



# HIDDEN IN PLAIN SIGHT SITE

MODERN SLAVERY IN THE CONSTRUCTION INDUSTRY

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# EXECUTIVE SUMMARY

**An estimated 7 per cent of the global workforce works in construction. Many millions of people building homes, offices and infrastructure. The work is often hard, manual labour. A proportion of them do not do this out of free will; they are forced to work and are exploited.**

More than 45 million people are estimated to be entrapped in modern slavery across the world. They are deprived of their freedom for the personal or financial gain of their exploiter. They end up in this situation either by deception or coercion.

This crime occurs on any continent, in any country; anywhere exploiters try to make money out of people who are vulnerable. Exploitation for forced labour is one of the key types of modern slavery. Labour-intensive sectors where temporary and irregular work are common, as well as low-skilled and low-waged jobs, are considered high-risk sectors for forced labour. The construction sector fits this description in regard to labour in the industry and procurement of building materials. Both areas are at risk and known to be affected.

Due to the hidden nature of modern slavery and the complexity of construction supply chains, identifying and addressing the issue is complicated. A range of stakeholders have roles to play. The 'Protect, Respect and Remedy' framework in the United Nations Guiding Principles on Business and Human Rights provides structure:

› **State Duty to Protect human rights:** Governments need to put in place regulation and legislation as a legal framework for accountability and prosecution. The United Kingdom and United States have introduced laws in the last few years that are viewed as game changers. Some other countries are in the process of passing laws on transparency in supply chains and modern slavery.

› **Corporate Responsibility to Respect human rights:** Construction companies can play a key role by identifying, mitigating and preventing modern slavery in their operations and supply chains. This report points out key steps businesses can take to tackle the issue, across a range of roles and departments within businesses. Taking these steps is an opportunity as well as a need for businesses.

› **Access to Remedy for victims:** Construction companies and governments should put in place effective remediation measures.

**Investors, civil society and the media are other stakeholders that have a role to play by influencing the private and public sectors to fulfil their duties. With benchmarking becoming more common, all these stakeholders have already used their power to have an impact on tackling modern slavery in industries that more customer-facing than construction. Now it is time to also address modern slavery in the construction sector.**

# DEFINITIONS OF TERMS

## MODERN SLAVERY

An umbrella term that covers various terminologies used by different entities and people in regard to slavery, forced and bonded labour, human trafficking and the worst forms of child labour. The 2016 Global Slavery Index defines modern slavery as “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, abuse of power or deception”.<sup>1</sup>

## HUMAN TRAFFICKING

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons defines trafficking in persons as the:

- › **act** of recruitment, transportation, transfer, harbouring or receipt of persons by ...
- › **means** of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability, or of the giving or receiving of payments or

benefits to achieve the consent of a person having control over another person for the ...

- › **purpose** of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The recruitment, transportation, transfer, harbouring or receipt of a child (under 18 years old) for the purpose of exploitation shall always be considered trafficking in persons, even if it doesn't involve the means of threat, use of force or coercion as described above.<sup>2</sup>

There is a common misconception that human trafficking involves smuggling or requires that the trafficked person is illegal in the country of destination.<sup>3</sup>

## FORCED LABOUR

Defined by the International Labour Organization (ILO) 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 themselves voluntarily”.<sup>4</sup>

The 1930 Convention on Forced Labour was complemented in 2014 by a protocol that added new elements, such as the obligation for states to take steps and to exercise due diligence in both the public and private sectors to prevent forced labour in their practices or supply chains. Also required is the protection of victims, providing them with access to appropriate and effective remedies, such as compensation, and effective sanctioning of perpetrators.<sup>5</sup>

## BONDED LABOUR/DEBT BONDAGE

The status or condition where a person has pledged their labour or service or that of a person under their control, as security for a debt, where the fair value of that labour or service is not reasonably applied towards the liquidation of the debt, or the length and nature of those services are not respectively limited and defined<sup>6</sup> i.e. the person is tricked and trapped into working for very little or no pay. The debt is often a loan provided to cover the recruitment fee and travel to take up the role.<sup>7</sup>

## CHILD LABOUR

As UNICEF states, children around the world are routinely engaged in paid and unpaid forms of work that are not harmful to them.<sup>8</sup> Children's or adolescents' participation in work that doesn't affect their health and personal development, or interfere with their schooling, is generally regarded as being something positive. However, when children are either too young to work as defined by the ILO or they are involved in hazardous activities that may compromise their physical, mental, social or educational development, it is classified as child labour.<sup>9</sup>

## THE WORST FORMS OF CHILD LABOUR

The ILO has made it a priority to eliminate the worst forms of child labour, which it defines as:

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.
- (d) Work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.<sup>10</sup>

## TYPES OF MODERN SLAVERY EXPLOITATION

- › Forced labour
- › Criminal exploitation e.g. benefit fraud, cannabis cultivation, pickpocketing, drug trafficking
- › Sexual exploitation
- › Domestic servitude
- › Forced begging
- › Forced marriage
- › Organ harvest



# BACKGROUND/METHODOLOGY

**The aim of this report is to bring attention to the issue of modern slavery in the construction industry across the world.**

Desk research and expert insights have set the framework for this research. In addition, media analysis has contributed to the report. The media analysis was based on articles identified in the LexisNexis Human Trafficking Awareness Index relating to modern slavery and the construction industry, in particular in the period 1 January 2015 to 31 May 2016.

This approach was taken because it recognises the limitations of research on this issue solely based on media analysis, which could lead to distribution of inaccurate information provided by journalists, overrepresentation and sensationalism of certain topics and underrepresentation of others. However, if handled appropriately,

using media coverage from the licensed collection of almost 6,000 of the most influential news sources from more than 100 countries, the LexisNexis Human Trafficking Awareness Index is a real asset to highlight this global crime.

In this report we explore modern slavery in the construction industry by:

- › Analysing the issue related to labour.
- › Shedding light on the risks related to procurement of building materials.
- › Illustrating the risks and reality of this issue across the world by setting out a range of recent examples from different regions.\*
- › Examining relevant global and national regulation and legislation.
- › Identifying the roles businesses, governments and other stakeholders can play in tackling modern slavery in this industry.

\*Please note that due to the scope of this report not every country and incident that has happened in recent years has been included.

# FACTS AND FIGURES ON MODERN SLAVERY

**Modern slavery is a largely hidden crime. Data on the scale of the problem is scarce and gathering it is difficult.**

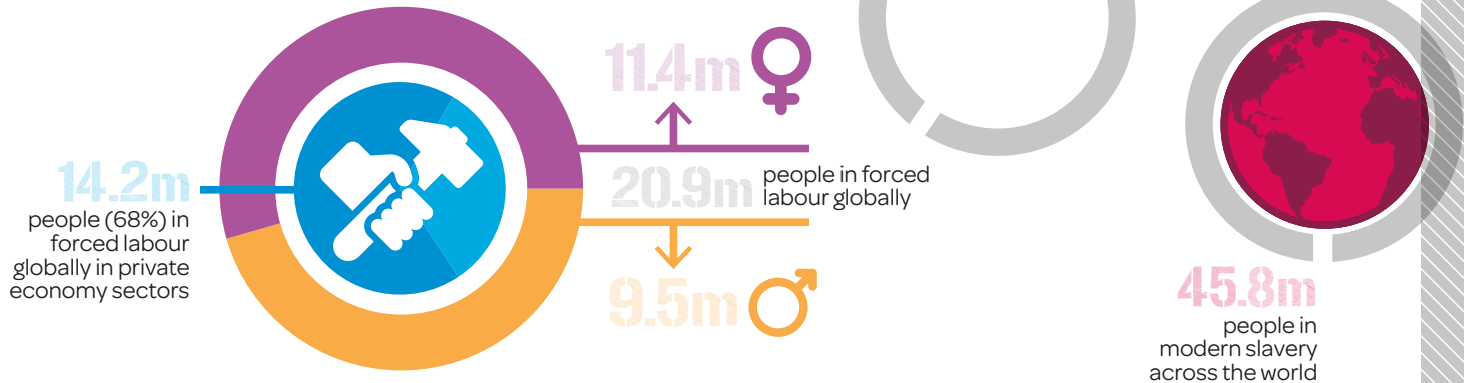
The most recent and reputable estimates:

- › In 2012 the International Labour Organization (ILO) estimated that there were 20.9 million persons in forced labour globally: 11.4 million women and girls, and 9.5 million men and boys. The figure included 14.2 million people

(68%) in private economy sectors such as construction, manufacturing, mining, utilities, agriculture, forestry, fishing and domestic work. Based on this estimate, "at any given point in time around three out of every 1,000 persons worldwide are suffering in forced labour".<sup>11</sup>

- › The 2016 Global Slavery Index by the Walk Free Foundation estimates that there are 45.8 million people in modern slavery across the world.<sup>12</sup>

Human trafficking is one of the fastest-growing criminal industries.<sup>13</sup> Forced labour in the private economy generates US\$150 billion in illegal profits annually, the ILO said in 2014. Two thirds, or US\$99 billion, of this trade is commercial sexual exploitation. Another US\$51 billion results from forced economic exploitation.<sup>14</sup>



# MODERN SLAVERY IN THE CONSTRUCTION INDUSTRY: THE ISSUE

The construction sector employs 7% of the global workforce, estimates Building and Wood Workers International.<sup>15</sup>

According to the ILO, of the US\$150 billion profit generated annually by forced economic exploitation around the world, US\$34 billion (23%) is made in the construction, manufacturing, mining and utilities industries.<sup>16</sup>

In a 2015 research report by the European Union, construction was number two on the list of economic sectors in the EU most prone to labour exploitation. Of the 21 countries that participated in the

research, nine identified the construction sector as having the highest risk of labour exploitation.<sup>17</sup>

The construction industry is one of the sectors most vulnerable to modern day slavery. One reason is its high demand for low-skilled, manual, low-waged work, which has been identified as likely to be subjected to forced labour.<sup>18</sup> Also, temporary agency work is common. Workers filling such jobs are often poorly educated and lack decent work options.<sup>19</sup> Thirdly, long and complex supply chains, stretching across many countries and many stakeholders are prevalent in the construction industry.

To provide insight, this paper includes a range of examples from around the world.

The construction industry has two elements with a high risk of involving modern slavery: labour and procurement of building materials and products.

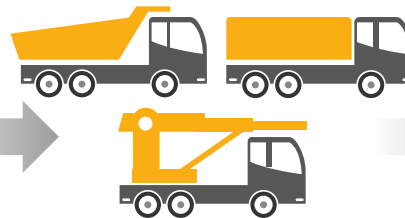




## RISK: LABOUR

For anyone who wants to instigate a construction project, the risk of modern slavery begins with the hiring of the main contractor. Does the contractor comply with legal and social standards in the employment of its staff? Beyond that, and depending on the size of the project, does the contractor have appropriate policies and practices in place to prevent third-party contractors, such as labour providers, from using people in modern slavery conditions? Using labour providers can be a time-saving and cost-effective practice for both contractor and client, but human rights compliance should be part of decision-making.

### LABOUR RISK



**SUBCONTRACTORS**  
Subcontractors, each with their own ...



...workers via direct recruitment or labour providers

For larger projects, there are often many more tiers in the labour supply chain. The main contractor hires several subcontractors for different parts of the project. They in turn could use labour providers to supply workers for their sites, or outsource some of their work to subcontractors. And this can involve many steps.

The European Union Agency for Fundamental Rights draws attention to the fact that “workers from other countries employed on construction sites are often confronted with complicated and opaque legal situations involving labour brokers and subcontracting. This makes it difficult for them to understand their rights and against whom their claims should be directed. Hence the workers’

practical means of understanding whether they have been paid in accordance with what was agreed, and therefore their ability to claim payments due to them, are fairly restricted, which places them at the mercy of employers.”

*“The construction sector is the most predisposed [to exploitation] because it has subcontracting. When you have a contractor that assigns a subcontractor, who will also appoint a subcontractor, who will try to earn as much money as possible. And actually, at the end of the chain, there are workers in a difficult situation.”<sup>20</sup>*

Labour inspector, France

## EXPLOITATION PRACTICES RELATED TO FORCED LABOUR COULD INCLUDE:<sup>21</sup>

- › Abuse of vulnerability.
- › Confiscation of workers' passports and identity papers.
- › Control of workers' freedom of movement.
- › Isolation – limited or no communication with relatives or other people outside the workplace.
- › Debt bondage.
- › No payment of salary, or salary considerably below legal minimum wage. Sometimes requiring labourers to work unpaid until a project is completed.
- › Withholding unreasonable fees for housing, transportation, food and other services.
- › Lack of social security payments.
- › Excessive overtime i.e. extremely long work hours for six or seven days a week.
- › Very limited or no days of leave.
- › Deception i.e. significantly different working conditions from what was agreed prior to employment. For example, in the case of migrant workers, not honouring contracts in the country of destination that were signed in the country of origin.
- › Worker lives at the workplace or in accommodation chosen by the exploiter, sometimes in abusive conditions.
- › Intimidation and threat of or actual harm by physical, psychological and sexual violence.
- › Threats against workers' relatives.

An exploitation practice often specifically related to unethical recruitment agencies or third-party labour exploitation is demanding that workers pay recruitment fees, often resulting in excessive debt burdens.

Because recruitment agents often play an ongoing role in workers' lives, they all too often exploit and abuse in other ways as well e.g. when acting as landlords, renewing work permits or collecting fees or debt.<sup>22</sup>

Across EU member states opinions differ on whether provision of workers via recruitment agencies prevents or fosters labour exploitation. The limited resources available for monitoring and inspection services is an issue.<sup>23</sup>



## MIGRANT WORKERS

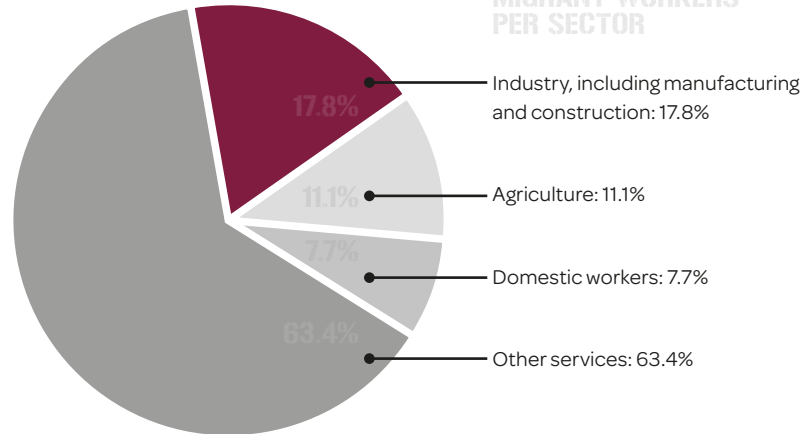
The ILO says migrant workers and indigenous people are particularly vulnerable to forced labour.<sup>24</sup> In 2015 it estimated that there were 244 million migrants around the world, and of the 150 million who were workers<sup>25</sup>, 26.7 million were engaged in industry including construction and manufacturing.<sup>26</sup>

Analysis of migration in the construction sector by leading United Kingdom trade body the Chartered Institute of Building (CIOB) includes this insight: "Looking at the supply side, migration is essential to provide the flexible supply of labour needed to meet volatile demand generated at a local level. It reduces shortages when activity expands rapidly. It reduces unemployment among construction workers when workloads plunge. It can help to smooth otherwise volatile wage rates, reducing financial

uncertainty for clients, contractors and workers."<sup>27</sup>

François Crépeau, UN Special Rapporteur on the Human Rights of Migrants, on abuse and exploitation of migrant workers by recruitment agents:

## MIGRANT WORKERS PER SECTOR



"[It is] mostly seen in sectors such as agriculture, construction, tourism, textile and domestic work." Unethical recruitment practices, he noted, thrive in an environment where the prices of goods and services depended on cheap labour. "Migrants must understand their rights and be empowered to make decisions."<sup>28</sup>

MIGRANTS MUST UNDERSTAND THEIR RIGHTS AND BE EMPOWERED TO MAKE DECISIONS

### THIRD-PARTY LABOUR EXPLOITATION

Hidden labour exploitation is the exploitation of job applicants or workers by third-party individuals or gangs other than the employer or labour provider.

Business-led, multi-stakeholder initiative Stronger Together lists some examples:<sup>29</sup>

- › A labour sourcing agent who offers workers to a labour provider or employer 'free of charge'. This inevitably means the worker is paying a fee.
- › An individual working informally as a work-finding agent who charges the worker for this service. The individual may pose as a relative, friend or helpful interpreter.
- › A recruitment consultant who charges workers a one-off recruitment or ongoing placement fee without the knowledge of the labour provider management.
- › An employer supervisor who, without the knowledge of management, makes selection for work dependent on workers using the supervisor's own sublet accommodation.
- › A landlord holding workers in debt bondage and controlling their bank accounts.
- › An organised gang that traffics workers and holds them in forced labour.

*"Supply chains in the construction sector can be fragmented and complex. Therefore, knowledge sharing and cross-sector collaboration are vital for helping us move towards greater transparency."*

Eddie Tuttle, Principal Policy and Public Affairs Manager,  
The Chartered Institute of Building (CIOB)

453 MILLION  
PEOPLE WORK IN GLOBAL  
SUPPLY CHAINS.

## RISK: BUILDING MATERIALS

Apart from the workers directly involved in a construction project, there is a risk of modern slavery in the supply chain for the materials being used. Do the client and contractor know where all the materials come from, whether they buy them themselves or they are purchased by subcontractors?

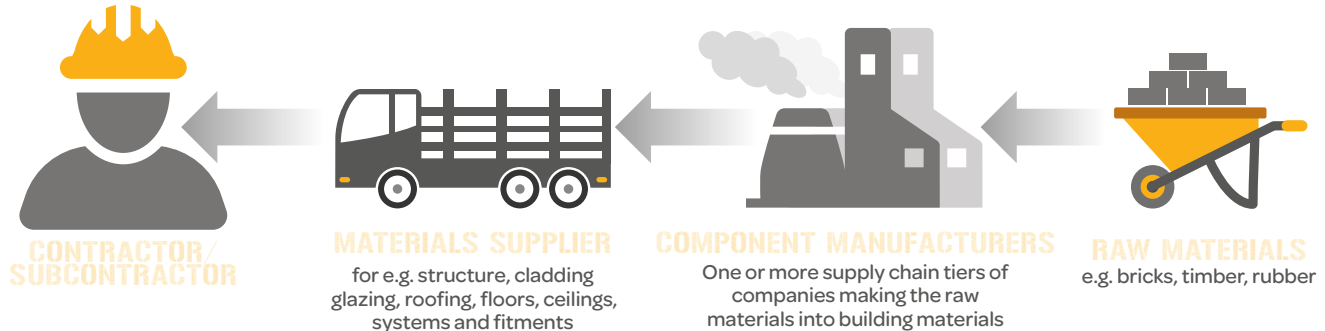
There is also a risk beyond the supply chain's first tier. Who was involved in producing material such as bricks or windows, all the way back to the raw materials used?

Companies may unknowingly and unintentionally be supporting forced labour in their procurement of materials due to a lack of transparency in the full chain of vendors and suppliers. Recent national and international regulations, as well as new and evolving technologies to track supply chains, are changing the landscape (a point elaborated on later in this report).

An April 2016 report by supplier risk management company Achilles Group Ltd findings, highlighted by Building

Construction Design included that construction businesses are at risk of non-compliance with ethics laws encompassing modern slavery, due to a lack of supply chain visibility. The report stated: **"39% of construction businesses across the globe do not or do not intend to have a plan in place to find out who is in their supply chain."**<sup>31</sup>

### RISKS FROM PROCUREMENT OF BUILDING MATERIALS AND PRODUCTS



# LABOUR: EUROPE

**SOURCE COUNTRY: SEVERAL**

**DESTINATION COUNTRY: UK**

**The UK Home Office estimated in 2014 that there were 10,000–13,000 potential victims of modern slavery in the UK.<sup>32</sup>**

In the UK, potential victims of trafficking are referred in the National Referral Mechanism (NRM). In 2015, the NRM received 3,266 referrals from potential victims from more than 100 countries, which was a 40% increase on 2014 referrals (2,340). For adults and minors, labour exploitation was the most common type of exploitation people were trafficked into.<sup>33</sup> The report doesn't have a more detailed breakdown by sector, but says 48 cases of labour exploitation in the construction sector were reported in 2014, accounting for 5% of the 1,017 cases of labour exploitation in that year. 12% of the total number of cases were unspecified.<sup>34</sup>

An article in construction industry magazine *Building* referred to the UK National Crime Agency's data from 2013, showing that labour exploitation was most common in the block paving, agriculture, food and construction sectors. In 2013, 53 instances of potential trafficking in the construction sector were reported to authorities.<sup>35</sup> But the Home Office said "slavery's hidden nature means actual numbers are likely to be much higher".<sup>36</sup>

In an article by UK Minister for Abuse and Exploitation Karen Bradley in *Building* in October 2015, she said "the construction industry was the sixth most prevalent sector for labour exploitation reports". She pointed out that, of the estimated 17,000 businesses that have to publicly disclose their anti-slavery efforts under the Modern Slavery Act, many are in the construction industry.<sup>38</sup>

In 2014 the Home Office published seven industry fact sheets on modern slavery, including one for the construction

industry.<sup>39</sup> It recommends that companies be aware of unscrupulous gangmasters who may offer a ready supply of labour at knocked down rates to contractors, subcontractors and labour providing agencies.

The Union of Construction Allied Trades and Technicians (UCATT) published research in 2008 revealing that a dozen workers employed by a dry lining subcontractor working on a PFI hospital site in Mansfield, Nottinghamshire, were being paid a total of £8.80 for a 40-hour week. Building and Wood Workers International reported that they didn't receive overtime, while some workers worked more than 70 hours a week and took home less than £100. In addition, they were charged excessive deductions for rent, tools and utility bills.<sup>40</sup> Also, in a 2011 report, UCATT said that in 2010, the union took a case to an employment tribunal in which workers hired to work on another publicly funded hospital building project were being paid just over £4 an hour.<sup>41</sup>

## EXPLOITATION TYPE<sup>37</sup>

	Female	Male	Transsexual	Unknown	Total 2015
Adult – domestic servitude	292	61	0	0	353
Adult – labour exploitation	161	734	0	0	895
Adult – organ harvesting	1	1	0	0	2
Adult – sexual exploitation	813	48	2	0	863
Adult – unknown exploitation	98	73	0	0	171
<b>Subtotal (adults)</b>	<b>1365</b>	<b>917</b>	<b>2</b>	<b>0</b>	<b>2284</b>
Minor – domestic servitude	44	25	0	0	69
Minor – labour exploitation	21	267	0	0	288
Minor – organ harvesting	0	3	0	0	3
Minor – sexual exploitation	184	33	0	0	217
Minor – unknown exploitation type	130	273	0	2	405
<b>Subtotal (minors)</b>	<b>379</b>	<b>601</b>	<b>0</b>	<b>2</b>	<b>982</b>
<b>Total</b>	<b>1744</b>	<b>1518</b>	<b>2</b>	<b>2</b>	<b>3266</b>

When HSE International reported on the issue in February 2016, it outlined the case of a 29-year-old man who was a victim of modern slavery in the UK after being promised a job with a monthly wage of £2,000, with food and accommodation included, working for a small construction company:

“Locked together in one room in a cold house with no heating or lighting, he and the two other young men from Hungary were let out only to work.

The days were exhausting, starting at 6am and not finishing until 11pm, at least five days a week, carrying out various bricklaying and painting jobs.

They were given scraps of cold food to eat and had only water to drink. Jani [name changed to protect identity] lost five stone in weight. If he tried to leave, he was threatened with violence or death.”<sup>42</sup>

The 2015 Trafficking In Persons report by the US State Department included this case study:

“A man approached Bruno outside a homeless shelter in Prague and offered to help him find work and housing in the United Kingdom. He even offered to lend Bruno money for travel, commiserating he had once received help from a stranger.

Bruno accepted and travelled with the man and seven other people from Prague to the UK via Switzerland. The recruiter took everyone’s identification documents and, once in the UK,

turned their documents over to the men’s new bosses instead of back to the workers. When Bruno arrived at his new boss’s house, he was forced, through beatings and threats, to perform construction and factory work, clean and provide childcare for almost 20 hours every day. He ate one meal each day and was never paid. Bruno eventually fled to the Czech Embassy in London, and an NGO helped move him to a support shelter in the Czech Republic.”<sup>43</sup>



# LABOUR: MIDDLE EAST

**The Kuwait News Agency reported in 2015 that 25 million international migrants – more than 10% of all international migrants in the world – live in Arab states, according to the International Labour Organisation.**

Many work in construction, agriculture and services such as domestic work. These jobs tend to be demanding and performed in difficult conditions.<sup>44</sup>

**The ILO has calculated that there are approximately 600,000 cases of forced labour in the Middle East, and many of them are migrant workers.**<sup>45</sup>

**SOURCE COUNTRY:**

**SEVERAL, IN ASIA IN PARTICULAR**

**DESTINATION COUNTRY: QATAR**

The Human Trafficking Awareness Index analysis presented many news articles on

modern slavery in Qatar's construction industry. A key reason is Qatar being named in 2010 as the host of the 2022 FIFA World Cup and the large construction projects related to the event. The projects go well beyond stadiums to include new roads, hotels, an airport (which opened in 2014), a metro and a railway system, and a new port, partially to cope with demand for raw materials for other projects.<sup>46</sup> Several NGOs and media outlets have investigated the workers' rights situation, resulting in reports exposing abuses. These have received a vast amount of media attention.

*The Guardian* reported in March 2016 that the number of labourers working directly on World Cup stadiums in Qatar "increased from 2,000 to 4,000 in the past year and is expected to grow to 36,000 in the next two years".<sup>49</sup>

**Infrastructure projects worth nearly \$200 billion are planned for completion before Qatar hosts the World Cup.**<sup>50</sup>

The major stadium and infrastructure construction projects are being carried out by 40 contractors from Belgium, Malaysia and Qatar among others. They in their turn use a range of subcontractors and labour providers.<sup>51</sup>

After accusations of human rights abuses related to the construction industry,<sup>52</sup> the government of Qatar commissioned DLA Piper to examine the issue.<sup>53</sup> The law firm's independent review report (May 2014) said some of the negative global commentary on the issue of migrant workers in Qatar was, in DLA Piper's opinion, factually inaccurate. It recognised the relevant legislation already in place and the Qatar government's willingness to engage in the issue.

**85-94% OF QATAR'S WORKFORCE IS MIGRANT WORKERS.<sup>47</sup>**  
**THE 1.7 MILLION WORKERS COME FROM COUNTRIES**  
**INCLUDING INDIA, NEPAL AND BANGLADESH.<sup>48</sup>**

**85-94%**



However, it also provided a long list of recommendations for the government to address. One of the key recommendations was “review of and proposals for the modification/reform of the ‘kafala’ sponsorship system” because it facilitates that migrant workers “are subjected to forced labour as a direct result [of it]”.<sup>54</sup>

The kafala system in Qatar was amended in October 2015, but the reforms were criticised, for example by Human Rights Watch, for not going far enough because workers still need their employer’s permission to change jobs or leave the country. This is not in line with international law which states that any individual has the right to leave any country (unless prevented by a court ruling or the like).<sup>56</sup>

In March 2016, almost two years after the DLA Piper report, Amnesty International published a report called *The Ugly Side of the Beautiful Game*. Building on Amnesty’s previous work on migrant labour abuse in Qatar, it is based on its 2015 investigation into migrant workers refurbishing the Khalifa International Stadium and landscaping green spaces in the Aspire Zone sports complex surrounding the stadium.<sup>57</sup>

"I am fed up with living here," said PAWAN, a Nepalese national who did work on Khalifa Stadium in April 2015. "All I want is to be paid on time and to be treated with respect. But my company did not pay me for four months when I first came to Qatar and the salary is much less than what I agreed to [in Nepal]." Since arriving in Qatar, Pawan has been housed in cramped and unhygienic accommodation (which Amnesty International researchers saw during a visit in May 2015).<sup>58</sup>

UMESH, a Nepalese man who was working on the Khalifa Stadium refurbishment when Amnesty International met him in May 2015, said he paid a recruiter in Nepal 140,000 rupees (US\$1,300) to cover the recruitment fee, a mandatory health check, the cost of his airfare and a visa to Qatar. "The recruiter said I would be paid around 4,000 riyals (\$1,000) per month. He showed me a basic contract in Nepali; it

showed the salary amount, that it would be paid monthly, and that the contract was for two years," he recalled. But in Qatar his actual salary was different. "When I first arrived in Doha the company manager took my contract and asked me to sign a paper. I could not understand it, but he explained that my salary would be 1500 riyals (\$400) including overtime and I would get another 250 riyals (\$70) for food."<sup>59</sup>

EXAMPLES OF INTERVIEWS  
CONDUCTED BY  
AMNESTY INTERNATIONAL  
(WITH NAMES CHANGED  
TO PROTECT IDENTITY)

"ALL I WANT IS TO  
BE PAID ON TIME  
AND TO BE TREATED  
WITH RESPECT"

It reported on cases of passport retention, delayed wages payment and deceptive recruitment (initial salary promises not being met, deceptive job descriptions). **The report said many workers had to pay high recruitment fees of US\$500–\$4,300.** If they

were unable to pay the fees, they ended up with often excessive interest-bearing recruitment loans. “[The loan repayments] can put [the workers] at risk of forced labour. Workers can feel they have no choice but to accept lower wages than they were promised, poor conditions and other ill-treatment because they have large loans to pay off.”

Workers were prevented from leaving the country and threatened. All of the described practices are prohibited under Qatari law. Accommodation provided to the workers was also reported to be inadequate: “cramped, unclean and unsafe”.<sup>60</sup>

According to the report, many of the men interviewed said they informed their employer in Qatar about the discrepancies in their pay and conditions, but the employer accepted no responsibility for the situation.<sup>61</sup>

Amnesty International expressed concern that “if abuse on a flagship World Cup project does not merit investigation and action [by the Qatari government], it is unlikely abuses that do not attract the international spotlight will be dealt with in an effective manner”.<sup>62</sup>

The 2022 Supreme Committee for Delivery and Legacy, the Qatari body responsible for the World Cup preparations, insisted it was “committed to ensuring the health, safety and well-being of every worker on World Cup projects”.<sup>63</sup> It argued that Amnesty focused on just four of the 40 companies working on the Khalifa stadium, and by doing so painted a misleading picture of the overall situation.<sup>64</sup> The committee said the situation “was already rectified more than half a year before Amnesty International first contacted us about the matter”.<sup>65</sup> Its head said in an interview with CNN: “One [company] has been banned until they rectify their situation

and they’re actually working currently on rectifying their situation. Two have not been contracted further and they have been banned from future projects. And the fourth one is actually becoming a model in complying with our standards.”<sup>66</sup>

Dr James M. Dorsey, a senior fellow at the S. Rajaratnam School of International Studies, said **conditions for workers on World Cup-related projects have improved dramatically as a result of workers’ standards adopted by several Qatari institutions including the Supreme Committee, but the problem is that those standards have yet to be incorporated in legally binding national law.**<sup>67</sup> The 2015 Trafficking In Persons report by the US State Department reported that the Qatari Ministry of Labour and Social Affairs blacklisted 200 companies for breaking the provisions of the labour law, in comparison with 2,000 the previous year, which remained blacklisted. In addition, it blacklisted 14 manpower agencies in Qatar’s capital, Doha, and 55 manpower agencies in Nepal.<sup>68</sup>

In its report, Amnesty International also charged FIFA with persistent failure to conduct proper due diligence to identify and address human rights risks in Qatar, in line with the UN Guiding Principles on Business and Human Rights. It pointed out the failure both prior to awarding the World Cup to Qatar and subsequent human rights abuses exposed by the media, NGOs and trade unions.<sup>69</sup> *The New Day* reported that FIFA's head of sustainability, Federico Addiechi, responded to Amnesty's report, saying: "While FIFA cannot and indeed does not have the responsibility to solve all the societal problems in a host country of a FIFA World Cup, FIFA has taken concrete action and is fully committed to do its utmost to ensure that human rights are respected on all FIFA World Cup sites and operations and services directly related to the FIFA World Cup."<sup>70</sup> In April 2016 FIFA stated that, following its request, an independent report by Harvard Kennedy School professor John Ruggie had been published to help strengthen FIFA's institutional approach to human rights, including the ongoing development of a "FIFA Human Rights Policy". Ruggie is well-known for his leading role in developing the UN Guiding Principles for Business and Human Rights (UNGPs).<sup>71</sup>

An International Labour Organization (ILO) delegation visited Qatar in March 2016 to investigate work conditions following complaints that the nation was engaged in systematic rights abuses and human trafficking.<sup>72</sup> *The Guardian* reported that, based on the delegation's findings, **"Qatar was given 12 months to end migrant worker slavery or face a possible UN investigation that could see it become the fifth country to face a formal inquiry by the ILO"**.<sup>73</sup> Establishing a commission of enquiry is one of the ILO's most powerful tools to ensure compliance with international treaties. It has established only 13 such commissions in its century-long history.<sup>74</sup>

*The Huffington Post* reported that "the ILO warning rings stark as the United Arab Emirates, Qatar's main competitor, steps up efforts to become the region's prime sports hub, on the back

of implementation of the very labour reforms Qatar has yet to produce".<sup>75</sup> The UAE's efforts include reforms of its kafala system, in line with the reforms Qatar has been demanded to make.<sup>76</sup>

As *The Huffington Post* points out: "Qatar became the only Gulf state to work with its critics rather than imprison them or bar them entry to the country as most of the region's other countries continue to do." However, "the mounting pressure threatens to erase [the] considerable goodwill that Qatar built" as it is holding out the promise of significant labour reform.<sup>77</sup>

In April 2016, *The Guardian* reported that two of the UK's largest construction companies had been accused of several migrant worker labour abuses regarding workers employed on large-scale projects in Qatar operated by companies the UK businesses co-own.<sup>78</sup>

***"Qatar has the financial means to make the real reforms [and] ensure safe work and decent wages, and the international community is ready to help when the government finally shows that it is serious. That day has yet to come, but the new ruling from the ILO should hasten Qatar's realisation that the world will only be convinced by real change, not by public relations exercises."***<sup>79</sup>

Sharan Burrow, general secretary, International Trade Union Confederation



“I worked for five months, but I wasn’t paid even once,” he said. Rim said he and his fellow North Koreans worked long days toiling on a construction site [in Kuwait] with little break in between shifts. Living in an abandoned school under tight security, he said they were forced to watch a documentary about then-leader Kim Jong Il during their only night off. He said he felt like a slave.

Rim eventually managed to escape to the South Korean Embassy.<sup>81</sup>

**SOURCE COUNTRY: INDIA**

**DESTINATION COUNTRY:**

**UNITED STATES**

One of the largest labour trafficking cases in US history took place in 2015.

Alabama-based marine construction company Signal International builds large ocean structures such as offshore drilling rigs, floating production units and barges. As *The Guardian* reported, hurricanes Katrina and Rita severely damaged Signal International's operations. The company recruited about 500 skilled workers, including pipefitters, welders and construction workers, from India under a guest worker visa program to repair and work at its facilities in Texas and Mississippi.<sup>82</sup>

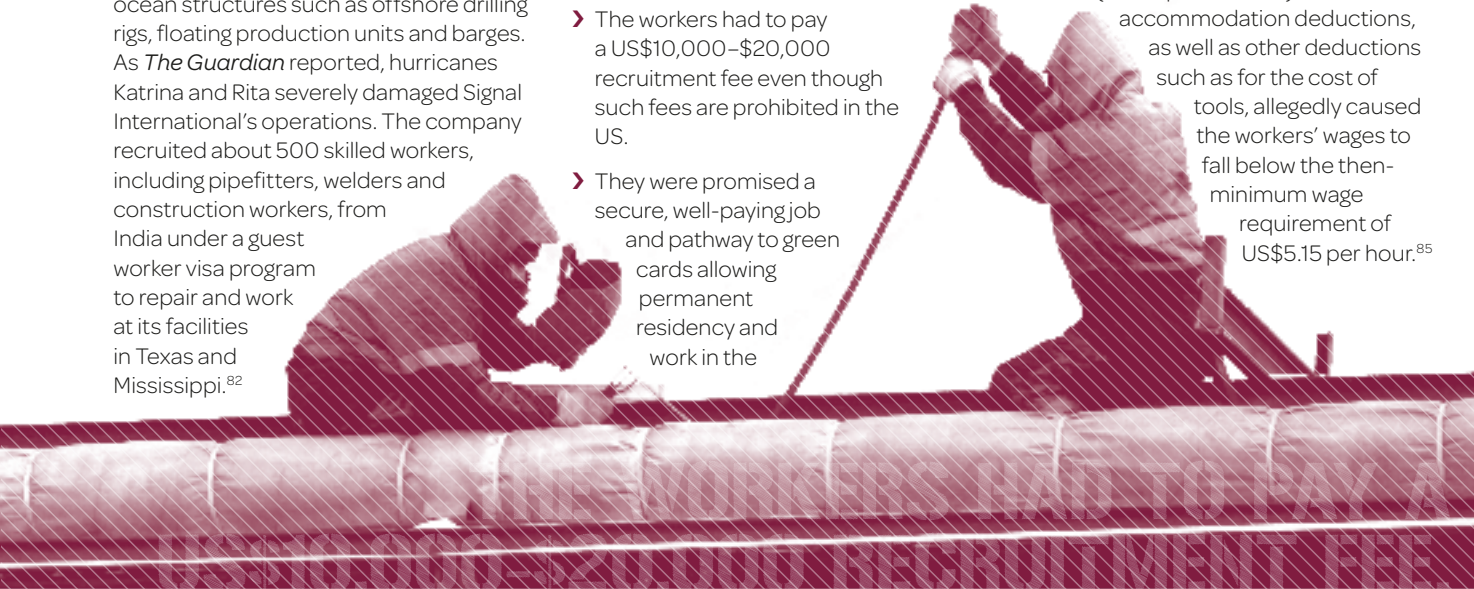
In February 2015, after a four-week trial, Signal was found guilty of labour trafficking, fraud, racketeering and discrimination. Its co-defendants, a New Orleans immigration lawyer and an India-based recruiter, were also found guilty.<sup>83</sup>

### THE WORKERS' SITUATION:<sup>84</sup>

- › The workers had to pay a US\$10,000–\$20,000 recruitment fee even though such fees are prohibited in the US.
- › They were promised a secure, well-paying job and pathway to green cards allowing permanent residency and work in the

US, whereas guest worker visas permit entry only on a temporary basis.

- › US\$1,050 per month was deducted from the workers' wages for unsanitary accommodation in guarded labour camps where up to 24 men were forced to live in 1,800-square-foot (167-square-metre) units. The accommodation deductions, as well as other deductions such as for the cost of tools, allegedly caused the workers' wages to fall below the then-minimum wage requirement of US\$5.15 per hour.<sup>85</sup>



## THE COMPANY'S PROFITS FROM FORCED LABOUR:<sup>86</sup>

- › The company avoided an estimated US\$8 million in labour costs as a result of using the guest worker visa scheme.
- › The company made more than US\$730,000 in one year for the workers' accommodation.

## FINANCIAL RESULT LAWSUITS:<sup>87</sup>

- › Five trafficked men were awarded US\$14 million in compensatory and punitive damages.
- › Signal was ordered to pay US\$12 million and its co-defendants were ordered to pay US\$915,000 each.

- › The Southern Poverty Law Center reported that, after the Feb 2015 New Orleans verdict, and facing 11 other similar lawsuits, Signal International publicly stated its intention to file for bankruptcy. The filing included a US\$20 million settlement for all 12 lawsuits representing more than 200 workers, and court approved the settlement.
- › Following a federal, race and national origin discrimination lawsuit filed by the US Equal Employment Opportunity Commission against Signal regarding this matter, Signal settled for an estimated US\$5 million to be paid to 476 Indian guest workers. The EEOC alleged that the working and living conditions of the Indian men were unfavourable compared to other, non-Indian workers.

According to Law360, the US\$20 million settlement also required Signal to issue an apology to the workers it exploited. When one of the many lawyers representing the workers was asked why an apology was important to the plaintiffs, he said his clients had been clear that the case was about much more than money for them.<sup>88</sup> In September 2015, Signal International acknowledged it had been "wrong in failing to ensure that the guest workers were treated with the respect and dignity they deserved".<sup>89</sup>



## Aimed at businesses exploiting workers:

*"You could end up in the same situation where you're filing bankruptcy, and paying a lot of money to defend lawsuits that you ultimately end up losing."<sup>90</sup>*

Jim Knoepp, deputy legal director,  
Southern Poverty Law Center



## LABOUR: AFRICA

**LABOUR-SOURCE COUNTRY: BRAZIL**  
**DESTINATION COUNTRY: ANGOLA**

*Global Construction Review* reported in September 2015 that the largest construction company in Latin America, Odebrecht Group, based in Brazil, had been convicted by a Brazilian labour court of holding Brazilian workers in slave-like conditions at a construction project in Angola.<sup>91</sup> Odebrecht has been working in Angola since 1984 and is considered to be the biggest private employer in the country, with some 20,000 workers.<sup>92</sup> The judge ordered Odebrecht to pay 50

million reais (US\$13 million) in damages.

The issue was first brought to the attention of prosecutors by a series of reports by the BBC's Brazilian service about a series of lawsuits filed against the Odebrecht Group in a small Brazilian town where many of the workers were recruited.<sup>93</sup> A report in *International Oil Daily* said the 500 Brazilian workers were improperly lured to jobs in Angola. On arrival, they were forced to work on the construction of an industrial plant.<sup>94</sup> The prosecutors said the workers were "subjected to degrading working

conditions incompatible with human dignity, and had their freedom curtailed, being deprived of their right to come and go".<sup>95</sup> Odebrecht didn't provide the proper visas required and confiscated the workers' passports. The men were forced to stay in unsanitary work camps and their ability to leave was blocked by armed guards, even on rest days.<sup>96</sup>

Even though many of the abuses were carried out by third parties, the court ruled Odebrecht was ultimately responsible for the project and benefited from the abuses, *Pretoria News* reported.<sup>97</sup>

## LABOUR: ASIA

**LABOUR-SOURCE COUNTRY:**  
**NORTH KOREA**  
**DESTINATION COUNTRIES:**  
**SEVERAL, INCLUDING CHINA, RUSSIA**  
**AND COUNTRIES IN AFRICA, ASIA,**  
**EUROPE AND THE MIDDLE EAST**  
**(STATE-LED)**

The UN Special Rapporteur on Human Rights in North Korea, Marzuki Darusman, reported in September 2015 that as many as 50,000 North Koreans had been sent abroad by the Democratic People's Republic of Korea government to work under conditions that amounted to forced labour.<sup>98</sup> He said the number was rising and that they were being put to work

mainly in the mining, logging, textile and construction industries.<sup>99</sup>

The report says "the vast majority are currently employed in China and the Russian Federation. Other countries where workers operate reportedly include Algeria, Angola, Cambodia, Equatorial Guinea, Ethiopia, Kuwait, Libya,

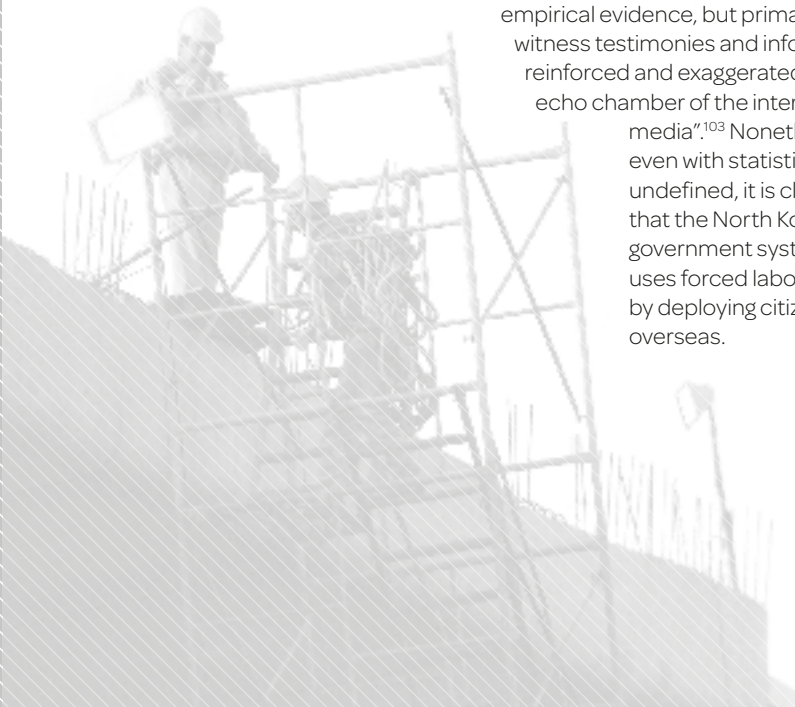
Malaysia, Mongolia, Myanmar, Nigeria, Oman, Poland, Qatar and the United Arab Emirates".<sup>100</sup> North Korean workers are being exported to 40 countries, according to a report by the Slaves to the System Project at Leiden Asia Centre, to earn much-needed hard foreign currency.<sup>101</sup>

Workers get little pay themselves – US\$120–\$150 a month. Darusman’s report says the North Korean government earns annually US\$1.2 billion–\$2.3 billion from the workers’ salaries.<sup>102</sup> As the Leiden Asia Centre report points out, “the problem with such an estimate is that it is not based on hard data and empirical evidence, but primarily on witness testimonies and information reinforced and exaggerated in the echo chamber of the international media”.<sup>103</sup> Nonetheless, even with statistics undefined, it is clear that the North Korean government systematically uses forced labour by deploying citizens overseas.

The UN Special Rapporteur warned that companies hiring the workers “become complicit in an unacceptable system of forced labour”.<sup>104</sup>

Several media sources reported that Darusman praised the decision of a construction company in Qatar in May 2015 to dismiss 90 North Korean workers (nearly half of the workforce employed) for alleged repeated violations of domestic labour legislation. According to the company, “supervisors responsible for the well-being of their workers have been continuously forcing them to work more than 12 hours a day. The food provided to their workforce is below standards. Site health and safety procedures are ignored regularly.”<sup>105</sup>

... as many as 50,000 North Koreans had been sent abroad by the Democratic People’s Republic of Korea government to work under conditions that amounted to forced labour.



# PROCUREMENT, MATERIALS AND PRODUCTS USED IN CONSTRUCTION

Labour on construction sites isn't the only element at risk of modern slavery in the construction industry. The materials and products used in construction each have their own supply chain and associated risk. In any building there are thousands of different elements that go into the structure, cladding, glazing, roofing, floors, ceilings, systems and fitments. This section gives some examples of often-used construction materials that have been reported on in the media due to forced or bonded labour issues.

*"The modern-day business is able to procure goods and services on a global basis thanks to ever-increasing levels of international development and improvements in connectivity across the globe. However, as the geographic horizons of supply chains expand, the risks they face increase exponentially in both size and reach. Supply chains are now exposed in ways industry would have struggled to imagine in the past. An event that would have, 50 years ago, only affected a limited range of businesses may now lead to consequences in diverse and unexpected locations."<sup>106</sup>*

Roger Bickmore, group strategic development director, Tokio Marine Kiln

*"In all likelihood the majority of the goods and products sold in the US are linked to some sort of slavery or trafficking."*

Patricia Jurewicz, founder and director,  
Responsible Sourcing Network<sup>107</sup>

## BRICKS

A 2016 report by NGO Verité identified bricks as one of 43 of the world's most important primary commodities. Its analysis, based on a range of globally recognised data, showed that bricks from 21 countries are produced with forced labour and/or child labour. These include two of the top three countries that export bricks worldwide: China (first place) and India (third place).<sup>108</sup>

Andrew Brady, director of Union Solidarity International, said: "The scale of forced and child labour in the brick kilns of India is of epidemic proportions. Simply put, cheap bricks means cheap office buildings on the back of blood bricks and slave labour."<sup>109</sup> Humphrey Hawksley reported for the BBC in 2014: "The bricks are used to build offices, factories and call centres, the cityscapes of a booming economic miracle, and more and more, these buildings are used by multinational companies with a global reach."<sup>110</sup>

An article in *Daily News and Analysis India* said brick kilns employed more than 5% of India's 473 million workers. It referred to the 2014 estimate of Labour File that 50,000 to 100,000 brick kilns

function in India and said the way the sector operated, promoted bonded labour and debt bondage. It described the process: "Workers engaged in kilns are not paid a monthly wage; instead payments are made on per brick production. The piece-rate wage method is not commensurate to the value of labour input and is barely sufficient for subsistence living. Due to low wages and poverty, most workers take loans from employers/owners. Once the loan is taken, workers lose control over their conditions of employment and usually have no idea until the end of the season how much they are entitled to receive, or if they still owe the loan and are servicing their debt. There is also an interest component to loan disbursed, which inflates the debt rate. The loan/advance contract, oriented towards kiln owners' profit, restricts workers' mobility, forcing them to continue working in the kiln."<sup>111</sup>

The International Justice Mission said about bonded labour in Indian brick kilns: "Children are working in hazardous conditions

helping their parents load bricks into the furnace. They are also forced to turn the bricks throughout the day as the bricks are being dried in the sun. In one of the cases from 2015, a 5-year-old was asked to turn the bricks dried in the sun, every day, for which she was not paid anything at all."<sup>112</sup>

*International Business Times* reported in January 2014 about a case in which contractors cut off the hands of two workers in the eastern Indian state of Odisha simply because they tried to leave.<sup>113</sup>

"IN ONE OF THE CASES FROM 2015, A 5-YEAR-OLD WAS ASKED TO TURN THE BRICKS DRIED IN THE SUN, EVERY DAY, FOR WHICH SHE WAS NOT PAID ANYTHING AT ALL."

In Pakistan debt bondage is well-established. Debts are being passed on from generation to generation and from one brick kiln to another.<sup>114</sup> A Pakistani newspaper reported in May 2016 that 49 workers were freed from a brick kiln where they had been working in inhuman conditions. They were forced to try to produce impossibly vast amounts of bricks and did not receive even the minimum wage. Parents were forced to engage their children in the work, women were humiliated, and the owner allegedly physically abused people, including children.<sup>115</sup>

## TIMBER

Since 2005 the United States Department of Labour has maintained a list of goods and their source countries which it has reason to believe are produced by child labour or forced labour in violation of international standards. The most recent report, published in December 2014, contained 136 goods from 74 countries.<sup>116</sup> Timber from Brazil, Peru and North Korea are on the list linked to forced labour, and timber from Cambodia is linked to child labour.

Lee Brunsten, building confidence

community manager at Achilles, said in an article for Building Construction Design: “Only through auditing the supply chain thoroughly and rigorously checking supplier details through every tier will construction companies be truly confident of ethically sourced materials or not falling foul of legislation. When it comes to ethically sourced timber, each log is coded so buyers know they have sourced their materials from a legal and well-managed forest.”<sup>117</sup>

Few media reports can be found on this topic. *The Buenos Aires Herald* reported in February 2016 that in the period May 2013 to May 2015, 340 Brazilian companies were fined by Brazil’s Ministry of Labour for “using ‘slave labour’, including forced labour and people working in degrading conditions for little or no pay”.<sup>118</sup> This information was based on the Transparency List of Slave Labour in Brazil published by NGO Repórter Brasil and the Institute of the National Pact for Eradication of Slave Labor (InPACTO), drawn up following a freedom of information request for the data on employers charged with using labour characterised as analogous to slavery.<sup>119</sup> The list includes sweatshops producing clothes, farms, cattle ranches, timber

companies, construction companies and charcoal producers.<sup>120</sup>

In 2003 the Brazilian government launched a “dirty list” that publicly named companies that had been fined over the previous two years for using slave labour. Companies on the list weren’t able to obtain credit from state-backed banks, and sales of their products were restricted because the more than 400 Brazilian companies that signed the National Slave Eradication Pact would boycott dirty list companies.<sup>121</sup> Showing the impact of the list, the founder of Repórter Brasil said in an article in *The Guardian* that “the day news broke that labour inspectors had discovered slave labour in its suppliers’ workshops, shares in the Spanish clothing giant Zara fell by almost 4% on the Madrid Stock Exchange”.<sup>122</sup>

In 2014 the Brazilian Supreme Court ordered the suspension of the release of the blacklist by the Ministry of Labour to the public, following a lawsuit filed by the Brazilian Association of Real Estate Developers, which represented many of the organisations on the list.<sup>123</sup> The Transparency List of Slave Labour in Brazil is the NGO’s answer to the suspension.

## OTHER RAW MATERIALS

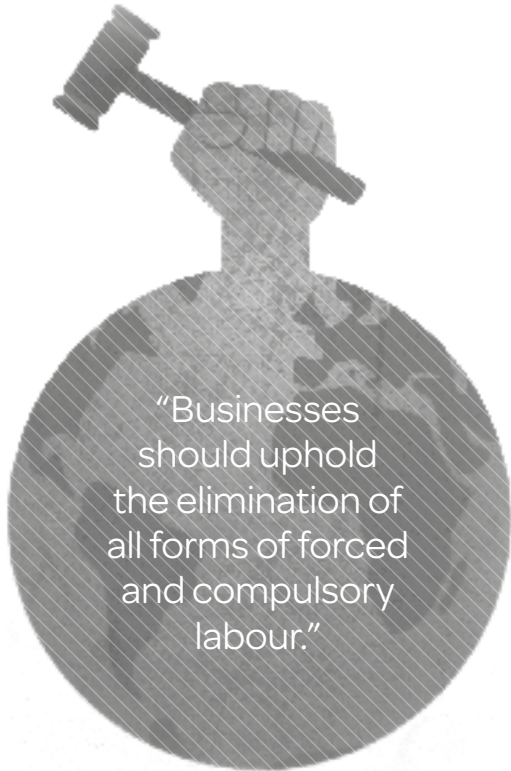
Other materials relevant to construction which have been identified by the US State Department and NGO Verité as produced with forced or child labour are listed on the map below.

The US State Department launched the online Responsible Sourcing Tool in May 2016. This is a heat map that provides the option to choose the sector (including construction) and/or commodity the user is interested in. It visually identifies commodity sourcing countries with a

high risk of forced and child labour. The tool is based on the department's annual Trafficking In Persons report data and data from the US Department of Labour List of Goods Produced by Child or Forced Labour.<sup>124</sup>



# GLOBAL STANDARDS ON BUSINESS AND HUMAN RIGHTS



## UNITED NATIONS GUIDING PRINCIPLES

Since June 2011, the United Nations Guiding Principles on Business and Human Rights (UNGPs) have become the global authoritative standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. Although not legally binding, the UNGPs formulate the human rights responsibilities of business. They apply to all internationally recognised human rights, and elaborate on the implications of existing standards and practices for states and businesses, including points covered in international and national law.

Companies can use the UNPGs framework to tackle modern slavery as part of their wider human rights strategy.

The UNGPs are based on the three-pillar **Protect, Respect and Remedy** framework, which encompasses:<sup>125</sup>

- › **State Duty to Protect:** the state duty to protect against human rights abuses by third parties (including businesses); a duty that envisages that governments will develop policies and rules to regulate business conduct in relation to human rights.
- › **Responsibility to Respect:** the corporate responsibility to respect human rights; a responsibility for companies to avoid infringing the rights of others and to address any adverse human rights impacts that occur as a result of their corporate activity.
- › **Access to Remedy:** the need for greater access by victims to effective remedy; a responsibility of both states and companies to facilitate access to mechanisms, judicial and non-judicial, to identify and address business-related human rights abuse and provide effective redress for the victims.

## UNITED NATIONS GLOBAL COMPACT

The United Nations Global Compact is a voluntary initiative based on CEO commitments, to encourage businesses around the world to adopt sustainable and socially responsible policies, to take steps to support UN goals and to report on implementation.<sup>126</sup> By signing, businesses commit to aligning their operations and strategies with 10 universally accepted principles in the areas of human rights, labour, environment and anti-corruption. Principle 4 of the Global Compact is: “Businesses should uphold the elimination of all forms of forced and compulsory labour.”<sup>127</sup> UN Global Compact and the Royal Institute of Chartered Surveyors published a Best Practice Toolkit for the Land, Construction and Real Estate Sector in June 2015.<sup>128</sup>

The UN Global Compact differs from the UNGPs. The UN Global Compact is a membership scheme and companies signing up the UN Global Compact are not automatically applying the standards designed by the UNGPs to prevent companies from violating human rights in the course of their activities.<sup>129</sup>

**“Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour...”**

## SUSTAINABLE DEVELOPMENT GOALS

The Sustainable Development Goals (SDGs) follow and expand on the Millennium Development Goals (MDGs). They were adopted in 2015 at a UN summit as a new, universal set of goals, targets and indicators that UN member states will be expected to use to frame their agendas and political policies in the 2016–2030 period.<sup>130</sup>

SDG 8.7 is relevant to private sector engagement in modern slavery: “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.”<sup>131</sup>

## OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The OECD Guidelines for Multinational Enterprises (MNEs) are a comprehensive set of government-backed recommendations (voluntary principles and standards) on responsible business conduct, including in areas related to modern slavery. They were adopted in 1976, and updated in 2011 to align them with the UNGPs. Governments adhering to the guidelines aim to encourage and maximise the positive impact MNEs can make to sustainable development and enduring social progress.<sup>132</sup> The Institute for Human Rights and Business and the OECD National Contact Point in the UK organised a workshop for the construction industry in April 2016 at which modern slavery issues were a focus.<sup>133</sup>



# STATE DUTY TO PROTECT: THE ROLE OF GOVERNMENTS IN REGULATION AND LEGISLATION

*“One thing is clear: No nation can end modern slavery alone. Eliminating this global scourge requires a global solution. It also cannot be solved by governments alone. The private sector, academic institutions, civil society, the legal community and consumers can all help to address the factors that allow human trafficking to flourish. But governments have a special responsibility to enforce the rule of law, share information, invest in judicial resources and espouse policies that urge respect for the rights and dignity of every human being. Human trafficking is not a problem to be managed; it is a crime to be stopped.”<sup>134</sup>*

John F. Kerry, US Secretary of State

## UK MODERN SLAVERY ACT 2015

Section 54 of the UK’s Modern Slavery Act 2015 is the transparency in supply chains provision. It requires commercial organisations operating in the UK, with an annual turnover of £36 million or more, to prepare an annual statement on the steps the company has taken, if any, to ensure slavery and human trafficking is not happening in its own business and supply chains. The statement must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent), and published on the homepage of the website of the commercial organisation or provide a link on the homepage to the statement.<sup>135</sup> Companies with a financial year end of 31 March 2016 will have to publish their statement.<sup>136</sup>

Brett Hartley, senior associate at Clyde & Co, wrote an article in *Building* before the Act came into effect in which he

forecasted that, for organisations that would become subject to the reporting requirements under the Modern Slavery Act, the issue of preventing modern slavery in supply chains is set to become a compliance and public relations challenge. “Given the global nature of the construction sector, the Act is likely to have knock-on effects throughout the global supply chain, and although larger companies will be subject to the reporting requirement, suppliers of any size should take note, as they will undoubtedly come under pressure to ensure their own supply chains are in order.”

This forecast has become reality already because disclosed anti-human trafficking and slavery statements have already been subjected to public scrutiny. An example are the reports published by Ergon Associates, analysing the first 100 (in March 2016) and nearly 240 statements (in May 2016).<sup>137</sup> They showed that many of the statements are not compliant yet and the information provided is reason to raise questions about the strategies in place to mitigate the risks of modern slavery in the companies’ operations and supply chains. Reputational risk due to negative attention from customers, activists,

shareholders, investors, trade unions and civil society is expected to prove an effective incentive for compliance.<sup>139</sup>

The measures in the Act are not directly punitive, other than the secretary of state being able to commence proceedings

for an injunction requiring an organisation to prepare a statement.<sup>140</sup> As Al Jazeera reported: "The government hopes that companies will do more [than just producing a statement] and create a 'race to the top', encouraging transparency and competition to drive up standards."<sup>141</sup>

*"It's an additional burden, but one whose underlying purpose can hardly be questioned."<sup>142</sup>*

Christopher Tutton, partner at law firm Irwin Mitchell

The UK Modern Slavery Act 2015 came into force in October 2015 and has wide application in the construction and property industries. Monday Business Briefing reported in April 2016 on the implications of the Act for the construction industry and pointed out that the effects on companies that have large supply chains, such as a developer on a major construction project, will be far-reaching. It also stated: "Businesses need to consider what steps to take in early negotiations and/or tendering processes and whether to include wording in commercial agreements that have a connection with a supply chain which prohibit the use of forced or trafficked labour."<sup>138</sup>

## UNITED STATES LAW

### CALIFORNIA

The California Transparency in Supply Chains Act was signed into law in October 2010 and came into effect in January 2012.<sup>143</sup> It requires retailers and manufacturers with an annual global turnover of more than US\$100 million that do business in California to disclose their efforts to combat slave labour in their supply chains.<sup>144</sup> This law was the first of its kind, and significant because California has the eight largest economy in the world.<sup>145</sup> Whilst the California Transparency in Supply Chains Act can be seen as the predecessor of the UK Modern Slavery Act they differ on a number of grounds.<sup>146</sup>

A 2016 report by non-profit group Development International found that the California Transparency in Supply Chains Act hasn't made a big impact in its first four years. It identified 2,126 potentially qualifying companies, of which 1,325 (62%) had a pertinent statement. The benchmarking report showed that only 14% of the identified companies comply with the Act i.e. disclosure compliance and affirmative corporate conduct.<sup>147</sup> A

brief by Know The Chain in September 2015 even found that 31% per cent of the 500 companies sample they analysed had a disclosure statement available that was in compliance with all the requirements of the California law.<sup>148</sup> Development International found that enforcement by the state is lacking.<sup>149</sup> However, they reported progress: in April 2015 the California Department of Justice began, for the first time, to send letters to companies regarding compliance with the Act.<sup>150</sup>

### FEDERAL CONTRACTS

In January 2015, US Federal Acquisition Regulation was issued to implement Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts. This regulation prohibits an estimated 300,000 contractors and many thousands of subcontractors from engaging in forced labour and human trafficking activities, and requires them to take additional steps to prevent a violation.<sup>151</sup> *Monday Business Briefing* highlighted that the prohibited modern slavery activities also exist within many national supply chains in which contractors work.<sup>152</sup> The new regulation includes a ban on charging

employees any recruitment fees.<sup>153</sup>

### BAN ON IMPORTED GOODS

President Barack Obama put in place another measure against modern slavery by signing into law the Trade Facilitation and Trade Enforcement Act in February 2016. The Act bars the US from importing a long list of items produced by forced or slave labour, closing a loophole in the 1930 Tariff Act.<sup>154</sup> The Independent reported that "previously US customs laws which banned imports produced by forced or child labour went ignored due to 'consumptive demand', which meant that imports were allowed if there was not sufficient supply to meet domestic demand."<sup>155</sup> According to PricewaterhouseCoopers, "the legislation is expected to affect imports of 136 goods from 74 countries, including fish, garments, electronics, toys, minerals and precious metals, and building materials".<sup>156</sup>

### FORTHCOMING LAW IN OTHER COUNTRIES

More countries, including France and Switzerland are attempting to pass legislation on transparency in supply chains and modern slavery.<sup>157</sup>

Ending human trafficking is one of President Obama's top priorities. As he said three years ago to survivors of human trafficking:

"To the millions around the world, we see you. We hear you. We insist on your dignity. And we share your belief that, if just given the chance, you will forge a life equal to your talents and worthy of your dreams. That's why we're here: to ensure that everyone can forge a life equal to their talents and worthy of their dreams."<sup>158</sup>

US President Barack Obama



# CORPORATE RESPONSIBILITY TO RESPECT: THE ROLE OF CONSTRUCTION COMPANIES

*“The industry has a moral duty not to collude in the exploitation of vulnerable people. Clients and principal contractors should take a responsible attitude to exploitation, even if they are not obliged to do so contractually. It’s being done in their name, after all.”<sup>159</sup>*

Chris Blythe, chief executive of the Chartered Institute of Building

Construction companies of any size can take steps to mitigate the risks of modern slavery, on their own sites and operations, and in their supply chains. This includes internal measures as well as joint, industry-wide action.

The Chartered Institute of Building says in its report *The Dark Side of Construction*: “[Viable and effective frameworks and assurance schemes] should be a central part of the business, not something that is arbitrarily

bolted onto a CSR [corporate social responsibility] report. Contractors should be prepared to open their supply chains up to independent scrutiny. The process will not always be comfortable, but it will be an essential catalyst for driving genuine change.”<sup>160</sup>

The business-led, multi-stakeholder initiative Stronger Together has developed six steps for businesses to implement the UN Guiding Principles on Business and Human Rights regarding tackling modern slavery.<sup>161</sup>

1. Commit
2. Assess
3. Act
4. Remedy
5. Monitor
6. Communicate

*“We encourage every business in the UK to be proactive about mitigating the risks of modern slavery in their own operations and supply chain. Following our consumer goods industry guidance, Stronger Together and the Chartered Institute of Building (CIOB) are developing good practice guidance for the construction sector. It is aimed at staff occupying a corporate social responsibility, human resources, procurement, social compliance or risk management role, and includes a pragmatic toolkit and supporting workshops which will be launched later this year.”*

David Camp, Programme Lead, Stronger Together

The Dhaka Principles, developed by the Institute for Human Rights and Business, provide a clear framework for the responsible recruitment and employment of migrant workers.

However, most of the principles are relevant to domestic workers as well.<sup>162</sup>

Human Rights Watch's *Guidelines for a better construction industry in the Gulf Cooperation Council countries*, published in 2015, provide specific guidance on human rights for construction companies working in that region, including preventing forms of modern slavery. They address the importance for companies to inform workers on their sites about their rights and to facilitate measures to allow workers to discuss work-related matters.<sup>163</sup>

A good example of a relevant public-private sector initiative is the International Recruitment Integrity System (IRIS), which is being developed by the International Organisation for Migration (IOM) and the International Organisation of Employers with like-minded partners. IOM director William Lacy Swing said: "[This will be] a voluntary multistakeholder certification system. The IRIS initiative will enable employers and brands to make better-informed decisions about the procurement of recruitment services. Companies can thereby mitigate the risk of introducing links to labour exploitation and human trafficking in their operations.

"Partnerships help us to respond to the challenge of unethical recruitment more effectively. Partnerships are needed to address the complexity of the issues and the confluence of jurisdictions, intermediaries and interests. No one group on its own can solve the problems associated with unethical recruitment practices. Governments need to do more to regulate recruitment activities. However, government regulation alone isn't enough. Companies, too, have an obligation to respect the rule of law and to ensure that workers throughout their supply chains are recruited fairly."<sup>164</sup>

*"The construction / engineering sector faces many challenges in ensuring the rights of its workforce are respected. Increasing the knowledge base, proper engagement with civil society organisations, due diligence within their own operations and collaboration with others are key to delivering a sustainable future for the industry."*

Neill Wilkins, Programme Manager – Migrant Workers and Work With Dignity, Institute for Human Rights and Business

# THE DHAKA PRINCIPLES



# KEY ELEMENTS FOR CONSTRUCTION COMPANIES IN TACKLING MODERN SLAVERY

*“The Chartered Institute of Building has been working with industry and NGOs for the past two years to raise awareness of modern slavery. This year, we are launching an anti-slavery toolkit with Stronger Together which provides a framework for training and education. By acting together, and gaining critical mass, we believe that we can make a lasting difference.”*

Eddie Tuttle, Principal Policy and Public Affairs Manager, The Chartered Institute of Building (CIOB)

## TRANSPARENCY

When addressing modern slavery risks related to labour, *Building* reported in December 2015 that getting to grips with the supply chain and understanding where the labour is coming from is key. “Mapping a company’s operations will help identify where the material risks are and who to collaborate with to prevent forced labour.” A risk assessment will help with making decisions on priorities, as

working on modern slavery will require long-term commitment. The article states the importance for companies to collaborate with their suppliers to minimise risks, but also to collaborate with each other. “The overlapping nature of construction supply chains provides opportunities for companies to create joint approaches which will tackle modern slavery at a sector-wide level. The challenge of eliminating modern slavery from the industry is one we all need to take on.”<sup>165</sup>

## POLICIES AND PRACTICES

Depending on the size and structure of a business, it is likely that a range of departments or staff members should be involved in order to develop and implement anti-slavery plans to address all risks. This includes staff responsible for recruitment, procurement, technical, sustainable and ethical sourcing, social compliance and risk management. Resources should be allocated to tackle

the issue across the business and supply chains. Existing policies such as human rights, health and safety, supply chain and purchasing policies should be reviewed and updated to include anti-slavery commitments, or new policies should be developed.

A strategy to communicate with subcontractors, labour providers and suppliers of materials about the policies, and train them in how to implement them, will be required. In its *Guidelines for a better construction industry in the Gulf Cooperation Council countries*, Human Rights Watch reiterates the importance of making a public commitment to upholding workers’ rights.<sup>166</sup> Companies could consider collaboration with other construction companies working with the same companies in their supply chains.

Policies should be supported by due diligence to monitor compliance. Setting clear targets and key performance indicators is important. Monitoring by independent parties is recommended.<sup>167</sup>



Whistleblowing mechanisms to report risks and incidents of modern slavery at site level should be established as well.<sup>168</sup>

### ADDRESSING POOR COMPLIANCE

Companies need to put a plan in place for what they will do when they find poor compliance with labour standards, including incidents of modern slavery in their supply chain. Some advocates suggest that companies should end contracts with offending subcontractors, labour providers or suppliers. But others point out that this doesn't solve the problem; the exploitation of the workers will continue. They encourage companies to work with their subcontractors, labour providers and suppliers to address the issues.<sup>169</sup> An issue that has been raised, especially by smaller companies, is the lack of ethical and cost-effective alternatives with regard to labour, as well as sourcing building materials.<sup>170</sup> Considering collaboration within the sector could provide solutions.

**A risk assessment will help with making decisions on priorities, as working on modern slavery will require long-term commitment.**

Any criminal activity should be reported to the relevant authorities.

### REMEDIAL MEASURES

It is recommended to put a process in place for when victims of modern slavery are being found in a company's operations or supply chain. Elements to consider are victim support e.g. housing, psychological support and worker compensation.

### COMMUNICATION ON PROGRESS

It is valuable for businesses to report both internally and publicly on the steps they have taken and are planning to take regarding tackling modern slavery. Stakeholders want to be informed and benchmarking is increasing with new initiatives such as the Corporate Human Rights Benchmark and KnowTheChain.

*"The increased developments in mandatory disclosure on human rights and human rights due diligence reflects the shift in society for greater transparency and accountability from companies. The challenge is whether companies will be prepared to use these changes as an opportunity to build resilient companies and supply chains or whether, in response to the legal and voluntary frameworks, they will merely seek to tick another box."*

Colleen Theron, director, CLT envirolaw

## ADDITIONAL GUIDANCE

*“Labour exploitation highlights the worst traits of the human race. It promotes the misery of the vulnerable in order to maximise the profits of the few. The construction sector recognises this and through the power of collaboration, the supply chain school has managed to harness the more positive aspects of the human spirit in terms of working together and tries passionately and in earnest to help individuals and organisations make a difference no matter how big or small.”*

Helen Carter, Sustainable Procurement Consultant, Supply Chain Sustainability School and Action Sustainability

- › **DESIGNERS:** in 2015 Responsible Solutions published an ethical sourcing guide specifically for designers in the construction industry. It includes an overview of certifications and standards that are relevant to preventing modern slavery.<sup>172</sup>

- › **AUDITORS AND AUDIT READERS:** in March 2016 Sedex launched, with Stronger Together, *Guidance on Operational Practice and Indicators of Forced Labour* for auditors and audit readers, on how to spot the signs of actual, likely or possible cases of forced labour. The guide seeks to tackle the issue of modern slavery and forced labour being under-reported at audit.<sup>175</sup>

- › **SOURCING:** Building Research Establishment (BRE) provides a framework standard for responsible sourcing: *Responsible Sourcing of Construction Products - BES 6001*.<sup>171</sup>

- › **CONTRACTORS:** the Danish Institute for Human Rights developed the *Human Rights Compliance Assessment Tool: Contractors and Supply Chain*.<sup>173</sup>

- › **PROCUREMENT:** in addition to modern slavery briefing sheets related to the UK Modern Slavery Act (e.g. relating it to the 2014 Immigration Act), the Supply Chain Sustainability School has produced procurement guidance on how to address the issues relating to modern slavery through everyday procurement activities and has been specifically written for the construction, facilities management, infrastructure, homes and off site sectors.<sup>174</sup>

- › **STANDARD:** BRE has developed an ethical labour standard for the construction sector.<sup>176</sup>

*“We, as building professionals, should use our unique positions to support [human rights] groups and help influence stronger legislation, and to utilise the contract process to make sure the health and living standards of construction workers are respected.”<sup>177</sup>*

Cameron Sinclair, co-founder of Architecture for Humanity and the Open Architecture Network

## CHANGE AHEAD: OTHER STAKEHOLDERS

### THE ROLE INVESTORS CAN PLAY

*The Financial Times* reported in May 2016 that investors are having to take notice of the 2015 UK Modern Slavery Act. It clarifies that, although there are no direct legal risks, investors have a reputational risk when a company in their portfolio is found guilty of modern slavery in its business or supply chains. Also, the operational and financial consequences for the company found guilty of such practices could reduce profits, which would have an impact on investors.<sup>178</sup>

With regard to the Signal case addressed earlier in this report, the investor briefing published by ShareAction and Know The Chain in June 2016 said: **“The pension funds invested in Signal before the company’s labour trafficking came to light in lawsuits and at the time of the bankruptcy filing stood to lose**

**approximately US\$70 million.”<sup>179</sup>**

The briefing also refers to another case in the US in May 2016, in which a US company was accused of importing an ingredient made by forced labour from China.<sup>180</sup> Although the US company released a statement disputing the allegations, but also mentioning that “there could be some impact on sales and profit in the current financial year”. According to the briefing, shares in the US company dropped by 10% on release of the statement.<sup>181</sup>

Erika Karp, founder and CEO of Cornerstone Capital, a financial service firm, said in an article in *The Guardian* in January 2016 that transparency in supply chains laws such as the California Act are important “because they address the increasing investor demand for transparency. You want to know a lot. You

want to know deeply how they operate.” She said transparency is “essential for a good assessment of risk-adjusted returns”.<sup>182</sup>

### CIVIL SOCIETY’S ROLE

The UK Independent Anti-Slavery Commissioner, Kevin Hyland, warned in an article in *The Guardian* in September 2015 that “there is insufficient awareness of the presence of slavery in the UK among both consumers and the police”.

**He called on consumers to act on feelings of unease about construction workers working long hours without sufficient safety gear.**

“Responsibility lies with local authorities to ensure that businesses are operating legally, but individuals also have a duty to be more vigilant about the people providing the services they use.”<sup>183</sup>

#askthequestion is an open-hearted UK campaign, launched in May 2016, that gives ordinary people an easy way to participate in tackling modern slavery. It intends to make people think about the products and services they buy in relation to modern slavery. People are encouraged to take a photo of the product and to post it on social media with #askthequestion and the relevant company tagged. It opens the conversation between businesses and their customers about modern slavery efforts.

### THE ROLE OF MEDIA

Media can play a role in tackling modern slavery in the construction industry and other industries by reporting on leadership and exposing abuse, if based on thorough investigations and verified facts. Both can be an incentive for businesses to implement good practice.

The International Labour Organisation has named the media as a useful tool in estimating the extent of forced labour in a particular area.<sup>184</sup> Although it set out the limitations of over- and underreporting, the 2013 report by the Joseph Rowntree Foundation (JRF) on 2012 media reporting in the UK on human trafficking and forced

labour, also found the media useful for giving insight in the issue of modern slavery. A reason is that unlike the official figures, newspapers and other media outlets gather different sources of data: from the courts, police, charities and their own investigations all in one place.<sup>185</sup> It found that labour exploitation was underreported compared to for example sexual exploitation. However, based on the media analysis undertaken for this report, this seems to have changed since 2012. With increased legislation, the reporting on forced labour seems to have increased as well.

The JRF report highlighted as well that modern slavery related to major (sporting) events and with involvement of big, well-known consumer-facing businesses are newsworthy.<sup>186</sup> As Neill Wilkins from the Institute of Human Rights and Business said: “If in the past, customer-facing brands came under the most pressure from customers and activists, of late many other sectors have faced similar scrutiny and been forced to examine their operating procedures and business models. An example is the construction sector. It has become one of the main focal points for the media, particularly with its integral involvement in

infrastructure development associated with mega-sporting events around the world. These occasions by their nature often involve major construction projects and their high profile means a media spotlight shines a light into those darker areas of business practices, which are not usually noticed.”<sup>187</sup>

“IF IN THE PAST, CUSTOMER-FACING BRANDS CAME UNDER THE MOST PRESSURE FROM CUSTOMERS AND ACTIVISTS, OF LATE MANY OTHER SECTORS HAVE FACED SIMILAR SCRUTINY AND BEEN FORCED TO EXAMINE THEIR OPERATING PROCEDURES AND BUSINESS MODELS.”



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