

**Speech by John Morrison
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Combating human trafficking - business and human rights**

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I would like to thank the Foreign Office and Wilton Park for inviting the Institute for Human Rights and Business to participate in this important discussion. I want to challenge us all to be as concrete as possible about the actions that governments and businesses can take in winning the global fight against human trafficking. But identifying tangible actions is tricky. Trafficking is a complex problem, which impacts the most vulnerable. The title of this conference refers to “business and human rights’ and not just “business and trafficking” which in itself acknowledges the systemic nature of what we are facing.

The UN Office on Drugs and Crime conservatively estimates that 2.5 million individuals around the world are the victims of human trafficking at any one time. In absolute terms, this figure is shocking but all the more so in a world where human exploitation has been diminishing. It is worth keeping in mind that only 250 years ago, 75% of the world’s population were the subjects of economic exploitation – as slaves, serfs or peasants tied to land they did not own. We need, as Adam Hochschild would put it, a similar business and human rights revolution to that which outlawed slavery from most of the world between 1780 and 1880. The challenge we have is that much contemporary human trafficking is insidiously hidden and wrapped into the complex set of relationships that define the modern era.

First, however, it needs to be stressed that businesses have much in common with the wider issue of human migration. International trade and the movement of people between countries have been part of the human condition for thousands of years. This has

generally been a positive trend. Migrants themselves have and continue to be great entrepreneurs, and business itself creates new opportunities for worker migration. Most often worker migration is legal and encouraged by governments, particularly if we note the role that remittances play in many poorer economies.

Yet while legal migration is to be welcomed for its role in fostering greater shared prosperity and freedoms, we also know that many migrants face harsh realities. Millions are smuggled across borders every year, for reasons of work or asylum, and are vulnerable to human rights abuse, as recent events in the Mediterranean have reminded us. In fact those most reliant on human smugglers are perhaps some of the most vulnerable to be trafficked – what starts as a smuggling relationship can become a fully exploitative one, and is often interlinked. Therefore government and business policies on human trafficking cannot be separated completely from wider issues of worker migration.

On balance, business has much to gain from worker migration. This at a time when business itself can be seen as an ever more complex web of value chain relationships – it has actively sought to separate its units of production around the globe for reasons of efficiency, expansion, proximity to markets, flexibility, and diminishing liability. Managing these relationships poses a challenge for many companies. It is only comparatively recently that companies have become aware of the human vulnerability that can exist within this web of relationships, ranging from the supply chain to consumer marketing, mergers and acquisitions to product licensing, human resources to finance.

It is often said that the true social cost of production is externalized from the price paid by powerful international companies, and also by the low prices consumers also now expect to pay. Recent events in Bangladesh have highlighted how human rights can be squeezed out of business relationships. Neither “The Alliance” or “Accord” of companies working to deal with the systemic failings that led to the Rana Plaza disaster earlier this year, in which over 1,100 workers died, many of them internal migrants, would say that the tragedy was in any way a random act of god. Rather it was the result of human vulnerability that had not been adequately addressed by government officials and companies, one in which corruption and regulatory capture also played a role. It is no coincidence that Bangladeshi migrant workers (the sisters and brothers of many of those who died in the factory

collapse) still remain amongst the most vulnerable in the world, prone to exploitation in receiving countries, and in the worst cases to forced labour or trafficking.

Both sexual and worker exploitation can be found in “normal” recruitment chains around the world. It is for this reason that the Institute for Human Rights and Business – working with the Government of Bangladesh, community organisations, International Trade Unions, international brands and the global recruitment industry, launched the ***Dhaka Principles for Migration with Dignity*** in 2011 – setting out 10 “human rights due diligence” steps that any business should apply to all its business relationships - from the point of worker recruitment to their return to home countries – in particular within sectors or geographies where the risk of trafficking and exploitation is highest. The Dhaka Principles build directly on relevant ILO standards and the UN Guiding Principles on Business and Human Rights. They make clear that practices still common today such as passport retention or the prepayment of recruitment agency fees by the worker, and not the employer, lead directly to creating the vulnerability that may result in human trafficking. The ***Dhaka Principles*** are relevant to any labour agency anywhere in the world and within any industrial sector – sexual and worker exploitation knows no geographic border.

Trafficking is an international crime and perpetrators are indeed criminals deserving of punishment. However, to prevent trafficking we need also to think about the relationships where businesses might unwittingly contribute to abuse. In many ways, human trafficking can be understood as the result of “a flawed and abusive recruitment process”.

Yet, even today, most companies are unaware of how third party labour providers interact with their own value chains, and the risk that bad practice engenders. For too many companies, risk is still thought of exclusively in financial or operational terms, and not in terms of human risk.

Last month, the UK Foreign Secretary and Business Secretary launched the nation’s business and human rights strategy. This marks an important landmark – for the first time in British history the Government has stated its intention to ensure that all companies registered in the UK, as well as those operating within its borders, have direct responsibilities for respecting human rights. As set out in the 2011 United Nations Guiding

Principles on Business and Human Rights, as well as the OECD and European Union instruments that follow them, businesses and governments must indeed provide adequate remedies, but so too must business undertake appropriate due diligence to prevent harm and to mitigate potential adverse impacts. Within the context of an international crime such as trafficking, business leaders must not just avoid criminal culpability but also ensure that their companies have taken appropriate steps to minimize the risk of them contributing, or being linked to, harms perpetrated by others.

As Professor John Ruggie, the former UN Special Representative on Business and Human Rights (and now IHRB's Chair), often says, businesses must "know and show" they are respecting human rights. But the critical questions are:

- How much knowledge about potential or ongoing harms such as human trafficking should a business seek to acquire?
- How should it act on this knowledge?
- How transparent should it be about its risks and potential adverse impacts on the rights of individuals and communities?

From a criminal law perspective, there is a disincentive for business leaders to have knowledge about grave abuses such as human trafficking – particularly if they choose to do nothing. But now we are expecting these same companies to actively seek knowledge in order to prevent abuses. Through time, it will be harder for businesses to argue that they could not have known what was happening in their value chains. The gap between "known" and "should have known" will start to close, as is becoming the norm on business-relevant issues such as corruption or health and safety. But at the moment, UK business is generally uncertain about how proactive it should be in acquiring knowledge about its links to human trafficking. Compare this with the USA where the Federal Government now requires business to undertake human rights due diligence in relation to trafficking, to report on its risks and mitigations, and also requires its own due diligence in terms of public procurement. The Brazilian Government has gone still further, publishing a "dirty list" of all companies judged to have benefited from modern forms of slavery including trafficking.

The “show” requirement is also now in place in California – where supply chain legislation specifically targets trafficking, contemporary slavery and forced labour. We have yet to see such legislation in the UK, where the UK Anti-Slavery Bill was denied legislative time in the last parliament. Greater clarity for business must come, in one form or another, or else UK business will be left exposed and uncertain about the expectation of government in due diligence terms.

So what practical steps can business take now? I’ve already mentioned the ***Dhaka Principles*** as one important tool that can assist business and others in addressing worker rights in ways that can help prevent any links to human trafficking. It is encouraging to see that a growing number of companies are developing related thinking and guidance around their own operations and specific sectors. One such effort we have been involved with is the ***Staff Wanted Initiative***, a joint project we at IHRB have developed with Anti-Slavery International. The initiative was launched last year to combat the exploitation of vulnerable workers, trafficking and forced labour by engaging the hotel industry in London in the lead up to the 2012 Olympics. We developed guidance we call the ***SEE Formula*** (Scrutinise, Engage, Ensure) providing simple checks for hotel managers and supervisors that can prevent and address exploitative labour practices. The guidance has been widely supported, including by the Metropolitan Police who are concerned by the level of sexual and labour exploitation to be found less than a mile from where we sit today. We also worked with the European Commission in 2012 to develop human rights guidance for the global recruitment industry, which has been promoted by industry leaders themselves via the CIETT global business association.

Many businesses clearly want to do the right thing on trafficking, as can be seen by the broad-scale endorsement of initiatives such as the Business Coalition Against Trafficking. The leadership of the UK Government on business and human rights issues internationally encourages us to believe that combating sexual and labour exploitation will remain non-partisan priorities for all the UK’s main political parties.

The UK has twice as many private sector recruitment agencies as Germany or France and in two cases the British Government has clarified its human rights due diligence expectations. Within the context of agriculture this has been through the Gangmaster

Licensing Authority. For private security providers (for which London is one of the global hubs), it has been through the new International Code of Conduct recently launched in Switzerland. What then for recruitment providers in the construction, hotel, catering, residential care or domestic worker sectors? The risk of abuse is significant in these sectors as well. For example, what should be expected of UK construction companies engaged in infrastructure for the 2022 Qatar World Cup – a country plagued by accusations concerning the abuse of migrant workers, who whilst not always trafficked are unable to resist the exploitation that resulted in more than 50 deaths this summer building stadiums and infrastructure for the World Cup?

There are many possible approaches we should consider. As well as mandating disclosure or reporting, government can legislate specific public procurement due diligence requirements for any businesses bidding for governmental contracts. Export Credit Agencies can also work to augment the “OECD Common Approaches”, based on the Performance Standards of the International Finance Corporation, to include due diligence requirements specific to trafficking in contexts where this presents a material risk. The UK’s National Contact Point under the OECD Guidelines for Multinational Enterprises, can use its proactive agenda to raise awareness amongst UK companies, so too can UK Trade and Industry when encouraging investment in sectors and countries where the risk of human trafficking is high. How many UK Trade Missions have discussed the dangers of human trafficking with participating companies?

Finally, a more positive note. No business leader or entrepreneur chooses his or her career because of a love of due diligence – unless perhaps they set up a law firm advising businesses on risks and actions to avoid. The same is true on other issues such as anti-corruption – it is often better to drive positive change in performance by focusing on the positive (i.e. integrity in business) and not just the language of avoidance and prevention.

So too it is with business and human trafficking. If labour recruitment is indeed one of the key nexus issues – then perhaps we can develop a model of what ethical recruitment might look like. There is some interesting work already underway in countries such as Nepal and the Philippines and perhaps we will see more of this also in the UK.

What are the barriers business leaders face? What are the incentives that need to be in place? How can we build a vision of talent and human dignity that both protects the rights of workers and provides real and sustaining value to “user enterprise”?

Like it or not, we are entering a future with increasing labour market flexibility and one in which labour providers will play a more and more prominent role. One only has to look at recent and generally positive labour agency legislation in China, a country almost defined economically by its internal migration, to see how international standards matter in domestic contexts.

There are opportunities for businesses willing to lead on tackling exploitation across their relationships with governments, other companies and consumers. The recent report on post 2015 UN Development Goals, co-chaired by the UK Prime Minister, places emphasis on the potential for public-private partnerships to achieve a wide range of social goals – ending human trafficking should be no exception.

Perhaps the USA is right in identifying public procurement as an important starting place. Indeed, governments are powerful economic actors, with public procurement accounting for a significant portion of a country’s GDP. As Gandhi, whose birthday it was only last week, said: “If we could change ourselves, the tendencies in the world would also change.”

Governments can lead that change by setting an example when it comes to tackling human trafficking in the supply chain.

Thank you.