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Modern slavery and the private sector: Sequencing of efforts

by Matt Friedman

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The issue of modern slavery continues to be a very sensitive topic within the private sector. Because this issue is new and often hard to address within a business context, many companies don't know how to begin the process of engaging. With a range of new legislation related to modern slavery, increasing numbers of lawsuits against corporations, and wider media attention, ignoring this issue is no longer an option.

Addressing the business risk

For a number of years, the only private sector regulations addressing modern slavery were non-binding guidelines issued by the United Nations and other international organizations. Recently, however, the legal landscape has changed with new domestic laws coming into force that address companies' modern slavery accountability.

So, let's look at some of the key features of these regulations. The state of California in the United States passed the first piece of legislation to engage the private sector on modern slavery. The California Transparency in Supply Chains Act, which came into effect in 2012, requires retailers and manufacturers who do business in California and have annual worldwide revenues exceeding \$100 million to disclose their efforts to eradicate slavery and human trafficking from their supply chains. The Act requires that the disclosure be made on company websites, giving consumers the power of information.^[1]

A second, more comprehensive piece of legislation is the UK Modern Slavery Act, section 54, which came into force October 2015.^[2] It requires any "commercial organizations" that provide goods or services, do business in the United Kingdom, and have worldwide turnover of at least £36 million to publish a yearly statement describing the steps they are taking to ensure that slavery is not taking place in their supply chains or businesses. This statement must be approved by the board and signed by a director.

Similar legislation to the UK Modern Slavery Act is now being discussed in the European Union (EU), Australia, Hong Kong, and other countries, which might include more severe penalties for non-compliance.

In 2016, there were significant changes to the US Tariff Act under the Trade Facilitation and Trade Enforcement Act. These gave Customs and Border Protection authorities the power to seize goods suspected to have been produced with forced labor wholly or in part in any foreign country. The Tariff Act is significant, because it allows "any person who has a reason to believe" that merchandise is being produced with forced labor to file petitions with the authorities and alert them.^[3] Companies associated with the seized goods have three months to demonstrate that they are clean.

Other recent pieces of legislation that address companies' accountability for modern slavery include France's "duty of care" law, which addresses companies' impact on the environment and human rights, regulations in the US and EU that target specific commodities such as conflict minerals, and the US anti-human trafficking provisions, which cover the US federal government's procurement processes. This legislative shift has prompted

the private sector to recognize that addressing slavery is now a business imperative.

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