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On ethics: Matthew S. Friedman

by Matthew S. Friedman and Adam Turteltaub

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AT: By every and all measures, slavery is wrong. It's not a difficult ethical decision to make and unlike issues like corruption, where some people seem comfortable with, "Well, that's how they do things there," it's hard to justify slavery as a local tradition. And yet, we keep finding that it is persistent, and companies periodically find it in their supply chain.

Why? Is it that they don't think to look, that it's well hidden, or that it's inconceivable to many that slavery exists?

MSF: The concept of modern slavery within supply chains is relatively new, and as a result, many companies are only now beginning to grasp its relevance and significance. While traditional forms of exploitation have been widely condemned, the nuances and pervasive nature of modern slavery have only recently come under scrutiny. This lack of historical awareness has meant some companies may not have incorporated adequate safeguards into their supply chain management systems. Thus, the first step towards combating modern slavery is to acknowledge its existence and understand its implications.

Raising awareness is critical in this context. Many business leaders remain unfamiliar with the intricacies of modern slavery and its potential presence in their supply chains. Educational initiatives, workshops, and training programs can play a pivotal role in enlightening leadership about the risks and consequences associated with this issue. These initiatives should not only focus on legal aspects but also emphasize the moral imperative and reputational risks for companies associated with exploitation in their supply chains.

AT: Regionally, are there parts of the world where slavery and human trafficking are more common?

MSF: While different forms of modern slavery and human trafficking can be found everywhere, it disproportionately prevails in regions grappling with high poverty rates, deficient governance structures, and inadequate enforcement of human rights. Sub-Saharan Africa, Southeast Asia, and specific areas in South Asia stand out as particularly afflicted regions. Within these areas, countries such as India, China, Bangladesh, and Pakistan confront formidable challenges in combating and eradicating modern slavery. Additionally, conflict zones in the Middle East have become breeding grounds for exploitation.

Industries notorious for instances of forced labor and human trafficking include fishing—where workers on vessels are vulnerable to abuse; agriculture—marked by labor-intensive practices; construction—notorious for hazardous working conditions; and manufacturing—often marred by the exploitation of vulnerable labor forces. The intricate dynamics of global supply chains further contribute to the perpetuation of modern slavery, necessitating comprehensive efforts to address underlying socioeconomic issues and strengthening regulatory frameworks on a global scale.

AT: What about economic sectors? I must admit, I was more than a bit surprised to learn it even occurs in relatively sophisticated areas like solar cells. I was feeling very virtuous about having installed solar panels on my roof, and then I learned that many are produced using forced labor.

MSF: While the actual production of solar panels is not inherently linked to modern slavery, concerns arise in the supply chains of raw materials and manufacturing processes. Mining of minerals crucial for solar panels (like cobalt) has faced allegations of exploiting workers—especially in regions with lax labor regulations, such as Africa. Additionally, the production of solar components involves intricate supply networks that may inadvertently involve forced or child labor. In addition, some media reports have highlighted instances of labor rights abuses in the production of polysilicon (a key material in solar panels) in certain regions, including China. To counter these issues, the solar industry has been making efforts to ensure ethical sourcing and sustainable practices. Transparency initiatives and certifications are being put in place to better trace the origin of materials to ensure fair labor conditions.

AT: There has been an increase in the amount of legislation out there that touches forced labor. Since most of our readers are based in the U.S., let's start with the U.S. Uyghur Forced Labor Prevention Act. Can you give us an overview of its history and its requirements?

MSF: The Uyghur Forced Labor Prevention Act reflects efforts to address human rights concerns associated with forced labor in the Xinjiang region—particularly targeting the Uyghur Muslim minority. Signed into law on December 23, 2021, by President Joe Biden, the Act mandates that, starting from June 21, 2022, companies importing goods from Xinjiang must certify that these products were not manufactured using forced labor. The law imposes penalties on companies failing to provide this certification. It underscores the importance of due diligence in supply chains to ensure compliance. The Act allocates increased funding to Customs and Border Protection (CBP) for enforcement.

AT: The U.S. is far from alone in having legislations in this area. Let's talk about the German Supply Chain Due Diligence Act. What does it provide?

MSF: The German Supply Chain Due Diligence Act, enacted in June 2021, is a pivotal legislation aimed at enhancing corporate accountability and addressing human rights and environmental issues within global supply chains. Applicable to companies in Germany with over 3,000 employees, the law mandates the establishment of comprehensive due diligence systems. This involves identifying, preventing, and mitigating adverse human rights and environmental impacts across the entire supply chain. Companies must conduct risk assessments, implement preventive measures, and regularly monitor their supply chains to detect and address potential violations.

A notable aspect of the law is the introduction of legal liability for noncompliance, allowing affected individuals, non-governmental organizations (NGOs), or employee representatives to seek legal remedies. By holding companies accountable for their suppliers' actions, the legislation promotes transparency and responsibility in supply chain management.

Additionally, the Act also encourages collaboration and dialogue between companies and their suppliers, emphasizing communication to address challenges and implement improvements. This cooperative approach aims to foster a culture of continuous improvement in supply chain sustainability.

AT: Am I correct in thinking there is a good chance this will be a precursor to an EU directive?

MSF: Yes, the German Supply Chain Due Diligence Act serves as a precursor to potential similar legislation in the EU. Discussions in the EU are already underway to establish a harmonized approach to supply chain due

diligence. The German law—with its stringent requirements for companies and legal liability for noncompliance—sets a precedent and aligns with broader international efforts to address ethical concerns in global supply chains. The EU has shown interest in developing an even more comprehensive unified framework to ensure responsible business conduct, and the German legislation will influence and contribute to the formulation of EU-wide regulations in this regard.

AT: What are some of the other anti-slavery regimes in force?

MSF: In addition to the German Act discussed above, several countries have enacted modern slavery legislation to address business responses and promote corporate accountability, including:

- **United States—California Transparency in Supply Chains Act (2010):** Requires certain large retailers and manufacturers operating in California to disclose efforts to eradicate slavery and human trafficking from their direct supply chains.
- **United Kingdom—Modern Slavery Act (2015):** Requires companies with a global annual turnover of £36 million or more to publish an annual slavery and human trafficking statement that must be signed by their board of directors.
- **France—Duty of Vigilance Law (2017):** Requires large French companies to establish and implement measures to identify and prevent human rights and environmental violations throughout their supply chains.
- **Australia—Modern Slavery Act (2018):** Applies to entities with an annual consolidated revenue of AUD 100 million or more and mandates the publication of annual modern slavery statements.
- **Netherlands—Child Labor Due Diligence Law (2022):** This legislation obligates companies to identify and prevent child labor in their supply chains.

These legislations collectively seek to combat modern slavery by compelling businesses to conduct due diligence, increase transparency, and take steps to prevent and address human rights abuses in their operations and supply chains.

AT: So, for a company wanting to ensure it does the right thing, both morally and legally, where should they start to ensure that there is no modern slavery or human trafficking in their supply chain?

MSF: To ensure a company avoids modern slavery and human trafficking in its supply chain, a comprehensive approach is vital. This should start with a thorough risk assessment that examines every tier of its supply chain. The company should implement robust supplier due diligence, including audits and assessments, ensuring adherence to ethical labor practices. This includes engaging suppliers in dialogue about responsible sourcing and ethical conduct; encouraging transparency; adopting and enforcing a stringent supplier code of conduct that explicitly prohibits forced labor and human trafficking; implementing regular, independent audits to verify compliance; investing in employee and supplier training programs; fostering awareness and understanding of human rights issues; collaborating with industry peers and organizations like the Mekong Club to share best practices and stay informed on emerging risks; and regularly reviewing and updating policies in alignment with evolving legal standards. By integrating these practices, a company not only ensures legal compliance but also upholds moral responsibilities, contributing to a supply chain free from modern slavery and human trafficking.

AT: Are there any areas companies often overlook?

MSF: Companies often overlook certain critical aspects when addressing modern slavery in their supply chains.

First, the recruitment phase is frequently ignored, leaving companies unaware of the vulnerabilities and potential exploitation faced by migrant workers before they even enter the supply chain. Second, the focus tends to be on tier-one suppliers, neglecting the risks present in deeper tiers of the supply chain. Small and medium-sized enterprises (SMEs) in the supply chain also receive inadequate attention despite being susceptible to challenges in implementing robust anti-slavery measures. Lastly, the role of migrant workers and their susceptibility to exploitation is frequently underestimated, necessitating increased scrutiny and protection measures throughout the entire employment cycle. This includes identifying violations of the International Labour Organization indicators such as the payment of recruitment fees, personal documentation retention by employers, contract substitution, excessive overtime, and more.

AT: I think it's worth noting that this happens not just in faraway lands, but also in the U.S. and Europe. How does a company ensure its employees and contractors aren't trafficked?

MSF: Companies based in North America and Europe can combat modern slavery and human trafficking in their supply chains by implementing robust due diligence measures. This involves conducting thorough risk assessments to identify potential vulnerabilities and monitoring suppliers closely. Collaborating with industry peers, NGOs, and relevant stakeholders can enhance information sharing and best practice development. Additionally, implementing stringent supplier codes of conduct—which explicitly prohibit forced labor and human trafficking—is crucial. Regular audits and inspections carried out by independent third parties can verify compliance and identify any red flags. Engaging in transparent reporting about supply chain practices and progress in eradicating slavery fosters accountability. Investing in supplier capacity-building programs and supporting local communities can address root causes, contributing to a sustainable, ethical supply chain. Adoption of emerging technologies, such as blockchain, can enhance traceability and accountability. Finally, fostering a culture of responsible sourcing within the company—from top leadership to every employee—is essential for long-term success in eradicating modern slavery and human trafficking from supply chains in North America and Europe.

AT: So, tell us about the mission and activities of the Mekong Club.

MSF: The Mekong Club—an NGO based in Hong Kong—specializes in harnessing the power of the private sector to combat human trafficking. Collaborating with businesses, it develops and implements strategies to eliminate forced labor and exploitation from supply chains. Our organization engages companies in risk assessments, helping them identify vulnerabilities and adopt responsible practices. By fostering ethical business conduct, the Mekong Club enables corporations to eradicate slavery-related issues in their operations. This includes manufacturers, retailers, banks, hotels, and tech companies.

Using targeted training, consultation, and access to specialized tools, the Mekong Club empowers businesses to detect and address human trafficking risks. This proactive approach not only mitigates reputational and legal risks for companies but also contributes to broader social change relevant to corporate social responsibility/environmental and social and governance principles within most companies. Our organization acts as a catalyst for corporate responsibility, encouraging industry leaders to prioritize human rights and champion sustainable business practices. The Mekong Club's unique focus on private-sector collaboration marks a pioneering effort to align corporate interests with the fight against human trafficking, fostering a collective responsibility that transcends individual organizations, and makes a meaningful impact on the broader issue.

AT: What leads an organization to take the step of joining?

MSF: Corporations join the Mekong Club for a multitude of reasons that align with their commitment to ethical business practices and social responsibility. Participation offers a proactive means of identifying and mitigating the risks associated with human trafficking and modern slavery within supply chains, enabling companies to

stay ahead of evolving regulations and demonstrate due diligence. Beyond compliance, membership reflects a commitment to values such as sustainability and responsible business conduct, contributing to a positive corporate image. The Mekong Club provides a collaborative platform where businesses can share best practices, challenges, and solutions, fostering a collective effort that goes beyond individual corporate initiatives. Through training and resources, the organization empowers corporations to build internal capacity for addressing human trafficking risks, positioning them as industry leaders actively contributing to the global fight against modern slavery. Ultimately, joining the Mekong Club enables corporations to enhance their competitive advantage, attract socially conscious consumers, and forge positive relationships with stakeholders.

AT: Where are you seeing the most impact?

MSF: Major companies that have systems and procedures in place to address modern slavery are experiencing a range of positive impacts, including:

- **Improved reputation:** Companies acting against modern slavery enhance their reputation, being seen as socially responsible and ethical.
- **Risk mitigation:** Addressing modern slavery helps identify and reduce supply chain risks related to labor exploitation.
- **Enhanced supply chain transparency:** Companies require greater visibility into their supply chains to trace product origins, leading to more efficient supply chains.
- **Legal and regulatory compliance:** Laws and regulations mandate reporting and action against modern slavery in supply chains.
- **Ethical consumerism:** Ethical consumerism is growing, and companies with ethical labor practices attract socially conscious consumers.
- **Improved labor conditions:** Companies that address modern slavery can improve working conditions and wages, benefiting employees and suppliers.
- **Investor attraction:** Companies addressing modern slavery appeal to socially responsible investors.
- **Enhanced reporting:** Robust reporting mechanisms show efforts to address modern slavery, promoting transparency and accountability.
- **Collaboration and industry leadership:** Fostering industry-wide improvements by collaborating with peers, NGOs, and government bodies.
- **Innovation:** Investment in technologies to trace products in the supply chain and improve operational efficiency.

Overall, addressing modern slavery aligns with ethical and responsible business practices, enhancing reputation and attracting consumers and investors while mitigating risks. Companies are also able to contribute to a more ethical global economy and protect their interests and reputation.

AT: Finally, what do you see next in the fight against modern slavery?

MSF: The future of the private sector's response to addressing modern slavery promises to be marked by innovation and revolutionary approaches. As the global community becomes increasingly aware of the ethical and economic imperatives of eradicating modern slavery, businesses are likely to adopt a multifaceted,

technology-driven, and collaborative approach to tackle this pervasive issue. Below are some elements that will contribute to this process:

- **Blockchain and supply chain transparency:** The private sector is expected to leverage blockchain technology to create immutable and transparent supply chains. Every stage of production, from raw material sourcing to the final product, can be recorded on a blockchain, providing consumers with real-time information about the origins of products. This technology can help eliminate opaque supply chains where exploitation often occurs.
- **Data analytics and artificial intelligence (AI):** AI and data analytics tools will play a crucial role in identifying potential instances of modern slavery within supply chains. These technologies can process vast amounts of data to detect irregularities, flagging high-risk areas and suppliers. Predictive analytics can help companies anticipate issues before they escalate.
- **Worker voice and empowerment:** Innovative companies will continue to develop and expand platforms or applications that empower workers to report labor exploitation anonymously. These platforms will provide a direct line of communication between workers and company management, enabling swift responses to concerns and building trust.
- **Certification and labeling:** Companies might adopt more standardized and rigorous certification and labeling systems, similar to Fair Trade, to verify that their products are free from modern slavery. This will enable consumers to easily identify products from ethical sources, encouraging responsible consumerism.
- **Collaboration and industry coalitions:** The private sector will increasingly join forces through industry-wide coalitions, sharing best practices, intelligence, and resources to address modern slavery collectively. Collaboration can lead to systemic change and the development of shared ethical supply chain standards.
- **Ethical investment and stakeholder engagement:** Investors are likely to place greater emphasis on a company's approach to modern slavery and human rights. Businesses will engage more proactively with shareholders and stakeholders to demonstrate their commitment to ethical practices.
- **Legal and regulatory compliance:** The private sector will remain vigilant in staying ahead of evolving legal and regulatory requirements related to modern slavery. Companies will integrate compliance into their core operations to avoid legal and reputational risks.
- **Education and training:** Innovative private sector responses will involve extensive education and training programs for employees, suppliers, and partners to raise awareness and build a strong ethical culture throughout the supply chain. This will be done in the language of the target audiences.

The future private sector response to modern slavery will be characterized by technological innovation, supply chain transparency, ethical investment, collaboration, and an unwavering commitment to eradicating this grave human rights issue. Companies that embrace these approaches will not only protect their reputation but also contribute significantly to global efforts to eliminate modern slavery.

AT: Thank you, Matt.

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