franchise Tax Board does not make the list of companies that are subject to the law available to the public. This means consumers are unaware of which businesses are required to comply, which hinders transparency and makes it difficult for consumer regulation.

The US Congress is currently considering the Business Supply Chain Transparency on Trafficking and Slavery Act (2015), a bill amending the Securities Exchange Act of 1934. This bill is modelled on the Californian Act, although if enacted it would apply across all sectors (not just manufacturing and retail). It is currently unclear whether the bill will be successful.



LEGISLATION SNAPSHOT 3

EU Directive 2014/95/EU on disclosure of non-financial and diversity information

The EU Directive requires large organisations to include in management reports a non-financial statement containing information relating to social, environmental and human rights matters. While modern slavery is not expressly mentioned, this is caught under the category of “human rights”.

WHO:

Organisations are required to disclose if they (i) are a large company with more than 500 employees; or (ii) are a company of public interest, which includes EU listed companies and unlisted companies such as credit institutions, insurance undertakings or other “public interest entities” as nominated by member states.

CONTENT:

Statement should include a description of implemented policies, due diligence processes and information on supply chains to identify, prevent and mitigate against adverse impacts on human rights.

RISK:

The EU Directive uses the “comply or explain” principle. In other words, if a company fails to pursue policies for a certain category, it must explain why in the statement. The EU Directive leaves penalties for non-compliance to be set by domestic laws.

TIMING:

The EU Directive is still in transitional stages and is not yet in force. An EU Directive is a legal act of the European Union which requires member states to implement domestic laws to comply with it, but does not dictate how. This gives significant flexibility to member states when introducing the EU Directive domestically. The EU Directive is required to be implemented into national laws by 6 December 2016. Compulsory company reporting will begin from 1 January 2017. This means that EU organisations will need to report for financial year 2017/2018, and first company reports will be due to be published in 2018.

VOLUNTARY INITIATIVES

Globally, there are many voluntary initiatives that seek to improve labour standards. Voluntary initiatives are usually sector or geographically based.

Sector-driven initiatives usually have been created in response to public outrage. For example, the powerful images of children in Pakistan sewing Nike footballs in the '90s were widely reported.²⁵ Facing the real risk of losing partners and customers, the company (and arguably the sector) moved to address the wide-spread risks and challenges faced when partnering with cheap manufacturers overseas. As a result, Nike became a vocal and active contributor towards the formation of the Apparel Industry Partnership and the UN Guiding Principles on Business and Human Rights.

Voluntary initiatives can also be geographically specific, bringing together the multiple parties that operate in a particular environment. For example, the Brazilian National Pact for Eradication of Slave Labour (2005) is a nationwide pledge by companies to eradicate forced labour within their organisation and supply chains. The Pact has been signed by the Brazilian government and about 400 companies representing 35 percent of Brazil's GDP. While the Pact is voluntary, once signed, members agree to be monitored by external third parties. In 2014 InPACTO was incorporated to strengthen the impact of the Pact and monitor the commitments made by these companies.

There are many variations on these models. A recent example of sector agreements that are both geographical and sector driven are the covenants negotiated between the Dutch government, civil

society and companies. Under these negotiated agreements, the stakeholders covenant to (amongst other things) identify risks of modern slavery within their supply chains, strengthen due diligence processes, issue regular progress reports. So far two agreements have been signed; one by the garment and textile industry (signatories represent at least 30 percent of sales in the Netherlands and the aim is to achieve 80 percent of clothing companies as signatories by 2020) and another by the banking sector (signed by 13 major Dutch banks). Again, participants agree to be independently monitored.

Voluntary initiatives are attractive to companies (and governments) because they allow for a focused sector approach, with limited government involvement. However voluntary initiatives primarily work best for companies that are already doing, or want to do, the right thing. They do not address the issue of companies who are either wilfully blind to these issues, or negligent. Voluntary initiatives can also be costly, and the standard of reporting is at risk of being inadequate or false if unregulated by an independent body.

Any voluntary initiatives must be supported by binding regulation and independent monitoring to ensure a level playing field and sector-wide transparency.



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The daughter of a farmer based in India. Many Indian farmers have been affected by the rising costs of farming cotton, the cost of fertilisers and pesticides and the use of new genetically modified seeds that cost more but have not produced the higher yields that were promised. They are forced to borrow from local money lenders at exorbitant rates of interest which they have no means of repaying. There is a strong connection between usurious debt, crisis borrowing, landlessness and debt bondage.

Photo credit, GMB Akash



CASE STUDY 7:
ABUSE OF TEXTILE
WORKERS IN BRAZIL

In October 2016, a first instance decision of the Brazilian courts fined clothing company M5 Industry and Commerce R\$12 million (US\$3.54 million) for breaches under Law 14,946 (2013) for modern slavery identified within its clothing factories. The decision is subject to appeal.

This lawsuit was filed after eight Bolivians were found to be in terrible conditions in a workshop that made clothes for the brand in Sao Paulo. The company was found to have used intermediary subcontractors to provide sewing services, largely performed by immigrants in secret workshops subjected to excessive working hours in precarious conditions. Workers earn R\$3 to R\$5 per piece and worked 14 hour days. They were housed inadequately and had to undertake dangerous journeys to get to work, endangering their health, safety and lives.

M5 denied responsibility and initially tried to defend itself that it was not responsible for the labour conditions of its suppliers and could not exert influence or control over its subcontractors. Prosecutors argued the parent company taking advantage of a well-established method of cost reductions, through exploiting workers who were economically and socially vulnerable. The court accepted the prosecution's case and found that companies must be responsible for their supply chains, and is a landmark decision.

It is the first case since the enactment of Law 14,946, 2013. If the decision is maintained in the second instance (as it must be approved by second instance of judges) it is likely to be a watershed moment for both Brazilian law and internationally.²⁶



Eritrean refugees sleep on the sidewalk of a street as they wait for help from UNHCR in Sana'a, Yemen, 03 May 2014. Reports state over 210 Eritrean refugees, including women and children, called on the UN Refugee Agency to provide them with protection and assistance, especially most of them allegedly having fled from Eritrea to Yemen to avoid forced military service.



Female workers mass producing garments and textiles in a large factory.

Photo credit, Liuser - iStock

Photo credit, Yahya Arhab/EAP

CASE STUDY 8:
LAWSUIT AGAINST CANADIAN
MINER NEVSUN FOR ALLEGED
ABUSES IN ERITREAN MINE

There is a growing trend towards cases being brought against Canadian mining companies for severe human rights abuses overseas, including Nevsun Resources, Hudbay Minerals and Tahoe Resources.

The case of Nevsun is significant as it is the first time a Canadian court has been granted jurisdiction to proceed with a modern slavery lawsuit against a Canadian company, for abuses by a subcontractor overseas. This demonstrates an emerging area of international law, increasingly reflected in national laws, that global corporations may be liable if they have aided or abetted violations in any way, and in any jurisdiction. The first instance decision was handed down on 6 October 2016 and is subject to appeal.²⁷

Nevsun contracted with a government owned Eritrean subcontractor to develop the Bisha gold mine in Eritrea. The subcontractor relied on a workforce of military conscripts who were forced to work on the project. However, the Eritrean conscription service has been subject to intense scrutiny by human rights groups alleging that compulsory conscription often is permanent and any who attempt to leave are tortured. The allegation is that conscripts were not only forced to work, but subjected to threat of torture, inhuman and degrading treatment, violence, excessive hours, little to no food, inadequate housing, and non-payment. Nevsun has denied liability.

The Nevsun Case is in its early days but the decision will likely have implications not just for mining, but for any business operating in countries with human rights risks.



THE RISKS

All too frequently, the risk in global supply chains is passed to those who have the least negotiating power and the least leverage to respond, usually those who are picking the fruit, mining the ore or sewing the clothes. Increasingly, governments around the world are looking at different ways to shift this risk imbalance. There are many different enforcement mechanisms being tried.

COURT OF POPULAR OPINION

This relies on the market and consumers having access to sufficiently robust information that they can make informed decisions about where to spend their money.

Lawmakers in the UK, California and the EU have primarily focused on harnessing the risk of reputational damage to motivate organisations. To date, existing mechanisms have failed to put into effect robust central reporting systems, which make oversight difficult. However, civil society organisations have taken up the challenge, creating for example, registries of company reports on this issue. The increasing analysis of these statements suggests that while still imperfect, the court of public opinion is operating.

LOSS OR EXCLUSION FROM ABILITY TO CONTRACT

Increasingly, governments are looking at how they can make access to their market conditional upon responsible behaviour.

Governments contract millions, and sometimes billions of dollars of goods and services. The US Government for example, has the largest supply chain of any organisation in the world. The US Federal Acquisition Regulation scheme effectively requires all high value suppliers to the Government to have compliance plans addressing modern slavery risk, and certify that no “prohibited” goods or services are being supplied (including goods produced through modern slavery), in order to access government markets. Without plans in place, US Government contracts are not available.

CIVIL SANCTIONS

Sanctions include severe fines, compensation orders and deregistration of companies.

Lawmakers globally are pushing for greater civil sanctions to punish (and prevent) those organisations who are complicit in modern slavery offences.

In Brazil, the recently reinstated “Dirty List” (which names and shames corporates who have been found to be using modern slavery) and the newly adopted Law No 14,946 (which bans companies from operating in Sao Paulo for up to 10 years if they have been found to directly or indirectly benefit from modern slavery) are proving to be powerful enforcement tools against corporates. See Case Study 7 for further details.

In Canada, an emerging body of law prosecuting mining companies operating in high-risk regions has the attention of lawyers, financiers and investors. The civil case against Nevsun Resources for forced labour and other human rights abuses at the hand of an overseas subcontractor is likely to have significant implications for construction and extractive companies operating in high risk countries. At the bare minimum, it will require companies to conduct thorough due diligence for human rights risks, if these cases are successful. Please see Case Study 8 for more details.

CUSTOMS RESTRICTIONS

Governments exercise considerable control over business operations through their import and export requirements.

In the US, Section 307 of the US Tariff Act sets an absolute prohibition of entry into the US of any goods mined, produced or manufactured in whole or in part overseas by convict labour, forced labour or indentured labour. Importers must provide evidence to prove goods are “slavery-free”. Raids against importers have had dramatic financial and reputational consequences.

For example, a recent raid wiped US\$75 million off the market value of Malaysian company Pure Circle who was attempting to import “Stevia” a form of sweetener which allegedly produced by forced labour.²⁸

CRIMINAL SANCTIONS

Prosecutors have an increasing appetite to pursue company directors who act in blatant disregard of human rights.

Criminal sanctions against directors and companies are rare and largely untested, however the legal framework to enable such prosecutions does exist. Several countries have criminal codes that include provisions to hold corporate bodies and their officers personally liable for crimes committed in the course of business (whether acting intentionally, or recklessly permitting such conduct due to corporate culture or otherwise).

Examples of these criminal sanctions include the French Penal Code Article 121-2, the Swiss Criminal Code Article 102, and notably, Part 2.5 of the Australian Criminal Code (Commonwealth) which extends corporate liability for modern slavery crimes to corporates.²⁹ The consequences vary from country to country but include fines, criminal liability and potential jail time.

DIRECTOR'S LIABILITY

Building on the increasing trend towards criminal liability for corporates, directors may have a duty to consider human rights (including modern slavery) even if it conflicts with shareholder interests (i.e. profits).

In the UK, directors must consider human rights as part of the directors “duty to act in good faith and promote the success of the company” and report annually on human rights issues in the context of business performance and operations.³⁰

In Australia, it has been debated whether human rights should (and can) be reviewed as part of statutory duties to “*act in good faith in the interests of a corporation and for a proper purpose*” and to have a “*duty of care and diligence*” to non-shareholder stakeholders.³¹ This is a largely untested but it is a developing area of law that companies should be monitoring closely.

Please see Case Study 6 for an example of a recent UK prosecution against a British executive.

MANDATORY REPORTING FOR BUSINESS: THE MINIMUM STANDARD

The legal framework around transparency in supply chains for modern slavery is rapidly developing.

What is clear is that voluntary initiatives and mandatory reporting laws such as Section 54 of the Modern Slavery Act are the minimum standard.

Mandatory reporting requirements help to ensure a level playing field for business, and ensures that the resources of business is increasingly brought to bear on the complex issue of modern slavery.

Countries that have not introduced compulsory reporting regimes should build upon the precedent set by the UK and Californian laws, both to require a focus on this critical issue but also to ensure a level playing field for business.

In the meantime, prosecutors are increasingly using strategic litigation as a powerful tool to hold offenders to account, and increase pressure on corporates to eliminate modern slavery within supply chains.

The recent case of *David v Signal* is a stark example for many global organisations. In this case recruitment agents hired by US marine services company Signal, were subjecting hundreds of Indian workers to forced labour, withholding their passports, demanding extortionate recruitment fees and inflicting general abuse (such as threats of serious harm and squalid living conditions). Signal claimed it was misled by the recruiters and was not aware of the offences. The court rejected its arguments and held both Signal and the recruitment agent responsible. Signal was ordered to pay US\$14 million in compensation to victims, and settled the case for US\$20 million, later filing for bankruptcy.

Companies need to accept that addressing the risk of modern slavery within their organisations and their supply chains is no longer optional, and should be aware that continued inaction will bear the risk of not only reputational damage, but also legal sanction.

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The Democratic Republic of Congo where conflict minerals such as cassiterite are mined by forced labor and child labor. Cassiterite is used in the manufacturing of mobile phones.

Photo credit, Pep Bonet/NOOR





ABOUT WALK FREE FOUNDATION

The Walk Free Foundation has a multi-faceted approach towards ending modern slavery. This includes building a robust knowledge base to inform action, driving legislative change in key countries, harnessing the power of businesses and faiths and bringing new resources to this issue.

THE GLOBAL SLAVERY INDEX

THE GLOBAL SLAVERY INDEX

A tool to accurately measure the prevalence of modern slavery, the strength of government responses, and the level of vulnerability to slavery in 167 countries.

The Global Slavery Index is the only country by country estimate of the number of people living in modern slavery today. It provides a map of the estimated prevalence of modern slavery, together with information about the steps each government has taken to respond to this issue. This information allows an objective comparison and assessment of both the problem and adequacy of the response in 167 countries.

Compiled by an international team of experts, the Index is unique, in that it draws directly on primary data about actual prevalence of this crime. The Index draws on, amongst other things, the results of face to face surveys about the experience of modern slavery undertaken by Gallup with more than 42,000 respondents in 53 languages. A further 26 national surveys have been completed in 2016 with the results not yet published (anticipated December 2017). Where survey data is not yet available for a country, the Index draws on a sophisticated risk model to enable an extrapolated estimate to be generated. Prior extrapolated estimates have been tested against later survey data and the results are very promising.

In order to measure vulnerability to modern slavery, the Global Slavery Index uses a model of 24 variables that include political rights and safety, financial and health indicators, and conflict and protection of the most vulnerable. Statistical testing identified and grouped these factors due to their relationship to the prevalence of modern slavery. The Index also measures government responses based on an assessment of 98 indicators of good practice. It takes into account factors such as laws in place, support available for victims, and adherence to labour standards for vulnerable populations.

“Adidas Group has used Walk Free’s Global Slavery Index – in combination with US Department of Labor’s forced labor and child labor data, and our own in-country labor rights knowledge - to identify modern slavery hotspots in our extended supply chain (i.e. that part of the supply chain that lies outside our formal labour monitoring programme). The GSI, together with other sources of information, has allowed us to identify, and rank, risks and to bring focus to our recently launched Modern Slavery Outreach Programme, a programme which seeks to prevent and mitigate the risk of child labor and forced labor in Tier 2 processing facilities and in the sourcing of leather, rubber and conventional cotton.” William Anderson, Adidas group

THE BALI PROCESS BUSINESS FORUM

THE BALI PROCESS BUSINESS FORUM

The Bali Process is a regional forum that aims to eradicate people smuggling and human trafficking.

The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime was established in 2002 as a forum for policy dialogue, information sharing and practical cooperation. Co-chaired by Australia and Indonesia, it is made up of 45 member countries, the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the United Nations Office of Drugs and Crime (UNODC). The 45 Bali Process member countries represent two-thirds of the world's population and more than two-thirds of the 45.8 million people around the world who are trapped in slavery.

From 2016, the Bali Forum is being expanded from being an inter-governmental regional initiative to being one that also actively involves the private sector. The Walk Free Foundation is working with the Australian Government, including the Australian Ambassador for People Smuggling and Human Trafficking, Andrew Goledzinowski, and the Department of Foreign Affairs and Trade on the Bali Process Business Forum.

Andrew Forrest, Chairman of Fortescue Metals Group and the Walk Free Foundation, will be taking the lead as Australia's "Business Champion" for the Bali Process, representing Australia's private sector and mobilising global business support. The Business Forum, which will be launched in 2017, will bring together Bali Process Ministers and key private sector leaders to examine modern slavery and trafficking with the aim of adopting an agreed set of principles. It is expected that the Business Forum will become an institutionalised track of the Bali Process and will have an ongoing role in working with governments on practical measures to combat and prevent modern slavery and crime.



GLOBAL FREEDOM NETWORK

The Global Freedom Network is a multi-faith, anti-slavery initiative that operates as a coalition of faith communities committed to ending modern slavery.

"One of the most troubling of those open wounds is the trade in human beings, a modern form of slavery, which violates the God-given dignity of so many of our brothers and sisters and constitutes a true crime against humanity." Pope Francis, November 2016

The Global Freedom Network was formed in late 2013 after The Al Azhar Al Sharif declared modern slavery and human trafficking to be in contradiction to the teachings of the Qur'an and issued the world's first fatwa condemning modern slavery. On 2 December 2014, faith leaders from across the world bridged cultural, religious and political divides to come together to pledge an end to modern slavery and human trafficking by 2020. Leaders of the Catholic, Anglican and Eastern Orthodox religions as well as Buddhist, Hindu, Jewish and Muslim faiths, signed the Joint Declaration of Religious Leaders Against Modern Slavery. Engagement is ongoing with other world faiths. In addition, sovereign leaders and global influencers from the political and business communities, as well as civil society, are being invited to become signatories to the Joint Declaration.



THE FREEDOM FUND

The world's first private donor fund to bring financial resources, strategic focus and robust analysis to grassroots partners in the fight against modern slavery.

The Freedom Fund is a philanthropic initiative designed to bring much-needed financial resources and strategic focus to the fight against modern slavery. The Freedom Fund aims to raise US\$100 million by 2020 for effective anti-slavery investments in the countries and sectors where it is most needed. The Walk Free Foundation is one of three founding partners that made a US\$10 million commitment in 2013 to the Fund alongside Humanity United and the Legatum Group. Additionally, new commitments from Stardust Fund, C&A Foundation, Dr Elliott Justin and the Children's Investment Fund Foundation bring the total funds raised to over US\$55 million.

During the past year, new hotspots were established in Ethiopia, central Nepal, southern India and Thailand, in addition to existing hotspots in northern India and south-eastern Nepal. The Freedom Fund is also working to raise resources to establish additional hotspots in Brazil and Myanmar. Working through 95 partners, almost 9,000 men, women and children have been liberated from modern slavery and over 200,000 lives impacted as a result of the Fund's programs. In addition, 6,439 micro-enterprises have been started, 5,543 survivors are accessing psychosocial services, 954 legal cases have been supported and there have been 19 convictions of traffickers and slaveholders.



GLOBAL FUND TO END SLAVERY

A global initiative using high quality data, partnership with governments and the mobilisation of funds at the scale needed to permanently dismantle slavery systems and end modern slavery.

The Walk Free Foundation is collaborating with the Global Fund to End Slavery in recognition of the need for government developed and driven, fully budgeted, strategies to end modern slavery. The Fund aspires to build a unique public-private partnership to leverage unprecedented levels of resources to dismantle the systems of slavery. These funds will be invested to scale effective anti-slavery interventions in partnership with nation states. The Fund is working with other anti-slavery organisations to develop a Global Data Platform with leading indicator metrics to inform anti-slavery interventions. In recognition of the critical role of business in ending modern slavery, the Fund has also integrated a business engagement component. This includes supply chain risk assessment tools and training and authentication processes. To date the Fund has:

- Facilitated the passage of the US\$25 million End Modern Slavery Initiative Foundation appropriation bill through the US congress.
- Piloted dynamic system modelling of the Overseas Filipino Worker sector in the Philippines to understand materials, energy, information and money flows.
- Partnered with Verite, a leading advisor in the implementation of fair labour and procurement practices, to develop a Responsible Sourcing Tool.
- Completed an initial pilot of the Responsible Sourcing Tool with global retailer Target.

The Fund remains focused on the stewardship of the EMSIF bill, government engagement in priority nations and gaining investment from the private sector.



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Cattle truck used to transport sugarcane cutters (workers) in Bahia, Brazil. In this region there are still cases of sugarcane workers subjected to debt bondage and modern slavery.

Photo credit, Ricardo Funari

ANNEX
EXAMPLES OF KEY MODERN SLAVERY SUPPLY CHAIN REPORTING
AND DUE DILIGENCE LAWS OR INITIATIVES

WHERE	FRAMEWORK	WHO IS IMPACTED	SCOPE	COMMENT
Brazil	National Pact for Eradication of Slave Labour	All sectors	Voluntary reporting	The Pact has been signed by approximately 400 companies representing 35% of Brazil's GDP. Once signed members agree to be monitored by third parties.
Netherlands	Sector Agreements	Textiles and Banking	Voluntary reporting	Contractual commitment signed by companies, government and civil society.
UK	Section 54 of the Modern Slavery Act 2015	All sectors operating in the UK with turnover of £36 million or more	Mandatory reporting	Obligation is to report (risk is civil injunction), but content is not regulated. Expected impact is 12,000 to 17,000 organisations.
California	Transparency in Supply Chains Act 2010	Retailers and manufacturers in California with annual revenue of US\$100 million or more	Mandatory reporting	Civil injunction can be obtained to ensure compliance with law and meet minimum standards. Expected impact is 1,700 organisations.
USA	Section 1502 of the Dodd Frank Act	Any company using gold, tin, tungsten and tantalum sourced from the Democratic Republic of Congo (and surrounding countries)	Mandatory reporting, extensive due diligence, third party auditing	Expected impact 6,000 companies, being registered on US SEC that uses conflict minerals as part of the functionality or production of a product manufactured (or contracted to be manufactured). Industries likely impacted include electronic, communications, aerospace, automotive, jewellery and industrial product sectors.
USA	Executive Order 13,627 (2012) & Executive Order 13,126 (1999)	US Federal government and subcontractors	Mandatory reporting and due diligence	Requires extensive due diligence, auditing and review of suppliers. High value suppliers must produce a compliance plan, and certification in some cases. The US Department Of Labor publishes a list of products at risk of being produced by forced or child labour, and requires federal agencies not to procure such goods without confirming otherwise.
USA	307 Tariff Act 1930 (19 USC §1307)	All importers	Reporting on demand, extensive due diligence	Any person (i.e. competitors, employees, trade associations etc) can file a petition to US Customs questioning whether goods are made by forced labour. If US Customs officials believe goods were produced by forced or child labour, and importer cannot prove otherwise (through certificates of origin or other due diligence), goods can be seized. Can also lead to criminal investigations.
Australia	Criminal Code (Cth)	All sectors	Criminal offence	A criminal offence for conduct (both inside and outside Australia) for a corporation to be conducting a business involving forced labour or causing another person into forced labour (12 years imprisonment), or being involved in commercial transaction involving slavery or human trafficking (25 years imprisonment). Possible defence if organisation has carried out due diligence to prevent slavery in its supply chain.

ANNEX
PROPOSED LAWS AND REGULATIONS TO WATCH

WHERE	DRAFT LAWS & STATUS	WHO IS IMPACTED	SCOPE	COMMENT
France	Private Bill 501 (passed 30/03/15). Presented to the National Assembly as of November 2016.	If it becomes law, the Bill will apply to French companies with over 5,000 employees based in France or 10,000 employees globally (if those employees are under the French company's direct control).	Mandatory reporting / "plan de vigilance"	Draft legislation is more ambitious than Section 54 of the Modern Slavery Act and the Californian laws, in terms of scope (covers environment, human rights, personal injury and impact to health issues) and possible civil and criminal sanctions (possible fines include up to EUR10 million).
Switzerland	Proposed amendment to Swiss Constitution. This campaign received 120,000 votes and supported by 80 civil society organisations, and in October 2016 was presented for consideration by the government.	Swiss multinational corporations across all sectors	Mandatory reporting and due diligence	Swiss Coalition for Corporate Justice is campaigning to amend the constitution to require businesses to carry out due diligence to (i) identify impacts (both real and potential) on intentionally recognised human rights issues and environmental standards, (ii) stop existing violations and (iii) account for violations and actions taken. The law would attract civil liability and allow claims for damages against company. Under Swiss law, if an initiative to amend the constitution gains over 100,000 signatures from the Swiss electorate, it can be submitted to the Federal Council for review. If not retracted, it can be put to popular vote (i.e. referendum).
European Union	EU Directive 2014/95/EU	All organisations operating in the EU with over 500 employees, or otherwise of public interest	Mandatory reporting	EU Directive is still in transitional stages. Organisation of public interest includes EU listed companies and unlisted companies such as credit institutions, insurance undertakings or other "public interest entities" nominated by EU member states. Expected impact is 6,000 organisations
USA	Business Supply Chain Transparency on Trafficking and Slavery Act (2015)	Listed companies across all sectors, that meet certain financial threshold test	Mandatory reporting	The bill has been before the US Congress before, so it is unclear if it will pass.

These tables are only intended to be a summary and general overview of the legal framework. It is not intended to be comprehensive nor does it constitute legal advice. We attempt to ensure it is accurate as at the date of publication. You should seek legal or professional advice before relying upon any of the content.

ENDNOTES

- ¹ Robin McDowell, Margie Mason and Martha Mendoza, "AP Investigation: Slaves may have caught the fish you bought", Associated Press, 25 March 2015, accessed 23/11/16: <http://www.ap.org/explore/seafood-from-slaves/ap-investigation-slaves-may-have-caught-the-fish-you-bought.html>
- ² Calla Wahlquist, "Rip Curl's use of North Korean factories leads to calls for industry transparency", Guardian, 22 February 2016, accessed 29/11/2016: <https://www.theguardian.com/australia-news/2016/feb/22/rip-curls-use-of-north-korean-factories-leads-to-calls-for-industry-transparency>
- ³ US Department of Labor, "List of Goods Produced by Child Labor or Forced Labor", current as of 3 October 2016, accessed 28/11/2016: <https://www.dol.gov/ilab/reports/child-labor/list-of-products/>
- ⁴ No Author, Manpower Report – the global supply and demand for seafarers in 2015, (BIMCO, 2015) accessed 23/11/16: https://www.bimco.org/News/Press-releases/20160517_BIMCO_Manpower_Report
- ⁵ No Author, "Offshore vessel detained in Aberdeen. Union slams 'slave labor practices'", Energy Today.com, 16 June 2016, accessed 23/11/16: <http://www.offshoreenergytoday.com/offshore-vessel-detained-in-aberdeen-union-slams-slave-labor-practices>
- ⁶ Telford, A., Seafarers aboard ship deprived food, (MUA, 2015), accessed 23/11/2016: http://www.mua.org.au/seafarers_aboard_foc_ship_deprived_of_food
- ⁷ "Defining FOCs and the problems they pose", ITF Seafarers, last accessed 23/11/2016: <http://www.itfseafarers.org/defining-focs.cfm>
- ⁸ "Fisheries: the Future of Fish", World Ocean's Review, last accessed 23/11/2016 <http://worldoceanreview.com/en/wor-2/fisheries/state-of-fisheries-worldwide/>
- ⁹ Part 1: World Review of Fisheries and Aquaculture, (Food and Agriculture Organization of the United Nations, 2010) p.59, accessed 23/11/16: <http://www.fao.org/docrep/016/i2727e/i2727e01.pdf>
- ¹⁰ Errighi, Mamic and Krogh-Poulson, Global Supply Chains: Insights into the Thai seafood sector, (ILO, 2016), accessed 23/11/16: http://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms_474896.pdf
- ¹¹ McDowell, Mason and Medosa, "Seafood from Slaves", Associated Press, 25 March 2015, accessed 23/11/2016: <http://interactives.ap.org/2015/seafood-from-slaves/>
- ¹² Trafficked Human Abuses in the Seafood Industry, (Fishwise, 2013), accessed 23/11/16: https://www.fishwise.org/images/pdfs/fishwise_human_rights_seafood_white_paper_nov_2013.pdf
- ¹³ Mason, M., McDowell, R., Htusan, E., and Mendoza, M., "Shrimp sold by global supermarkets is peeled by slave laborers in Thailand", The Guardian, 14 December 2015, accessed 23/11/2016: <https://www.theguardian.com/global-development/2015/dec/14/shrimp-sold-by-global-supermarkets-is-peeled-by-slave-labourers-in-thailand>
- ¹⁴ Heidi Pett, "Thai Union: Australian supermarkets implicated in slave labour accusations against giant seafood company", Guardian, 22 December 2015, accessed 24/11/16: <http://www.abc.net.au/news/2015-12-15/major-australian-supermarkets-implicated-in-child-labour/7031350>
- ¹⁵ Vidalon, D., and Guillaume, G., "French builder Vinci to sue over claims of forced labor in Qatar", Reuters, 24 March 2015, accessed 23/11/16: <http://www.reuters.com/article/us-vinci-qatar-labour-conditions-idUSKBN0MK0OH20150324>
- ¹⁶ Fighting Forced Labour: The Example of Brazil, (ILO, 2009), accessed 23/11/16: www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_111297.pdf
- ¹⁷ Stop Child Labour and India Committee of the Netherlands, "Modern Slavery and Child Labour in South Indian Granite Quarries", 2015 available: <http://www.indianet.nl/RockBottom.html>
- ¹⁸ "China says to ban export of more dual-use goods to North Korea", Reuters, 14 June 2016, accessed 23/11/16: <http://uk.reuters.com/article/uk-china-northkorea-nuclear-idUKKCN0Z01GS>
- ¹⁹ "List of goods produced by forced labour and child labour", United States Department of Labour 2016, accessed 23/11/16: <https://www.dol.gov/ilab/reports/child-labor/list-of-goods/>
- ²⁰ Hodal, K., "Nestlé admits slave labour risk on Brazil coffee plantations", The Guardian, 2 March 2016, accessed 23/11/16: <https://www.theguardian.com/global-development/2016/mar/02/nestle-admits-slave-labour-risk-on-brazil-coffee-plantations>
- ²¹ Forced Labor in the Production of Electronic Goods in Malaysia: A comprehensive study of scope and characteristics, (Verite, 2014), p 10, accessed 23/11/16: <http://www.verite.org/research/electronicmalaysia>
- ²² CPS West Yorkshire v Mohammed Rafiq (2016), Unreported, Leeds Crown Court, Judge Christopher Batty, Case T20148034 (England and Wales), heard on 12 February 2016 – judgment accessed 1/12/2016: <http://www.thelawpages.com/court-cases/Mohammed-Rafiq-16921-1.law>
- ²³ US Executive Order 13,627 (2012) implemented under the Federal Acquisition Regulation and effectively duplicated in Title XVII "End Trafficking in Government Contracting" of the National Defense Authorization Act for Fiscal Year 2013.
- ²⁴ Has the Modern Slavery Act had an impact on your business?, (Ergon Associates, 2016), accessed 23/11/2016: <http://www.ergonassociates.net/component/content/article/41-selected-reports/287-what-are-companies-reporting-on-modern-slavery>
- ²⁵ Matt Wilsey and Scott Lichtig, "The Nike Controversy", accessed 1/12/2016: https://web.stanford.edu/class/e297c/trade_environment/wheeling/hnike.html
- ²⁶ Brazil: Leonardo Sakamoto, M. Officer to pay R \$ 6 mi by cases of contemporary slavery (in Portuguese), accessed 06/11/2016: <http://blogdosakamoto.blogosfera.uol.com.br/2016/11/06/m-officer-e-condenada-a-pagar-r-6-mi-por-casos-de-escravidao-contemporanea/>
- ²⁷ Nelson Bennett, "Wave of foreign lawsuits against local miners hits Canadian courts", Business Vancouver (Canada), 19 Apr 2016, accessed 1/12/2016: <https://business-humanrights.org/en/canadian-courts-review-series-of-claims-filed-against-canadian-mining-companies-for-human-rights-abuses-abroad>
- ²⁸ "Removal of US Customs loophole a game changer for commodity importers", Verisk Maplecroft, 18 October 2016, accessed 23/11/16: <https://maplecroft.com/portfolio/new-analysis/2016/10/18/removal-us-customs-loophole-game-changer-commodity-importers/>
- ²⁹ United Nations Office on Drugs and Crime, Model Legislative Provisions Against Organised Crime, (United Nations, 2012), accessed 23/11/16: https://www.unodc.org/documents/organized-crime/Publications/Model_Legislative_Provisions_UNTOC_Ebook.pdf
- ³⁰ Sections 172 and 414C of the Companies Act 2006 (UK)
- ³¹ Allens Arthur Robinson, "Corporate Duty and Human Rights Under Australian Law", March 2008.
- ³² Kurian David et al v Signal International, LLC et al, Civil Action No. 08-1220-SM-DEK, Section "E", (US District Court for the Eastern District of Louisiana, 2014)



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Female textile worker is working in a textile factory of Bangladesh. The majority of garment workers in Bangladesh earn little more than the minimum wage, set at 3,000 taka a month (approximately £25), far below what is considered a living wage, calculated at 5,000 taka a month (approximately £45), which would be the minimum required to provide a family with shelter, food and education. About 3.6 million people work in Bangladesh's garment industry, making it the world's second-largest apparel exporter. The bulk of exports - 60 percent - go to Europe. The United States takes 23 percent and 5 percent go to Canada.

Photo credit, GMB Akash

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Cover Image:

A young Cambodian migrant worker loads barrels onto his boat at Songkhla Port, Thailand, March 9, 2014. Reports of forced labour, physical abuse, and withholding of wages of migrant workers are widespread in the Thai fishing industry.

Photo credit, Chris Kelly

