Tackling Modern Slavery in the Supply Chain

What is modern slavery?

The term *slavery* seems not to be appropriate for contemporary times, as formally it was already abolished in the 19th century. Yet, there are still millions of people living under slavery-like conditions. Today, there are 40.3 million people in 167 countries affected, of which 25 million live in forced labour[1] generating $150 billion in profits for other parties.[2]

The concept of modern slavery is used as an umbrella term (it is not a legal term) for different systems of subjugation and exploitation, including forced labour, debt bondage, child labour, forced prostitution, forced marriage, as well as human trafficking. It could be described as the situation 'where one person has taken away another person's freedom – their freedom to control their body, their freedom to choose to refuse certain work or to stop working – so that they can be exploited. Freedom is taken away by threats, violence, coercion, abuse of power and deception.'[3]

Modern slavery in all its forms has its roots in complex structural challenges. Research data show that women and children are the most vulnerable. From the 40 million people affected, 71% are women, one quarter are children and two thirds of the affected people live in Asia. In addition, more than 58% live in India, China, Bangladesh or Uzbekistan.[4] But, even though these numbers suggest that most cases of modern slavery happen in traditional sourcing hotspots, the so-called emerging economies, modern slavery risks have also risen throughout Europe. In fact, risks have increased in around three quarters of the 28 EU member states. A key factor contributing to the increase of modern slavery is the presence of migrants that are often unaware of their legal rights, do not speak the language or lack work permits. Migrants are specifically vulnerable to exploitation in multiple industrial sectors, such as agriculture, construction and services.[5]

What are companies expected to do?

Businesses are part of the global economic system. Supply chains have become inherently complex and the lack of transparency is creating specific risks. The downside of a globalised economy is marked by the demand for cheap labour and dynamics of production in informal markets, due to competitive pressure. These global structures produce widely ramified supply chains, which lead to a higher risk for individuals to become victims of modern slavery. The complexity of supply chains makes the detection of modern slavery a major challenge for businesses. Mostly these cases are hidden in an opaque network of different sub-contractors.

Over the last decade, several initiatives, laws and international standards have been established in order to address unregulated gaps and harness the power of business.[6] A common goal is to create a global level playing field for companies and improve the level of corporate disclosure to the benefit of stakeholders including the workforce, investors, consumers, civil society and business itself.

[1] Walk Free Foundation (2018): Global Slavery Index 2018
[2] Interfaith Center on Corporate Responsiblity (2017): Best Practice Guidance on Ethical Recruitment of Migrant Workers
[3] Walk Free Foundation (2018): Our Story
[4] ILO (2017): Global Estimates of Modern Slavery: Forced Labour and Forced Marriage
[5] Verisk Maplecroft (2017): Modern Slavery Index 2017
[6] For a detailed Overview on those developments see our Study 2017: Unternehmen und Menschenrechte or one of our Webinars.

With the adoption of the UN Guiding Principles (UNGPs) on Business and Human Rights in 2011, which set the standards for corporations to prevent and address human rights issues, the pressure for businesses to respect human rights throughout their operations and their business relationships is clearly recognized and has considerably increased.

The Agenda 2030 for Sustainable Development adopted in 2015 provides a path for action on 17 Sustainable Development Goals (SDGs), which have economic, social and environmental dimensions - a call for action for States, civil society, but also for businesses. In this regard, the Agenda 2030 states a clear mandate for businesses 'to apply their creativity and innovation to solving sustainable development challenges', while 'protecting labour rights and environmental and health standards' in line with international human rights and labour standards.[7] Indeed, SDG 8 calls for 'decent work for all' and for 'immediate and effective measures to eradicate forced labour [and] end modern slavery'.[8] The European Union (EU) has been at the forefront in this regard. First, the EU Directive on the disclosure of non-financial and diversity information (Directive 2014/95/EU) obliges big corporations to disclose information about their risk analyses and policies with regard to human rights. Secondly, the EU is calling on its member States to develop National Action Plans (NAPs) to implement the UNGPs.

The German NAP was adopted in December 2016. Companies are expected to implement a human rights due diligence according to their size and market position and to publish a report about their engagements. Depending on the results of the ongoing monitoring process, this expectation may be turned into a legal obligation in 2020 following the trends in the United Kingdom (UK) and France.

These recent legal developments have the potential to address policy and legal gaps existing in the field of business and human rights. The UK Modern Slavery Act is a good example of how awareness has been created. It has put modern slavery on the public agenda: from being an issue discussed only by ethical sourcing staff and ethical consumers, to a priority issue discussed by average consumers, mainstream investors, buyers, suppliers and, crucially, senior corporate managers.[9] In fact, since the UK Act came into force, CEO engagement with modern slavery has doubled, and companies are collaborating more with peers, NGOs and multi-stakeholder initiatives. There has been a significant increase of business-to-business communication as well as more social, political, and economic pressure. [10]

In light of the challenges of globalisation processes, expectations towards companies' responsibilities are growing. This is being reflected in the trend towards binding legal instruments and more transparent reporting.

Modern Slavery – a major human rights risk for businesses

Modern slavery takes place in a variety of industries. In fact, barely any industry is unaffected by it.[11] All businesses with global business operations may therefore unknowingly be involved in modern slavery.

As analysed in our last knowledge paper, agriculture is considered to be one of the most exposed economic sectors to exploitative practices. Indeed, the Council of Europe recently raised concerns about the rise of human trafficking across Europe for the purpose of labour exploitation, with agriculture being one of the high-risk sectors.[12]

In many cases, the infringement of workers' rights in the agriculture sector starts during recruitment procedures. Very often temporary work agencies ignore the relevant collective labour agreements when hiring. After the contract is signed, agencies transfer all further responsibilities to the so-called 'supervisors', who have a very

2

---

[7] Sustainable Development, Transforming our world: the 2030 Agenda for Sustainable Development
[8] Sustainable Development Goal n. 8
[9] Business and Human Rights Ressource Center: Establishing a Modern Slavery Act in Australia
[10] Ethical Trading Initiative, Hult Business School (October 2016): Corporate Leadership on Modern Slavery
[11] As figures from the ILO confirm. See: ILO (2017): Global Estimates of Modern Slavery: Forced Labour and Forced Marriage
[12] Council of Europe (2017): 7th General Reporto n GRETA's Activities

powerful position as they decide on shifts, wages and lay-off. This easily leads to abuse.[13] In other settings middlemen, who control the access to work, show similar behaviour. They frequently charge an illegal fee which is deducted from workers' wages, which is often not meeting minimum wage, anyway. [14]

The textile industry constitutes another hotspot of modern slavery. As it has a multi-tiered supply chain, with many subcontractors and production facilities involved, it is difficult to trace illegal practices. From cultivation and harvesting processes in the cotton fields to spinning the fibre to yarn, sewing the garments, and modelling the final product, the textiles and fashion industries grapple with exploitative labour practices at many stages.[15]

India is one of the most important trading partners for the garment sector, as all stages of the production process can be found in the country. At the same time, India is one of the countries most affected by modern slavery with an estimated number of 18.4 million victims.[16] Most of the workers in the textile factories are women,[17] working under high-pressure and in precarious conditions.

Harassment by supervisors and floor managers is a daily reality, not least because of the low margin for women to rise to positions of authority on the shop-floor.[18] The social and economic disadvantages experienced by these women, as well as the power imbalance in relation to employers, are further deepened by recruitment and employment practices based on gender and caste discrimination.

> **CASE STUDY 2 – Bonded labour under the Sumangali Scheme in Tamil Nadu, India**
>
> In Tamil Nadu, modern slavery occurs in the form of bonded labour, in which young women have a fixed-term contract. A significant portion of their entitled payments is withheld until they have completed the contract. The women are often underaged and primarily recruited by a middleman from villages and poorer districts, where there are fewer or no other opportunities for employment. Their payment is far below the legal minimum wage because they are alleged to be only apprentices. Compulsory overtime, late-night shifts and excessive working hours occur frequently. Also, sexual harassment and violence in the workplace are rampant. They live in company-controlled hostels under around-the-clock surveillance with no freedom of movement and limited access to communication with the outside world.

> **CASE STUDY 1 – Slavery-like working conditions in the strawberry fields of Huelva, Spain**
>
> Around 80% of strawberries exported to Germany are from the Spanish region of Huelva. Thousands of female workers (most of them migrated from Romania or Morocco) are harvesting the fruits without a legal employment contract. They are exploited for 25€ per day even though the minimum wage is 47€. Dozens of workers reported being harassed, raped, blackmailed, physically assaulted or insulted by their superiors. Perpetrators make use of the financial dependence and the isolated situation of the female workers. Turning to the justice system seems impossible, because the women do not speak Spanish and have a hard time proving the abuse in front of a court.

3

[13] Público (2016): 'Explotados en el "paraíso"
[14] CNN (2017): 'The migrant workers exploited in Italy'
[15] Fabric of the World (2018): 21st century Slavery in the Fashion Industry
[16] Walk Free Foundation (2018): Global Slavery Index 2018
[17] Südwind e.V. (2016): Make in India –Untersuchung zu Arbeitsbedingungen in westindischen Textilbetrieben
[18] The India Committee of the Netherlands (ICN) (2018): **Labour Without Liberty - Female Migrant Workers in Bangalore's Garment Industry**

According to the German Federal Criminal Police (BKA) modern slavery in Germany is centred primarily around migrants in the construction and catering industries, with an estimated number of 167.000 victims.[19] Last year, authorities identified 180 forced labour victims in 11 investigations – most of them coming from Eastern Europe.[20] Even though they are legally allowed to work in Germany they often slide back into a *de facto* lawlessness. Systematic wage fraud, compulsory overtime and a lack of necessary safeguards have been reported on German construction sites. Furthermore, workers' contracts are often linked to the actual accommodation, which leads to a double dependency. The compression of rights and exploitative practices occurs once more in the recruitment process, where private agencies and intermediaries from sub-contractors take advantage of the workers' language shortages and the lack of knowledge of their rights in Germany.

> CASE STUDY 3 – **Exploitation of construction workers in Frankfurt, Germany**
> At a construction site in Frankfurt's Europaviertel, 13 Romanian workers were tricked into signing papers that registered them as self-employed, instead of signing an employment contract with the subcontractor that recruited them in the first place.
> They were promised a wage of 1200€ per month including free transportation and accommodation. In reality, they got 1,09€ per hour.
> They were accommodated in an empty factory with other workers, in which 50 persons had to share one toilet. They were made to work 10-13 hours a day, six days a week. They managed to organise successful protests that put pressure on the general contractor. Nevertheless, sub-contractors reacted with reprisal.

How to tackle modern slavery in the supply chain?

These examples show that modern slavery is an important and pressing topic that cannot be ignored by companies. States have a clear obligation to fight modern slavery. Nevertheless, business activities are indispensable to improve the situation. To tackle modern slavery, businesses, state actors and civil society must work together. So, what can businesses do?

Take a closer look at your supply chain

Implement a human rights due diligence[21] in line with the UNGPs. This includes assessing human rights impacts in the supply chain, acting upon the findings, tracking these measures, and communicating how impacts are addressed.[22]

Keeping in mind…

Transparency: One of companies' main difficulties to identify modern slavery is the lack of transparency in their supply chain. Retailers are passing price pressures down through the supply chain. In many cases this leads to a situation where suppliers subcontract other parties without the permission and knowledge of the initial purchaser.
To prevent this, companies should asses their human rights risks and map their supply chain. This will help identify any actual or potential adverse human rights impacts in which they may be involved, either through their own activities or as a result of their business relationships.[23] These measures should include mapping the supply chain

---

[19] Walk Free Foundation (2018): Global Slavery Index 2018 – Prevalence within Europe and Central Asia
[20] Eisele, Ines (2018): Modern slavery in Germany: Preying on the vulnerable
[21] For more information see our Webinar: Menschenrechts-Due Diligence: Was Sie dazu wissen sollten
[22] United Nations (2011): Guiding Principles on Business and Human Rights – Implementing the United Nations „Protect, Respct and Remedy" Framework
[23] For more Information see our Knowledge Paper: Menschenrechtliche Risikoanalyse: Überblick und Notwendigkeiten

beyond the 1st tier suppliers and – if possible – identify the suppliers for all product components down to the very source. This will lead to more visibility at the beginning of the supply chain, where most human rights violations take place.

This may sound very complicated, but recent developments in technology illustrate that complex networks of supply chains can be made transparent and even be managed. Several collaborative platforms have been established to help companies increase transparency in their supply chains. Better data is making it easier to have a complete picture. Big Data, blockchain and artificial intelligence tools help companies identify weak links.

While the blockchain system is still emerging as a technology, it has already been acclaimed as a way to achieve supply chain transparency. It is a data system to securely store information – inherently auditable, unchangeable and open – which means it can be used without the intermediation of a trusted central organisation. As such, it can enhance the traceability of materials and products, even in situations where parties do not want to exchange information directly. For instance, Bext360 introduced the world's first blockchain traced coffee. It has increased transparency in the coffee supply chain through the use of a distributed, decentralised protocol for real-time mobile transactions of coffee beans. The recording transaction data allows all parties involved to access the records of payments at any time. The system increases transparency in the supply chain and helps to ensure farmers receive due payments.[24]

The existence of these platforms indicates that there is a great deal of innovation happening regarding transparency. New technologies like blockchain still have their limitations but seem to have a great potential to ease supply chain management. Companies should therefore keep observing those players who are experimenting with blockchain and other new technologies. Most of these technologies need input from a wide network to really benefit users.[25] The number of activities and players in this field suggest very dynamic developments for the near future.

> **Collaborative platforms
> for more transparency**
>
> The growing ecosystem of technologies offers solutions that help companies to establish more transparency throughout their supply chain.
>
> **Blockchain-Solutions:**
> Transparency-One provides a platform that helps brand owners, manufacturers, and suppliers to discover, analyse, and monitor various suppliers, ingredients, and facilities in their entire supply chain. Other examples are the start-ups Bext360 and Provenance whose blockchain-based platforms allow for the collection of a range of data, from farm conditions to standard certifications. All these systems allow stakeholders throughout the supply chain to view and analyse traceable data at each step.
>
> **Big Data-Solutions:**
> EcoVadis works with a scorecard system that provides detailed insight into environmental, social and ethical risks. Also RepRisk works with extensive qualitative and quantitative research data to support data-driven decision-making. Other Platforms working with big data include Elevate or Arabesque.

Engaging with suppliers: In order to build a supply chain network and collect the necessary data when resorting to new technologies, engagement and collaboration must come first.[26] Many companies engage with direct suppliers by requiring them to align with social and environmental standards, for instance through codes of conduct. Yet, as modern slavery is mainly found at the beginning of the supply chain, supplier standards should go beyond direct suppliers and be cascaded throughout the entire supply chain. As a result, 'suppliers at each level can be made responsible for writing standards into the contracts of their own suppliers and be required to monitor them'.[27] Moreover, long-term partnerships that involve closer engagement increase the likelihood of building responsible supply chains. This could contain a collaborative approach including 'learning from outstanding

---

[24] Bext360: Every. Single. Step
[25] Vgl.Deloitte (2017) Using Blockchain to drive supply chain innovation
[26] Your public value: Supply Chain transparency: The role of Blockcahin
[27] The Economist (2017): The Economist Intelligence Unit, Report 'No more excuses: Responsible supply in a globalised world' , p.50f.

suppliers as well as working with underperforming suppliers to improve performance'.[28] Companies should also raise awareness by providing trainings for their suppliers on topics related to modern slavery and exploitation of workers. Some leading companies also use incentive schemes, in which those suppliers demonstrating better compliance have access to benefits, including co-investment and committed partnership.[29] Likewise, downsizing the number of suppliers can help prevent the risks of modern slavery. A smaller supplier base permits a 'greater engagement and easier monitoring'.[30]

Ethical Recruitment: The opaque conditions of the recruitment processes is the main obstacle for companies to identify modern slavery: too many sub-contractors, temporary employment agencies or the involvement of middlemen provide fertile ground for abusive working conditions and exploitation.

The scope of supplier audits should therefore always include suppliers' recruitment practices, as well as suppliers' recruitment agencies' practices. Companies should support direct recruitment by their business partners. This would eliminate intermediaries and reduce risks of abusive working conditions and illegal fees.[31]

Access to Remedy: The right to remedy is a core tenet of the international human rights system. Feedback from the workers would help to identify and manage risks in supply chains. Companies should therefore foster the implementation of a comprehensive grievance mechanism that covers their supply chain.

Collaboration to Enhance Leverage: Collaboration between all relevant stakeholders, including companies, civil society and government, is crucial to addressing the complex challenges of modern slavery. Bringing together different views, expertise and resources is needed to develop common goals and solutions in an effective way.

> **Workers' Engagement through Technology**
> The Canadian-based start-up *Ulula* creates scalable tools and monitoring systems that can identify and help to provide effective remedy to victims. Their solution makes engagement of workers possible through various communication channels like SMS, voice, social media and apps. The aim is to create continuous, accessible and anonymised monitoring systems for workers and communities to report labour rights violations. This enables organisations, governments and companies with reliable data to design locally sustainable and scalable solutions to end abuse and limit the risks for modern slavery to occur.

> **A Guide for Ethical Recruitment**
> The Interfaith Center on Corporate Responsibility published a helpful guide for companies that includes a 3-pillared approach as basis for an ethical recruitment program, which consists of (1) ensuring that 'workers do not pay any fees for recruitment, jobs or other parts of the employment process', (2) that all workers must be given an understandable written contract and, finally, (3) that no retention of documents or monetary deposits are a condition for employment.

> **Improvement of working conditions in Tamil Nadu, India – Initiative from Partnership for Sustainable Textiles**
> This multi-stakeholder initiative strives for the creation of appropriate conditions for dialogue and cooperation between all relevant actors of the local garment industry. It seeks to foster change through the implementation of different trainings at the factory and governmental level. It also puts a focus on the establishment of legally binding conciliation and grievance committees in participating production units which employees can resort to in case of infringement of labour and human rights.

[28] Ibid. p.49f.
[29] Ibid. p.51
[30] Ibid 52
[31] For more information, see our latest paper on How Companies can deal with labour exploitation in the Agricultural Sector

Purchasing practices: To countervail the structural persistence of modern slavery, looking at current purchasing practices is crucial. Key factors shaping such conditions are purchasing practices that put pressure on suppliers, like short-term contracts, extremely tight production windows, last-minute or short-term orders and unreasonable payment terms.

TCHIBO – turning around its textile supply chain process

The retailer *Tchibo* built a whole new way of doing business within their supply chain for clothing items. Instead of developing the design first and finding the best supplier for the product's needs, they turned the process around: after finding the best supplier in terms of sustainability and human rights, they designed a collection that fitted the needs of a fair production process.

Due to the purchasing power and influence of buying companies, suppliers often enter into commercial agreements that are difficult, if not impossible, to meet without imposing harsh conditions on workers.[32] Such pressure on suppliers can lead them to open the door to severe labour exploitation or forms of modern slavery.[33]

Ritter Sport – a different way of doing business

Ritter Sport, a German chocolate manufacturer, chose an innovative and radical step: to ensure the cocoa has been cultivated in an ecologically and socially responsible manner, the company purchased land in Nicaragua and actively engaged in the cultivation of cocoa. The company states that this is the most effective way for a medium-sized company like *Ritter Sport* to have maximum influence over the ecological and social conditions in cocoa cultivation.

Altogether, businesses should reassess their current business model, including purchasing practices such as contracting terms and prices, to ensure that they are not generating grounds for modern slavery to persist or arise.

Author: *Theresa Quiachon*
Contact email: info@loening-berlin.de

This knowledge paper is based on the webinar held on 25.05.2018

---

32 Le Baron et. al. (2018): Confronting Root Causes –Forced Labour in Global Supply Chains p. 50
33 A. Crane (2013): Modern slavery as a management practice: Exploring the conditions and capabilities for human exploitation.