

Workshop learning points

How to identify forced labour in your supply chains

“You can only begin to be certain that there is no forced labour in your supply chains once you are properly equipped to look for it.”

Thursday 15th January 2009

Introduction

Anti-Slavery International and SustainAbility hosted this workshop to pinpoint the obstacles to identifying forced labour and to find ways to improve monitoring mechanisms. In summary, forced labour is work exacted under menace of penalty and for which the person has not offered him or herself voluntarily.

Why do we need to improve identification of forced labour in supply chains?

- We know that forced labour is widely prevalent, the International Labour Organization reports that it affects well over 12million globally.
 - Many are trapped in bonded labour in South Asia’s informal sector.
 - But others are in the UK and other industrialised countries trapped in debt bondage, which is when they have taken a loan or paid a fee that they are unable to repay because of the terms or because of deductions made by the employer.
 - We know that trafficking for labour exploitation happens worldwide in various industries from the Ivorian cocoa sector to Florida’s tomato farms.
 - In November 2008 a large operation led by a police force released over 60 workers from forced labour picking leeks in East England.
- However, very little forced labour is reported by companies. Currently, most reported cases are exposed by media.
 - Many companies are committed to eradicating forced labour as set out in various codes of conduct. However, this commitment needs to be translated into action. Companies who come across forced labour must share their experiences so that others can be aware of the risks and join efforts to eradicate forced labour.
 - There is a strong business case for identifying forced labour. Improving identification translates into improving risk management strategies and being

better equipped to answer investors' and consumers' concerns. Investors are looking for companies with strong, sustainable and secure supply chains, a high degree of transparency and low risk of litigation. Labour violations can result in major costs from legal fines, costs or lost productivity.

- Companies are increasingly facing litigation as claimants turn to legal mechanisms such as the Alien Claims Tort Act in the USA (under which US parent companies can be prosecuted for labour violations by subsidiary companies overseas), or the OECD's National Contact Point to resolve forced labour disputes.
- Major scandals around forced labour have erupted in the media over the years, tarnishing corporate reputations for example, Gap, Nike and Primark. Proactively identifying and addressing forced labour can help to alleviate some of these reputational risks.

Why is forced labour underreported?

- **Fears associated with reputational damage and remediation efforts.** There are clearly disincentives to reporting forced labour such as:
 - Forced labour is not great for brand reputation
 - Improving monitoring mechanisms means increasing the chances of finding forced labour, which brings with it concerns about being able to effectively remediate workers.
 - Forced labour is often a manifestation of complex societal problems, such as economic and political power imbalances, that are beyond the scope of any single workplace and so can seem insurmountable for companies to address alone.
- **Tendency to identify and address specific violations without seeing forced labour.** Companies often report the symptoms of forced labour as lesser violations such as delayed payment of wages or working long hours.
- **Risk management tools that segment risk by geography only.** Many companies rely upon country-based risk management tools, which are not sufficiently sophisticated to identify forced labour, a global problem.
- **Over-reliance on audits.** Audits are the main monitoring mechanism for most companies.
 - The quality and scope of auditing may be questionable, or there may be practical difficulties such as auditors being unable to speak with workers in their own language.
 - However, even when auditing is of high quality, audits by necessity are merely a snapshot of a particular moment in a particular part of the production system. The auditing mindset tends to be linear and mechanistic

and may compartmentalise symptoms, preventing observers from seeing the whole complex picture which might together constitute forced labour.

- **Hidden nature of forced labour.** For example, forced labour is often found in the informal sector, in the early stages of production, often some steps down the supply chain. It might be a result of recruitment practices which rely on a number of agents to bring workers to the employer. Subcontracting can also hide forced labour as it adds layers between the company and the worker. These areas are out of the scope of many audits.

How can monitoring mechanisms be improved?

- **Take supplier engagement/partnership approach.** Rather than focusing solely on auditing, compliance and penalties, companies should work with their suppliers and take a genuine approach to partnership.
 - Retailers should ensure suppliers understand that they will not be dropped if forced labour is identified at their sites, but rather that the company will work with them to build their skills in identifying and addressing forced labour.
 - Auditing can be seen as a supplier development or evaluation tool rather than a pure compliance and penalty/remediation tool. For example, using the audit process to engage with suppliers and to assess progress on stated objectives and offer assistance.
 - Remediation is too often a one-off solution – lasting change comes from suppliers who are empowered to act in a way that considers the business pressures they face. For example, how will they meet any costs incurred in eradicating forced labour? How can they change their recruitment practices to meet their needs but ensure that there is no debt bondage?
- **Acknowledge the existence of vulnerable workers and increase vigilance of monitoring accordingly.** This list is not exhaustive.
 - **Migrants:** particularly, but not exclusively, those who are reliant on their employer for leave to remain but also internal migrants.
 - **Minorities:** including indigenous groups, and those that may be discriminated against (for example Dalits in India, many of whom are in bonded labour.)
 - **Illiterate labourers:** who may not be able to read about their rights or check the accuracy of their payslips.
 - **Homeworkers:** who often work outside the formal system and its safety measures and can therefore be vulnerable to exploitation.
 - **Temporary workers:** those on temporary contracts who find it difficult to get union representation.
 - **Poor workers:** more broadly, those who are low-paid and therefore more vulnerable to exploitation.

- **Women:** women tend to be more prone to poverty, likely to be less educated, and therefore more vulnerable.
- **Raise awareness amongst workers.** All workers need to know their rights, not just management. Consider illiterate workers, those who speak different languages, whether workers have the opportunity to read the notice board etc.
- **Conduct site visits and engage in direct dialogue with workers.** It is essential that auditors speak to workers, as they are key to ensuring that positive change in labour practices is sustainable.
- **Make both auditors and your commercial buying and supplier development teams aware of “red flags” and encourage them to raise concerns.** Having considered who the vulnerable workers in your supply chain are, “red flags” might include:
 - Excessive overtime
 - Migrant workers who paid a fee and may be at risk of debt bondage
 - Workers paid cash in hand, no clear record of hours worked or pay rate
 - Lack of grievance mechanisms
 - Absence of unions
 - Workers dependent on employer or agent for basic living needs
 - Workers living and working in poor conditions
 - Prison labour used in the production of goods
- **Tap into external networks.** Companies should consider linking up with local partners e.g. NGOs, unions and local government to improve their understanding of the local context and particular practices or vulnerable workers that should be carefully checked. NGOs can help both identify and remediate. Anti-Slavery International and the Ethical Trading Initiative can suggest partners in certain countries.
- **Strengthen monitoring of recruitment functions.** With growing demand for an increasingly flexible workforce, the risk that workers are tied into debt bondage through unscrupulous agents will only increase.
- **Collaborate with industry peers or business partners.** Consider, also, linking up with other retailers or other sectors in the same supply chain. The work of the International Trade Centre takes a cohesive approach to resolving issues such as forced labour. It looks at the business pressures affecting suppliers, builds understanding of why suppliers take the actions they do, and aligns implementation of corrective actions by interdependent actors along value chains. The Italian leatherwear industry collaborated with tanners, the chemical industry, buyers and child rights organisations to address child labour in Bangladesh’s leather sector.
- Companies have a particular role in joining efforts with other relevant actors to eradicate forced labour. It is important that the private sector does not take the lack of reported forced labour for granted, but rather to ensure that monitoring mechanisms are sufficiently developed to identify forced labour where it does occur.