

A photograph of a person from behind, looking out over a city at sunset. The person's hair is dark and tied back. The city below is hazy and bathed in the warm light of the setting sun. The sky is a mix of orange and blue.

**RIB** ASIA

Responsible and  
Inclusive Business

## **ENGAGING BUSINESS ON HUMAN RIGHTS:**

Issues for Responsible and Inclusive Value Chains

**CSR** ASIA



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## PREFACE

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This briefing paper outlines some of the human rights risks that are facing businesses who operate global value chains. It highlights, in particular, growing concerns about various forms of modern day slavery that are often found deep down the supply chains of companies, where traditional audits rarely reach. Here the challenges facing the private sector are enormous and the reputational and legal risks are growing. But there is a recognition that single businesses acting alone cannot deal with all the problems and that cooperation with other businesses and other stakeholders is vital.

Through a series of interviews with many of CSR Asia's Strategic Partners and other expert stakeholders we outline the issues that face businesses, the opportunities for responsible business practices and some

of the barriers to addressing human rights concerns. Through such engagement we demonstrate what some leading companies are doing to address human rights challenges along the whole of their value chain and what is still to be done.

By using an approach based on responsible and inclusive business practices, this paper offers ten recommendations for how businesses can work with other stakeholders to reduce the risk of human rights abuses and reduce the likelihood of modern day slavery within their value chains. We demonstrate that through engagement with contemporary human rights issues and working towards inclusive business solutions companies can not only reduce risks but also increase the competitiveness of their value chains.

## 1. BUSINESS AND HUMAN RIGHTS

Article 1 of the United Nation's *Universal Declaration of Human Rights* reads, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". In this spirit, the concerns of human rights abuses happening today are innumerable. The treatment of migrant workers, the land rights of indigenous populations, access to healthcare and education, forced labour, child abuse, safety, women's rights, are to name just a few of the challenges that face us.

The protection of human rights was historically considered the responsibility of government and not the private sector. International law rarely imposes human rights obligations on companies: A company's legal obligation is to uphold the national laws of its country of operation. Domestic law regulates the relationship between the state and individuals, corporations and other groups. Businesses however infringe human rights by breaching domestic laws that are in place to protect those rights.<sup>1</sup>

Nevertheless, businesses that are committed to running their organisations in a responsible way and those interested in exploring how their value chains can be more inclusive, will have an interest in ensuring that human rights are protected. They will recognise that their own employment practices should protect human rights. But more difficult are human rights abuses that happen outside the organisation itself

and are to be found in the value chains of businesses and within their sphere of influence rather than direct control.

One of the biggest challenges for responsible and inclusive businesses is that many human rights violations happen deep down value chains where auditors and inspectors rarely go. They are found in agriculture, fishing, mining and other primary industries where single companies have limited control over their suppliers. Abuses include child labour, forced labour, bonded labour and a range of abuses inflicted on vulnerable and marginalised groups that can collectively be considered as modern day slavery.

The consequences of even being accused of human rights violations are a risk to the brand and reputation of companies. Nevertheless, companies still seem to (indirectly or directly) get involved with such violations. Fines and damage settlements linked to such abuses are on the rise<sup>2</sup>, so companies face not only reputational risks but financial penalties as well that can impact on shareholder value.

The increasingly complex composition of corporate activity, with various supplier and subcontractor relationships, challenges the ability of governments to monitor activities around the world. It is precisely because of this that responsible businesses will try to ensure that all elements of their operations, including their products, premises and services are not contributing to human rights abuses.

<sup>1</sup> Lyon, E., (2012) "Strategic Partner Human Rights Briefing. September 2012". CSR Asia

<sup>2</sup> Narayan Datta, M., Bales, K., (2013) "Slavery is Bad for Business: Analysing the Impact of Slavery on National Economies", Brown Journal of World Affairs, XIX, II

Companies are often found to be indirectly involved in human rights infringement cases unknowingly through their value chains. This is why a willingness to undergo proper due diligence is crucial for businesses that want to be involved in proactive human rights programmes. Yet research shows few businesses have codes of conduct that go beyond first tier suppliers and lack specific requirements related to modern day slavery and other human rights abuses throughout their value chains.

With growing public attention and concern around recent media scandals about modern day slavery, as well as more consumers asking questions about whether the products they buy are “slave free” or not, responsible and inclusive businesses will prioritise human rights issues and risks that they could face along their value chains.

For this report we engaged with a number of leading businesses and other experts on business and human rights. We know that many of the businesses with which we engaged are raising awareness about human rights and reviewing their own value chains on a regular basis. However, it is clear that the majority of other companies are not engaging with such challenges and seem to be waiting for governments to enforce legislation that requires businesses to address human rights issues. Whilst such legislation has already been enacted in some places (or is being drafted) it is unlikely to be able to cover all eventualities in all parts of the globe. Moreover, such legislation will be an emphasis on businesses demonstrating their own responsibility and due diligence.

Businesses that do not actively engage on human rights issues are likely to be creating long-term competitive disadvantages for themselves in an increasingly sophisticated and socially aware marketplace and where the costs of mitigating human rights abuses are on the rise. Leading companies believe that the private sector needs to address critical human rights issues and that it is in the interest of the business to strategically engage with NGOs, communities and other civil society organisations in order to avoid future conflicts that can disrupt value chains.

While problems associated with human rights abuses will not be solved easily, there needs to be greater transparency and collaboration within sectors and between different industries, involving a wide range of stakeholders. Engaging widely on emerging best practices and finding effective ways to tackle human rights abuses will reduce reputational and legal risks to companies.

The private sectors’ responsibility is to use the UN Guiding Principles on Business and Human Rights (or the ‘Protect, Respect and Remedy’ Framework)<sup>3</sup>, understand their obligation to respect human rights and ensure that their value chains are free from human rights abuses. Addressing such questions provides at least some assurance to interested stakeholders that a company is seeking to address possible violations. Eliminating human rights abuses entirely is not possible in the short term, but demonstrating to stakeholders that the company is aware of risks and is

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<sup>3</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)





working to address them is what many stakeholders are asking for.

Over 5000 companies around the world have aligned themselves to respecting human rights as part of their involvement in the UN Global Compact. But it is questionable whether these companies are actually carrying out the proper actions conducive to fighting against human rights violations. A number of stakeholders we interviewed argue that there is a lack of any reliable evidence that such companies have in reality followed through on their voluntary commitments with the necessary due diligence processes and human rights assessments.

Companies committed to responsible and inclusive businesses will work towards eradicating human rights abuses in

their value chains and work with other stakeholders to encourage the wider private sector to increase their involvement in human rights assessments. The basic principles that define the scope of human rights impact assessments require that:

- Companies should be as transparent as possible about their findings (balancing the benefits and constraints of disclosure);
- An assessment should be grounded in a human rights approach by ensuring the participation of relevant stakeholders involved in the process, with a particular emphasis on the marginalised or vulnerable groups, and ensuring accountability;
- The methodology should be practical and effective from a business perspective.

## 2. CONTEMPORARY CHALLENGES FOR BUSINESS

Although human rights challenges are many and numerous, attention of stakeholders and the media over recent years have concentrated on various forms of abuses that are commonly found deep down the supply chains of many companies. The situation of abuses in primary industries and often difficult to access locations makes it difficult for the private sector to use traditional auditing techniques to tackle such risks. The challenges are nevertheless serious and have a clear reputational impact for large brands but also impact on the security of a value chain when discovered by regulatory authorities or uncovered by the media. There are therefore very good reasons why companies should engage with such issues, including protecting their brand and reputation and ensuring the efficiency and competitiveness of their value chains.

### 2.1 MODERN DAY SLAVERY

Modern day slavery is a form of labour that is often carefully concealed, the root causes of which revolve around poverty, discrimination, and the marginalisation of certain people and their situations that corner them in various degrees of vulnerability. Definitions of modern-day slavery are mainly taken from the 1956 UN supplementary convention, which states that “debt bondage, serfdom, forced marriage and the delivery of a child for the exploitation of that child are all slavery- like practices and require criminalisation and abolishment”.

As contemporary systems of slavery have evolved, new definitions have developed, some of which include:

**Forced labour:** usually with no payment, by means of violence or intimidation. Many victims find themselves trapped in foreign countries with no papers, and unable to leave. The 1930 Forced Labour Convention defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

**Bonded labour:** also known as debt slavery or debt bondage is a person’s pledge of their labour or services as security for the repayment for a debt or other obligation. The services required to repay the debt may be undefined, as well as the services’ duration.<sup>4</sup>

**Child slavery:** affects an estimated 5.5 million children around the world<sup>5</sup>. Child slavery includes the worst form of child labour and child trafficking. Children are in slavery as domestic workers, forced labour – in, for example, the cocoa, cotton and fisheries industries – trafficked for labour, sexual exploitation or used as child soldiers.

**Early and forced marriage:** predominately affects underage girls who are married without choice, forced into lives of servitude often accompanied by physical violence and with no means of escape.

<sup>4</sup> Kevin Bales (2004). New slavery: a reference handbook. ABC-CLIO. pp. 15–18.

<sup>5</sup> Anti-slavery (2014). What is Modern Day Slavery?. Retrieved August 29 2014.

**Classical slavery (chattel):** a person is born or sold into a life of permanent servitude. This form of slavery, which has been outlawed in much of the world, continues today in parts of Sub-Saharan Africa including Mauritania, Niger and Sudan.

Modern day slavery is a global enterprise, founded in an economic system that is extraordinarily complex. In a competitive economic environment where companies compete on price, the ruling, prime incentive that drives the free market is to produce cheaper goods for a cheaper price, which will in turn yield more consumers and profits. But, leaving such a competitive field without proper supervision can eventually lead to businesses becoming complicit in human rights abuses for the sake of an economic advantage. Most countries prohibit the import of slave-made goods, but numerous documented cases of slavery can be found in the production and distribution chains of many basic commodities, goods and services that flow from developing countries to rich consumer markets.<sup>6</sup>

Globally, it is estimated that more than 21 million men, women and children are in situations of modern day slavery today, with about half in Asia alone. These victims, who can be found in factories, construction sites, within fisheries and sex venues, are forced to work for little or no pay, deprived of their freedom, and often subjected to unimaginable suffering.<sup>7</sup>

## 2.2 HUMAN TRAFFICKING

Human trafficking represents the recruitment, transport, receipt and harbouring of people

for the purpose of exploiting their labour. Human trafficking is a market-driven criminal industry that is based on the principles of supply and demand. Human trafficking is often fueled by labour shortages and a demand for cheap labour. The illicit crime of human trafficking affects almost all parts of the world and generates an estimated \$150 billion in revenue every year.

To take the serious challenge of stopping human trafficking itself, and not just the private sector's association with it, the private sector must contribute more than thorough diligence. It has the resources, manpower, and global outreach to contribute to the cause of upholding human rights. It can promote codes of conduct in an effort to enhance the ways in which they can be found lacking now.

Companies can avoid the risk of human trafficking by taking steps to make it harder for traffickers to traffic people using their products, premises or services and by helping raise awareness of the problem. Businesses can sign and promote the Athens Declaration covering human trafficking. The seven point plan commits organisations to:

- Explicitly demonstrate the position of zero tolerance towards trafficking in human beings, especially women and children for sexual exploitation.
- Contribute to prevention of trafficking in human beings including awareness raising campaigns and education.
- Develop a corporate strategy for an anti-trafficking policy which will permeate all activities.

<sup>6</sup> Narayan Datta, M., Bales, K., (2013) "Slavery is Bad for Business: Analysing the Impact of Slavery on National Economies", Brown Journal of World Affairs, XIX, II

<sup>7</sup> Matt Friedman (2014) "Fighting Human Trafficking: The Role of the Private Sector". CSR Asia Weekly. August 28 2014.





- Ensure that personnel fully comply with the anti-trafficking policy.
- Encourage business partners, including suppliers, to apply ethical principles against human trafficking.
- In an effort to increase enforcement it is necessary to call on governments to initiate a process of revision of laws and regulations that are directly or indirectly related to enhancing anti-trafficking policies.
- Report and share information on best practices.

To be effective, anti-trafficking strategies must target both the supply side and the demand side of the practice. Conditions that drive trafficking must be dealt with through efforts to alert communities to the dangers of trafficking; improve and expand educational and economic opportunities for vulnerable groups; promote equal access to education; an awareness of legal rights; creation of better and broader life opportunities. The private sector has a role to play here as well,

through pro-poor community investment and development strategies that provide alternatives to people who might otherwise be at risk from trafficking.

## 2.3 FORCED LABOUR

Forced labour is defined as any work or services by which individuals are forced to act against their will under the threat of some form of punishment. According to the Anti-slavery Organisation<sup>8</sup> forced labour affects millions of men, women and children around the world and is most frequently found in labour intensive and under-regulated industries, including:

- Agriculture and fishing
- Domestic work
- Construction, mining, quarrying and brick kilns
- Manufacturing, processing and packaging
- Prostitution and sexual exploitation

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<sup>8</sup> Anti-slavery Organization (2014) "What is forced labour?". Retrieved from [http://www.antislavery.org/english/what\\_we\\_do/forced\\_labour/default.aspx](http://www.antislavery.org/english/what_we_do/forced_labour/default.aspx)





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With globalisation and the development of subcontracting and sourcing, the situation of migrant workers in the value chain has in the past decade increasingly become an issue of concern for both responsible companies and the general public. As much as 75 percent of global human trafficking is related to forced labour.<sup>9</sup> Many victims are working in value chains that feed into large brand name companies and the retail outlets of multinational corporations. They commonly produce low cost products purchased by consumers in the global retail market.

The International Labour Organisation estimates that currently at least 11.7 million people are living in forced labour conditions in the Asia-Pacific region, the majority of which are held in debt bondage.

Bonded labour describes a situation where a person's labour is demanded as a means

of repayment for a loan and is generally recognised as a form of slavery or forced labour. There are, roughly speaking, two types of bonded labour conditions;

- Those who 'inherit' their status (i.e., are born into debt bondage) may be the second or third generation of an entire family whose working life will be dedicated to paying off an ancestor's debt (a debt from which many can never hope to escape). Child labour is often the result of debt bondage.
- The other refers to those who find themselves paying off debt through their labour in circumstances that range from paying off traffickers through to loans taken out for any number of reasons (one of the main ones being fees paid to work illegally overseas).

<sup>9</sup> International Forced Labour Organization (2014). "Forced labour, human trafficking and slavery"



# FORCED LABOUR IN THE FISHING INDUSTRY

The UK based Guardian newspaper recently released a six-month investigative story on Asian slave labour producing seafood for supermarkets of US, British and other European retailers. The investigation found that Thailand was a major source, transit and destination country for slavery.<sup>10</sup> The Thai government estimates that up to 300,000 people work in the fishing industry. There is no official record of how many individuals are enslaved on fishing vessels, but governments estimate that 90 percent of such workers are migrants, which had been duped, trafficked and sold into fishing operations. Human rights activists believe that Thailand's seafood exportation would most likely collapse without slavery.

Big brand businesses linked to Thailand's seafood exportation, such as CP, Wal-Mart, Carrefour, Costco, Tesco, Aldi and Morrisons all stated they condemned slavery and human trafficking for labour, as well as all pointing out that they implemented systems for auditing and checking labour conditions.<sup>11</sup> Several retailers have now joined a new initiative called

Project Issara (Project Freedom) to engage on discussions around how they should respond and improve on their current systems. A growing number of businesses are starting to look for ways to improve the traceability of their products through more comprehensive auditing efforts, internal system changes and greater attention to the origin of their products.<sup>12</sup>

The fishing industry is under increasing scrutiny from international NGOs and advocacy groups that are eager to expose malpractices, and connect abuses in local supply chains to multinational corporations. Whilst the complexity and limited transparency of the seafood value chain may make it difficult for companies to take action, it is clear that 'business as usual' is not contributing to responsible employment of vulnerable people. Given that production and processing is dominated by small enterprises where revenues are low (and in some cases falling), there is a need for responsible and inclusive business practices in which the poor are included in a leading company's value chain with an increase in benefits accruing to them.

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<sup>10</sup> Hodel, K., Kelly, C., and Lawrence, F., (2014). "Revealed: Asian slave labour producing prawns for supermarkets in US, UK". The Guardian: Modern-day slavery in focus.

<sup>11</sup> Hodel, K., Kelly, C., and Lawrence, F., (2014) *ibid*.

<sup>12</sup> More on the story can be found here: <http://www.theguardian.com/global-development/2014/jun/10/supermarket-prawns-thailand-produced-slave-labour>.



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### 3. A ROLE FOR THE PRIVATE SECTOR?

Most human rights abuses involving labour will have some direct or indirect link with the private sector. Those businesses that care about responsible and inclusive business strategies argue that the private sector already has considerable skills to contribute to eliminating human rights abuses along value chains. During 2014, CSR Asia conducted numerous interviews with private sector partners and other stakeholders to get a better idea of companies' best practices and the biggest barriers when looking at addressing human rights issues.

The results of private sector interviews conducted for this paper show that:

- Over 50 percent have a policy that addresses human rights along value chains
- 31 percent said they were motivated to address human rights in order to manage risk and maintain the company's reputation
- Only 18 percent of companies made use of human rights risk assessments
- 72 percent of participants indicated that their staff would benefit from guidance material and training on human rights
- 36 percent believed that increased engagement with senior management was necessary

#### RECOGNISING THE CHALLENGE

Our interviews revealed that most businesses felt that there had been an overwhelming focus on environmental concerns and labour standards in factories in the past, whereas now discussions amongst their stakeholders and in the media were shifting more towards human rights, forced labour, abusive working conditions deep down supply chains, as well as other forms of modern day slavery.

Businesses expressed the view that human rights issues are increasingly relevant to their operations. However they felt it to be harder to define what specific aspects of human rights should be considered

as integral to the private sector's responsibility versus their stakeholders (such as NGOs and government).

There is clearly growing pressure coming from the NGO sector to address possible human rights abuses in complex value chains. But there is also beginning to be an interest in such issues coming from the investment community where there is a view that incidences of human rights abuses can damage brands and reputations and have an overall detrimental impact on competitiveness.

Interviewees acknowledged that businesses have a responsibility to uphold human rights within their own operations and are addressing them through their human rights policies (associated with wages, working hours, working conditions and health and safety). Most companies recognise that as a minimum it is their responsibility to uncover supply chain risks but only a limited number of companies go much beyond first tier suppliers.

## AWARENESS OF ISSUES

One of the key problems that we encountered when doing our research was that there still seems to be a lack of recognition that human rights are indeed something that many businesses should be interested in. Boards rarely discuss such issues and most senior managers are either scared to think about them or more commonly complacent in examining potential human rights impacts. In essence the issue of human rights is rarely part of strategic thinking. Yet, for those managers who have worked on human rights issues, they soon discover a need for concrete steps and action plans to enable their businesses to mitigate risks.

In terms of responsibility towards human rights threats within their entire value

chains, many businesses felt that this was hugely challenging (compared with first tier audits) and that they had more of an indirect responsibility to take action where there are direct risks to their economic performance. But, of particular concern, is the impact that a scandal involving modern day slavery can have on image, reputation and brand value.

Some businesses addressed potential issues by obiding to emerging standards, such as the UN Guiding Principles on Business and Human Rights (or the 'Protect, Respect and Remedy' Framework), using their own internal codes of conduct, as well as setting standards within their trading contracts. Companies following the UN Guiding Principles believe that the framework enables them to have a broader and wider understanding about what questions they should be asking themselves and their suppliers and other business partners, as well as creating a better sense of acceptance and legitimacy within the business community to respect human rights.

Most businesses that were interviewed are raising awareness about the potential for human rights risks, exploitation and trafficking, as well as reviewing their own value chains on a regular basis. Many companies stated that since humans are at the core of their business, they have a responsibility to address human rights abuses. On the other hand many companies are reluctant to fully accept the inevitability of violations in some value chains. There is therefore a need for more collective action, as companies address critical societal issues and move forward in a sustainable and progressive way.

## COOPERATING WITH OTHER STAKEHOLDERS

Collaboration and cooperation was seen as important to many of the businesses interviewed and many thought that





companies that do not engage with NGOs and civil society organisations addressing human rights issues, do so at their own peril. Responsible businesses feel it is imperative for companies, different sectors and government to collaborate on creating further transparency and sharing best practices to fight and eradicate modern day slavery. Many of these companies have added manpower to monitor this area and are working to become increasingly more transparent in all of their practices across their entire value chains.

Leading businesses are already looking at modern day slavery challenges and are beginning to think about what particular value-add they may be able to offer to address this issue. One company within the technology sector is exploring technology applications that could be developed in partnership with other organisations to help law enforcement identify and rescue victims of modern day slavery, for example.

There is a growing awareness that there is a willingness from the NGO sector to work with the private sector on human

rights issues. Yet businesses are often confused by the contradictory messages coming from some NGOs who want to be able to both criticise businesses and simultaneously work with them to find solutions. Nevertheless, engagement between a range of stakeholders is going to be vital to tackle the challenges that exist along value chains. Making value chains more transparent and ensuring that benefits are fairly distributed amongst various players can be the start to tackling abusive labour practices and other human rights abuses. The inclusive business approach to managing value chains may be a good starting point.

But many of the companies interviewed also want to see clearer guidance and believe that it is the role of government, NGOs, industry experts and other stakeholders to establish standards that businesses can adopt. One business dealing with fishing vessels, for example, stated that currently no industry standard or certification exists in terms of fishing vessel adherence to human rights, abusive working conditions and slavery.

Many companies noted that they would be happy to take all necessary measures if such standards were recognised and implemented in their industry or operational locations. The private sector in general seems willing to engage in discussion with governments and civil society organisations on how to attain better labour conditions and human rights standards, but emphasised that it is up to governments to implement laws.

## CHALLENGES AND BARRIERS

Most large companies interviewed saw one of the biggest challenges facing them being the extent of their value chains. For example, a single first tier manufacturer, assembling a company's product, may have hundreds of second tier subordinate business relationships, and the deeper supply chain may comprise thousands of businesses spread across multiple countries.

One company in the retail sector gave cotton as a good example. If the company traces its supply chain to each individual farm that grows the cotton, which eventually finds its way into their products, they are looking at examining tens of thousands of relationships. Each farmer and his family members and his workers are rights holders, linked to their global value chain and making it difficult to monitor everyone. The same company also concluded that there is a need to promote consolidation and increase the "verticalisation" of value chains, where all tiers are under the management and control of a single, accountable, provider. But such a move is both challenging and potentially costly.

For brands, it is a question of finding the resources: Deploying available manpower and funds in the most efficient and effective way, to create a net positive benefit, and one that delivers the

necessary safeguards for human rights. Other companies noted that a general lack of understanding and information of the complexity of human rights issues within their industry is also a challenge. Few companies have the necessary resources, knowledge or expertise to engage with complex issues. One company noted a need to conduct its own research to understand the issues and associated risks better, but again advocated international standards that would give the whole industry more certainty and provide for a level playing field. Such an approach is not easy however. For example, the International Maritime Organisation (IMO) and the International Labour Organisation (ILO) both have conventions regarding human rights, but so far they have only been ratified by three countries.

## BEST PRACTICES

There is no single template for dealing with human rights issues. The role of business is likely to be multi-faceted but one interviewee stressed that it must always be results-orientated. To be meaningful, human rights initiatives must deliver change on the ground whether this is in securing rights and restitution for those affected (e.g. enslaved or trafficked) or in protecting against and effectively reducing the risk of such practices in a company's value chain.

To see real change companies need to continue to engage with stakeholders, including, in particular, government and credible civil society organisations. In turn there needs to be engagement with vulnerable and marginalised communities that are often at risk of human rights abuses. Only through such engagement can the full extent of risks (real or potential) be uncovered.

But many in the private sector believe that internal stakeholders are also important





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and that first and foremost there is a need to raise awareness with business decision-makers, internally. Managers need to understand the risks to business and understand the importance of mapping human rights risks along global value chains. This will need to be done by industry and by location but will require increased commitment to find the resources to address the issues.

One leading business in the retail sector argued that their long-term challenge lies in being able to fully trace the origin of their raw materials, deep down their existing supply chains. To address this they have developed a raw materials sourcing strategy and secured a commitment from their Board to use only 'Better Cotton Initiative' (BCI) cotton in their products. They are making good progress towards their 100% Better

Cotton goal. Better Cotton in turn offers a best practice approach, whereby the working conditions from the field to mill and to the factory floor of their manufacturing partners, are known and traceable. It is only through creating such visibility and working with trusted partnerships on the ground that companies can reduce the incidence of human rights abuses in global value chains.

Another company in the technology industry has set up a roundtable with other technology companies to look at the UN guiding principle 18, which asks responsible companies to engage with stakeholders and to understand the impact and issues that stakeholders have with regard to the company's business practices. This is also part of a working group, looking at the issue of human rights reporting within operations and reviewing these annually.

# GUIDANCE FOR THE PRIVATE SECTOR

Companies can use available standardised agreements or certifications that address human rights issues within businesses and their value chains. Some of which include:

- **UN Guiding Principles on Business and Human Rights 'Protect, Respect and Remedy' Framework** seeks to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity of all industries: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)
  - **Ethical Trading Initiative** seeks to tackle complex questions around ethical trading and making positive impacts on worker livelihoods: <http://www.ethicaltrade.org/>
  - **Business Social Compliance Initiative** seeks to help companies improve working conditions in factories and farms worldwide. The initiative unites 1200 companies around a development-oriented system applicable to all sectors and sourcing countries: <http://www.bsci-intl.org/>
  - **Best Aquaculture Practices** standards certificate (BAP certificate) seeks to aid the seafood industry to produce in an environmentally and socially responsible manner: <http://www.gaalliance.org/certification/>
  - **Better Cotton Initiative (BCI)** seeks to aid retailers in environmentally, socially and economic sustainable cotton production: <http://bettercotton.org/>
  - **Global Network Initiative (GNI)** seeks to aid the Information and Technology (ICT) sector to protect and advance freedom of expression and privacy: <https://www.globalnetworkinitiative.org/>
- Alliances and organisations seeking to aid private sector engagement on eliminating modern day slavery include;
- **Project Issara**, built on the experience of a team of anti-human trafficking experts coming out of the United Nations who created an alliance of private sector, civil society, and government partners to address trafficking in global supply chains: [http://www.antislavery.org/english/what\\_we\\_do/forced\\_labour/forced\\_labour\\_in\\_thailands\\_fishing\\_and\\_other\\_industries.aspx](http://www.antislavery.org/english/what_we_do/forced_labour/forced_labour_in_thailands_fishing_and_other_industries.aspx)
  - **Alliance Against Modern Day Slavery** uses its network to research, educate and aid in partnership with public, private, non-profit, and governmental organisations to end slavery in local and global communities: <http://www.allianceagainstmodyslavery.org>
  - **The Mekong Club** is one of the first not-for-profit organisations of its kind in Asia to use a 'business-to-business' approach to fight slavery. Bridging the gap between the public and private sectors, the Mekong Club helps companies of all sizes to understand the complexities of human trafficking and to reduce their vulnerability within their supply chains. Together with business partners, they are spearheading innovative and strategic projects to achieve a slave-free world: <http://www.themekongclub.org/>



## 4. THE ROLE OF RESPONSIBLE AND INCLUSIVE BUSINESS PRACTICES

It is clear that stakeholder concerns over human rights abuses are on the increase. Segments of the consumer market are raising concerns about whether products have been tainted by human rights abuses. Other stakeholder groups are actively campaigning for improved human rights and are successfully identifying those industries (and sometimes even companies) where we are continuing to see human rights abuses in value chains. As part of any sound risk reduction strategy, it is important that any business assesses its exposure to human rights risks and begins to think about how to engage with those risks through corporate social responsibility initiatives as well as practices that make value chains both more transparent and more inclusive.

In line with the UN Guiding Principles, companies need to have a human rights policy and they should conduct due diligence to identify, mitigate and account for how they are addressing human rights impacts. They need to ensure that such a policy covers not only their internal organisation but also the value chain of the company. A clear statement coming from companies should be based on a proper assessment of value chain risks.

An assessment process should include evaluating actual and potential human rights impacts; integrating and acting on findings; tracking responses and communicating about how impacts are addressed. If companies have caused or contributed to negative impacts then they should ensure that there are legitimate remediation processes in place.

While there are different approaches to a value chain impact assessment there

are common elements across existing practices which include:

- A description of the main operations along the value chain
- A preliminary screening for risks and impacts
- Identifying what scale of assessment needs to take place (scoping); gathering information on the actual and potential impacts (both positive and negative)
- Consultation and engagement with stakeholders and rights holders
- Analysis and assessment
- Monitoring and disclosure.

One of the problems is that even if assessments are carried out, companies (and/or their consultants) are nervous about making findings public in case their findings are open to attack by interested stakeholders who could point to the shortcomings of the scope, findings or methodology involved in such assessments. Indeed, there seems often to be an underlying assumption that if a company does an assessment, then there must be a problem. Furthermore, there is at the moment, little or no positive incentive to disclose human rights performance, let alone anticipated risks or impacts. Although, there are now a few large institutional investors (particularly pension funds) increasingly interested in such issues and that want a better understanding of the risks that could impact on the value of their investments.

There is therefore a need to get the private sector to move beyond signing grand principles that commit them to upholding human rights, and get them involved in



proper value chain assessments. Yet, most companies do not even take this first step. Rarely will companies allow stakeholders to make independent evaluations of whether they understand their own processes of measuring human rights impact or the material nature of the impacts themselves.

But, thinking only about risks is not enough. The private sector's responsibility goes far beyond risk reduction. A company interested in responsible and inclusive business practices will work with a range of stakeholders to be an active participant in the process of eradicating human rights abuses in its value chain.

In particular, the inclusive business philosophy is one where more people are included in the value chain and benefits are shared on an equitable basis. It is precisely because this does not happen (with costs often forced down by dominant companies) that margins become so low, and labour abuses and human rights violations happen.

In the Thai shrimp industry, for example, margins are so low that Thai workers will not work in the processing of shrimp, leaving a gap to be filled by vulnerable refugees, illegal migrant workers and children.

Nevertheless, where human rights abuses are found deep down supply chains the solutions are often far from clear, but denying there is a problem, avoiding one's responsibilities or shifting the responsibilities onto others simply will not wash with increasingly sophisticated stakeholders and a media interested in exposing scandals. Companies are increasingly going to have to accept the problem, recognise risk and act. They cannot act alone however: No company has the skills and resources to wipe out all human rights abuses in its value chain. Cooperating with other businesses and other stakeholders is the only way to tackle human rights challenges.

In order to address human rights risks along the value chain and tackle the scourge of modern day slavery companies





must consider what is feasible, what is possible and what is fair. An approach consistent with developing a responsible and inclusive value chain, free from human rights abuses is the intended outcome. A strategy based on the following ten elements is a good starting point:

- 1 Develop awareness within the organisation about human rights challenges, accepting that there is no easy solution to dealing with human rights violations deep down supply chains. Recognise that ignoring human rights risks is not an option because they can cause damage to brand, reputation and trust and cause severe disruptions to value chain security and efficiency with implications for competitiveness.
- 2 Use human rights risk assessments to evaluate the issues along the whole value chain and how they can impact on sourcing, products, brands, reputation and legislative requirements. As part of this, engage with a range of stakeholders to better understand the dynamics of the value chain and the reality of operations on the ground. Ensure that any potential high risk areas are monitored and engage with vulnerable and marginalised communities to tackle risks associated with exploitation.
- 3 Consider inclusive business approaches and work with smallholders, small businesses and cooperatives to ensure that they derive fair benefits from their outputs. Help to increase productivity and quality so that margins are enhanced and vulnerability to abuses reduced. Create initiatives that have the potential to increase the economic empowerment of poor people and communities more widely, reducing the potential for exploitation.
- 4 Recognise that certain groups of people will be more vulnerable to human rights abuses and work towards recognising the root causes of such potential abuses. Vulnerable groups will include the poor, women, indigenous peoples, children, migrant workers, refugees, the disabled, ethnic minorities and the displaced. Work alongside communities to address vulnerabilities.

- 5 Make value chains as transparent as possible, highlighting the sources of raw materials and production methods. Make it clear that the company has a policy and commitment to eliminate all forms of modern day slavery. Provide accessible, reliable and independent whistle-blowing procedures so that human rights abuses can be reported. Establish grievance mechanisms for those who believe the company is not abiding by its commitments.
- 6 Engage with industry-wide initiatives that can begin to examine the root causes of human rights abuses and begin to work on common standards and initiatives to mitigate the risks associated with modern day slavery. Work alongside other businesses to address real and potential value chain risks associated with human rights abuses, recognising that a safe and responsible relationship with suppliers is in the long term interest of value chain security and competitiveness.
- 7 Partner with the NGO community where significant expertise on human rights issues exists and begin working on solutions to dealing with the underlying causes of modern day slavery (including poverty, discrimination, land rights, refugees and vulnerable groups). Engage with experts who understand different issues in different geographical locations and respect local cultures and traditions, whilst seeking to reduce human rights risks.
- 8 Develop even wider multi-stakeholder initiatives at industry level to work towards the solutions to human rights abuses along the value chain whilst at the same time increasing benefits to the poor and protecting the environment. Develop joint initiatives for responsible and inclusive value chains and consider links to industry standards, certification schemes and labels where appropriate. Consider interventions along the value chain that can reduce risks associated with human rights abuses and remediation for those who are found to have been exploited.
- 9 Focus on developing responsible products and traceability initiatives so that consumers and other stakeholders can have a good degree of assurance that the products that they buy are free from human rights abuses. Encourage consumers to be part of the fight against modern day slavery through education initiatives, influencing their purchasing decisions.
- 10 Join in a broader global movement to protect the human rights of vulnerable people and advocate for more effective responses from governments and other regulatory agencies. Demonstrate to other parts of the private sector that there is a business case associated with engaging with human rights relating to risk reduction and potential competitive gains associated with value chain security.





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## 5. CONCLUSIONS

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The research conducted for this paper demonstrates that whilst some leading companies are working on addressing human rights concerns, many are still not. Yet we know that stakeholders (including consumers and investors) are increasingly concerned about issues such as modern day slavery, and want to see the private sector addressing those issues along value chains.

Creating responsible and inclusive value chains can be an important part of reducing human rights risks and maintaining the competitiveness of a company. There are severe impacts on brands and reputations when human rights scandals are exposed and yet too many companies ignore their risks and fail to recognise opportunities to enhance competitiveness.

Tackling human rights abuses deep down supply chains is not easy. Few companies

will have the resources, knowledge and expertise to address all the challenges. Thus we have argued in this paper that cooperation with other businesses and with a range of stakeholders will be vital. But ensuring that value chains are inclusive, ensuring that all parties benefit from being part of a production process and reducing the exposure of vulnerable people to abuse will also be important.

This paper demonstrates that there is a business case for being more involved in addressing human rights issues and removing modern day slavery from value chains. But even in the absence of such a business case we should all be committed to treating other people in a manner to which we would want to be treated ourselves. It is simply the right thing to do.



## GUIDELINES FOR DEVELOPING A BUSINESS APPROACH TO HUMAN RIGHTS

### ISO 26000

ISO 26000 provides guidance on how businesses and organisations can operate in a socially responsible way. It places specific emphasis on human rights as both a principle and a core subject.

Despite the fact that the preceding issues are legislated by many jurisdictions, ISO 26000 says that the organisation must independently make sure that (i) freedom of organisation and collective negotiation are possible, (ii) there is no forced labour, (iii) there are equal opportunities and no discrimination, and (iv) it is highly responsible regarding child labour.

The Human Rights section of ISO 26000 sets out that an organisation must avoid complicity in human rights abuses and defines complicity in three ways: direct, beneficial or silent. It also states that an organisation has the responsibility to respect human rights, including in its entire value chain and sphere of influence.

#### **ISO 26000: Understanding complicity**

An organisation may be considered complicit when it assists in the commission of wrongful acts of others that are inconsistent with, or disrespectful of, international norms of behaviour that the organisation, through exercising due diligence, knew or should have known, would lead to substantial negative impacts on the environment or society. An organisation may also be considered complicit where it stays silent about or benefits from such wrongful acts.

#### **ISO 26000: Social responsibility and the organisation's sphere of influence**

In addition to being responsible for its own decisions and activities, an organisation may, in some situations, have the ability to affect the behaviour of parties with which it has a relationship. An organisation's value chain falls within its sphere of influence.

To create transparency within a company's value chain, not only helps an organisation adhere to its core principles and operate in a socially responsible way, but also encourages members of their value chain to act responsibly.

An organisation cannot be held responsible for the impacts of every party over which it may have influence. However, there will be situations where an organisation's ability to influence others will be accompanied by a responsibility to exercise that influence. For instance, the moral obligation to oppose human rights abuses committed by others can be an important aspect of an organisation's social responsibility.

### OECD GUIDELINES

The Guidelines for Multinational Enterprises, devised in 1976, are the only international corporate responsibility instrument that has been formally adopted by States. The Guidelines are recommendations of standards of behaviour expected by corporations, covering all major areas of business ethics.

The 2011 Update includes for the first time a comprehensive, non-binding code of conduct regarding business and human rights.

The Update to the Guidelines also recommends internal human rights policy covering commitment by the corporations to their own employees, business partners and all other parties directly linked to the operations, services or products. The Update states that the policy should be reflected in all operational procedures and policies necessary to embed it throughout the enterprise. The 2011 Update also includes provision for complaints and mediation processes. The Guidelines oblige enterprises to conduct due diligence that is appropriate to the size, nature and context of their operations and to the severity of the risks of adverse human rights.

## RESOURCES FOR BUSINESSES

Since the late 1990's an increasing number of tools, guides and resources for business have been created. Below is a list of resources and links to the most useful tools.

### THE DANISH CENTRE FOR HUMAN RIGHTS (DIHR)

Established in 1987 by a parliamentary decision, DIHR seeks to "strengthen the collection, development and communication of knowledge about human rights in Denmark and Europe, and internationally." Having "Human Rights and Business" as one of their nine focus points, the Institute provides a number of tools and guidance that translate international human rights law into tangible performance. The list of assessment tools and risk frameworks for businesses can be found on the website [www.humanrights.dk](http://www.humanrights.dk)

### BUSINESS & HUMAN RIGHTS RESOURCE CENTRE

A Non-Profit Organisation based in UK, the Business & Human Rights Resource Centre serves as an independent resource database on human rights, with hourly updates on news and reports about companies' human rights impacts worldwide. The Centre provides an easy access to human rights-related information on its website free of charge. <http://www.business-humanrights.org>

Particularly helpful for businesses is its "Tool & Guidance Portal" which compiles all the general and sector-specific guidelines they can refer to when drafting their human rights policies.

### UNITED NATIONS GLOBAL COMPACT (UNGC)

In order to "provide guidance for business on how to implement the corporate responsibility to respect human rights," the

UNGC has endorsed the Guiding Principles (GP) on business and human rights, which are available in all UN languages on its website. Besides the GPs, the website also lists useful materials for general guidance, human rights policies, risk and impact assessments, stakeholder engagement, training, reporting, grievance mechanisms, legal accountability, and human rights advocacy.

<http://www.unglobalcompact.org>

#### Others:

- Global CSR has developed an application that assesses Human Rights criteria: <http://global-csr.com/human-rights-impact-identification-made-easy-with-an-app/>
- Stop the Traffik: <http://www.stopthetraffik.org/>
- Human Rights watch: [http://www.hrw.org/en/browse\\_by\\_country](http://www.hrw.org/en/browse_by_country)
- Amnesty International: <https://www.amnesty.org/en/what-we-do/>
- Office of the UN High Commissioner for Human Rights, text of Universal Declaration of Human Rights and other relevant instruments
- International Labour Organisation: <http://www.ilo.org>
- Business Leaders Initiative on Human Rights: <http://www.blihr.org>
- IFC reference tool for human rights assessment and management: <http://www.guidetohriam.org>
- Asian Development Bank (ADB) environmental and social safeguards: <http://www.adb.org/documents/safeguard-policy-statement?ref=site/safeguards/publications>