



Stewardship 360: Impacting franchise value - Human rights & employment practices in the Apparel sector

We have seen many instances where a narrow pursuit of shareholder value can create a series of incentives and short cuts which can ultimately undermine the long-term health of a franchise. **This Investor Forum Stewardship 360 project focuses on one area where this has recently become a focus: human rights and employment practices within apparel companies and the supply chain.** The objective is for investors to gain insights into the:

- scale of illegal behaviour and potential risk to companies;
- steps taken by companies to protect their reputation and brands;
- standards and practices employed by companies; and
- culture and Board oversight that might give confidence that risks are understood and appropriately managed.

The project includes:

- a workshop with independent experts to enable investors to investigate and frame the issues;
- a series of company visits to inquire into current practice and governance; and
- a summary of key insights for input into company analysis and investment decision making.

Key Messages from 28th April 2017 Workshop

- An increasing number of **global initiatives are compelling companies to focus on potential human rights abuse.** These include national legislation, civil actions, media exposés, campaign groups, societal demands for transparency, consumer awareness and investor attention. **Responsible supply chain business practices can drive out exploitation and improve the lives of millions of people globally.**
- **Protecting reputation and the value of brands is vital to maintaining shareholder value.** Problems with labour relations and poor practice in supply chains can no longer be hidden and can “go viral” immediately via social media.
- Companies must understand the necessity to **enforce standards, be proactive in addressing risks and demonstrate best practice.** Large companies can push improved standards down their supplier base, once their own house is in order.
- **Investors can monitor a range of factors to assess the risks** that companies are exposing themselves to. Companies should map the risks with internal audit, ensure clear Board ownership of the decisions, participate in industry initiatives, and be transparent about their actions.
- External surveys are beginning to emerge that evaluate the performance of leading brands and companies. Companies and Investors both need to understand the validity and value of these approaches.

Practical insight: Key questions to assess company employment practices

One purpose of the workshop was to identify key questions and areas that investors can focus on in their due diligence on the issues of human rights and employment practices. Five key areas were identified during the workshop:

- **Global standards** - Does the company adopt the UN Guiding Principles and Global Compact? Do they participate in industry initiatives?
- **Risk awareness** - Has the company completed a supply chain mapping and risk assessment with internal audit? Do they understand the threats to their employees and their reputation?
- **Internal ownership** -
 - **Modern Slavery statement** – review and evaluate.
 - **Focus** - Is there a working group within the company responsible for tackling modern slavery?
 - **Governance** - Is there a Board Director with explicit responsibility for supply chain oversight and employment practices? How are risks addressed at board level?
 - **Whistleblowing** - Is there a robust grievance mechanism for employees to raise issues? Do they monitor whistleblowing practices of key suppliers?
- **Decision making and monitoring** - What factors drive the use and appointment of labour supply agencies? How are the suppliers monitored and evaluated?
- **Communication** -
 - How does the company rank in external assessments of transparency and practice?
 - Is the disclosure to all stakeholders, including customers, employees and investors, appropriate? Where is their focus for improving this over time?

Notes from the workshop of 28th April 2017

The objective of the workshop was for participants to hear from independent experts about current practices, problematic issues and the range of mitigating actions available. It aimed to create a common understanding of the issues for future company visits. This note summarises some of the areas covered, and provides links to additional sources and evidence for further reading. Speaker details are included in Appendix 2.

The problem

- Human trafficking is the fastest growing criminal industry and the second most profitable, estimated by the ILO in 2014 to be worth \$150bn per annum. Source: www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang-en/index.htm
- The National Crime Agency reports a 17% increase on potential victims submitted to the National Referral Mechanism in 2016. Cases increased due to better detection and enforcement mechanisms. Source: www.nationalcrimeagency.gov.uk/publications/788-national-referral-mechanism-statistics-end-of-year-summary-2016/file
- There are many examples of poor practice, and it is known to be endemic in certain sectors – eg cotton in Uzbekistan and Italian agriculture. The media exposés of slavery in the corporate supply chain is increasing. Recent examples include fruit pickers in Greece, salad pickers in Spain and Italy, labour supply to Sports Direct, and bed manufactures supplying John Lewis.

Modern Slavery - definition

- The phrase “modern slavery” is usefully emotive to galvanise action, but looking for “slaves” can lead to misconceptions. Slavery is no longer about physical chains, but the exploitation of a situation of a vulnerable person, who may lack income, opportunity or access to information. In the 15 years since a global treaty to combat human trafficking was adopted, modern slavery has gradually taken over as a catch-all term to describe human trafficking, forced labour, debt bondage, sex trafficking, forced marriage and other slave-like exploitation.

Political interest

- Theresa May has a personal interest in addressing the problem. As Home Secretary she brought forward the Modern Slavery Act in 2015, and, as Prime Minister, has set up a task force to address the issues. The government have created a £11 million Modern Slavery Innovation Fund which forms part of £33.5 million of overseas aid funding set aside to support the UK’s lead in the global fight against modern slavery. Further reading: www.gov.uk/government/speeches/defeating-modern-slavery-theresa-may-article
- Part 6 of the Modern Slavery Act 2015 relates to transparency in supply chains:
Every commercial organisation which supplies goods or services, and has a total annual turnover of not less than £36 million must produce a statement of the steps the organisation has taken to ensure that slavery and human trafficking is not taking place:
 - (i) in any of its supply chains, and
 - (ii) in any part of its own business, or
 - a statement that the organisation has taken no such steps.

This must be publicly stated on its website with a link to the statement in a prominent place on the homepage. It must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent)

- On the criteria above, there should be many more statements published than are currently publicly available. There are two central repositories for statements: <https://business-humanrights.org/en/find-companies> and <https://tiscreport.org/>
- International efforts, beyond the UN Conventions, has been mixed. California's Transparency in Supply Chains Act of 2010 (TISCA) was one of the earlier efforts to fight slavery in the supply chain. In February, the French Parliament adopted a law establishing a duty of vigilance obligation for parent and subcontracting companies. Australia is currently consulting on introducing a Modern Slavery Act.

Recruitment practices – examples of bad behaviour

- Certain types of businesses have practices that may be regarded as forced labour:
 - workers paid by cash below National Minimum Wage;
 - no contract, holidays, proper time recording;
 - non/under-payment of PAYE and NI, non-payment of holidays, SSP, pension and other legal rights;
 - irregular payment or withholding of pay;
 - unpaid trial / training periods;
 - financial indebtedness and penalties, or wages "linked" to travel and accommodation costs;
 - coercion / threats to workers;
 - illegal workers;
 - ID retention;
 - audit Evasion / deception.
- Some companies produce paperwork to allow workers to benefit from the maximum amount of housing benefit, tax credits etc. The state tops up wages, and workers becoming complicit in benefits fraud, and therefore will not whistleblow against their employers.
- Under payment of workers reduces costs, enabling a business to undercut legitimate competitors.
- "Dodgy" companies reduce risk by
 - regular "phoenixing" (closing business, walking away from debts and liabilities, and re-establishing with a similar name);
 - having false Directors with hidden controlling hands;
 - using fraudulent accountants and lawyers.
- The use of recruitment fees can result in a chain of agents taking fees from workers, resulting in a significant portion of the wages of a three-year contract being paid to offset the cost of getting the work.
- "Kafala" is a system used to monitor migrant labourers, working primarily in the construction and domestic sectors, in the Middle East and Levant. The system requires all unskilled labourers to have an in-country sponsor, usually their employer, who is responsible for their visa and legal status. This practice has been criticised by human rights organizations for creating easy opportunities for the exploitation of workers, as many employers take away passports and abuse their workers with little chance of legal repercussions.

- Companies should not discriminate based on status, as long as a worker has a legal right to work in a country. Where there is a glut of workers, they will undercut each other on wages, opening the possibility of exploitation.

Industry initiatives

- **UN Sustainable Development Goals** - "8.7 – 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, and by 2025 end child labour in all its forms."
- The **Dhaka Principles** are based on the UN Guiding Principles on Business and Human Rights and core ILO standards. They are a set of human rights based principles to enhance respect for the rights of migrant workers from the moment of recruitment, during employment and through to further employment or safe return to home countries. They are intended for use by all industry sectors and in any country where workers migrate either inwards or outwards. One of the principles is the Employer Pays Principle: No worker should pay for a job – the costs of recruitment should be borne not by the worker but by the employer.
- The **Responsible Recruitment Gateway** provides a portal to information and resources of the work undertaken by IHRB and others to promote Responsible Recruitment: www.ihrb.org/employerpays/
- **BRC Global Standards** is a global brand that helps build confidence in the supply chain and their Standards for Food, Packaging, Storage & Distribution, Retail and Consumer Products set the benchmark for good manufacturing practice, and help provide assurance to customers that products are safe, legal and of high quality. Further reading: www.brcglobalstandards.com/about/
- **Stronger Together** is a business led multi-stakeholder initiative aiming to reduce modern slavery, particularly hidden forced labour, labour trafficking and other third party exploitation of workers. It provides toolkits for tackling modern slavery in global supply chains, and a network to collaborate, develop and share best practice. The listed company members who are project sponsors include Tesco, Sainsbury's, WM Morrisons Supermarket and M&S. <http://stronger2gether.org/>
- **Fast Forward** is a collaborative programme to build better businesses and long term sustainability in the UK garment, home and GM supply base. The model works for producer factories and non-trade warehouses / service providers. It is currently in use in UK by 8 high street / online retailers, including ASOS, Next, Debenhams, John Lewis, New Look, M&S, River Island. It has plans to develop into global model. Debenhams commented that the Fast Forward audit revealed the deficiencies in current industry audit tool "SMETA".
- **SMETA** is an audit procedure which is a compilation of good practice in ethical audit technique. SMETA is designed to reduce duplication of effort in ethical trade auditing, benefiting retailers, consumer brands and their suppliers. Using SMETA, a supplier can have one audit conducted and share it with multiple customers, rather than having a different audit conducted for each customer. Further reading: www.sedexglobal.com/products-services/smeta-audit/
- The **Leadership Group for Responsible Recruitment** included listed companies: Unilever, Coca Cola, M&S, Walmart, Hewlett Packard Enterprises.

The use of agencies

- Companies use labour supply agencies to match skill to demand, manage labour costs and outsource HR. The advantages and disadvantages of agency usage was explored in the BEIS “Future world of work and rights of workers” inquiry. Further reading: Oral evidence session where David Camp participated (also refers to SDI): <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-energy-and-industrial-strategy-committee/future-world-of-work/oral/49761.html>
- The system also needs to look at practices of the buying departments of leading brands. The procurement practice of small, short term orders results in the need to flex the workforce of suppliers at short notice and at minimum cost to be competitive.
- Complyer (www.complyer.co.uk) provides social compliance audits of UK labour providers. Clearview (www.clearviewassurance.com) is a global labour provider certification scheme currently under development by ALP and NSF International and many retailer brands for launch mid-2017.
- The ALP’s checklist for using labour providers sets out the split of responsibilities and what is reasonable to expect companies to do (Published 2012): <http://labourproviders.org.uk/wp-content/uploads/2012/10/Checklist-for-using-Labour-Providers-October-2012.pdf>

Transparency and consumer expectations

- External surveys are beginning to emerge that evaluate the performance of leading brands and companies. Companies and Investors both need to understand the validity and value of these approaches.
- The [Corporate Human Rights Benchmark](#) is a league table of transparency and compliance.
- The *Fashion Revolution* transparency index, which led the #whomademyclothes campaign, and *Know the Chain* both rank brands on transparency. Further reading:
 - https://issuu.com/fashionrevolution/docs/fr_fashiontransparencyindex2017?e=25766662/47726047
 - https://knowthechain.org/wp-content/uploads/KTC_CrossSectoralFindings_Final.pdf

www.hrw.org/news/2017/04/20/more-brands-should-reveal-where-their-clothes-are-made

www.hrw.org/report/2017/04/20/follow-thread/need-supply-chain-transparency-garment-and-footwear-industry

- Companies might not score well because they choose not to talk about what they do - and scoring based on what is disclosed, not what the practice actually is. Companies can only get recognised for what they say, so some play the transparency game – but it does change behaviour for others.
- “Provenance” is an example of a platform that “empowers brands to take steps toward greater transparency by tracing the origins and histories of products.” Further information: www.provenance.org/how_it_works

Reflections from a business perspective

- Prompted by legislation and the increased media focus on the issue, leading brands are waking up to the problem in their supply chains. In court cases Directors have been required to testify and have been asked “how did you not know?”
- Business integrity is part of the brand value, and reputational damage can negatively impact the share price. Companies see the need to be ‘weather proof’ against a media storm exposing malpractice.
- They realise that more than policy statements are required; they need to work collaboratively with others in the industry, as well as labour unions, and be proactive to change practice. It can be a challenge to unpick a chain of corruption, and individual companies can’t do it alone.
- There are a number of groups who want to create demand for responsible recruitment options, increase the supply of brokers who don’t charge exorbitant fees, and who advocate for better global standards – such as the Consumer Goods Forum and Foreign Trade Associations.
- Many brands do not source from the UK and so have no influence over factories such as those identified in the Leicester garment scandal. These factories mainly sell wholesale to unbranded outlets.

Steps companies can consider

- Companies should risk map with internal audit. The supply chain is complex, covering, for example, cleaners, distribution centres, call centres, restaurant staff, shop floor, IT, delivery companies etc. Big brands have the ability to push improved standards down the supply chain, once their own house is in order.
- Companies could seek more “mature relationships” with suppliers and long term contractors to guarantee security of supply. The Terms and Conditions of engagement may need to be updated in some cases to make expectations of standards and behaviour explicit.
- Compliance with human rights legislation should be seen as part of the general cost of doing business, like health and safety. Businesses need a level playing field to be enforced, and society increasingly believes that government should step up and protect legitimate players.
- Whistleblowing - there should be a mechanism to hear the worker voice. There are generally no representations at the lower end, with workers not collectivised at all. There are various technological solutions to collect data direct from workers, but these types of worker are suspicious, and might be too intimidated to use the whistleblowing routes available.
- There needs to be a decent grievance mechanism for employees to bring things to the attention of the people who can make decisions regarding changing practices.
- Companies should be aware of the external surveys that evaluate and rank their performance, and consider whether the level of transparency they provide gives a fair reflection of their approach and culture.

Appendix 1

Additional reading

- ALP's written evidence to the BEIS Future of Work and Employee Rights inquiry:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-energy-and-industrial-strategy-committee/future-world-of-work/written/44566.html>

- The Global Unions Committee on Workers' Capital (CWC)'s Guidelines for the Evaluation of Workers' Human Rights and Labour Standards. The Taskforce has set out a list of indicators that provide a better assessment of a company's commitment to upholding worker rights and avoiding adverse impacts to the human rights of workers, in line with international norms and frameworks that prevail.

https://business-humanrights.org/sites/default/files/documents/CWC_Guidelines-Workers%27%20Human%20Rights%20and%20Labour%20Standards_final_May17%281%29.pdf

Example Modern Slavery Statements:

ASOS:

www.asosplc.com/~/_media/Files/A/ASOS/results-archive/pdf/modern-slavery-statement-2015-16.pdf

Debenhams:

<http://sustainability.debenhamsplc.com/wp-content/uploads/Final-ch-11-07-10-16.-Debenhams-Modern-Slavery-Satement-2016-Copy-2.pdf>

M&S:

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-modern-slavery-statement-june2016.pdf>

Sports Direct:

www.sportsdirectplc.com/~/_media/Files/S/Sports-Direct/documents/modern-slavery-statement.pdf

Appendix 2

Speakers

David Camp, Chief Executive of the **Association of Labour Providers**.

Contact: David@allianceHR.co.uk

David is Chief Executive of the Association of Labour Providers (ALP) (www.labourproviders.org.uk) - a trade association promoting best practice for organisations that supply the consumer goods supply chain workforce across the food processing, horticultural and wider manufacturing, industrial, warehousing and distribution sectors. ALP in association with NSF International is currently developing *Clearview* a global labour provider certification scheme to drive responsible recruitment practices.

David is founder and programme co-ordinator of Fast Forward, (enquiries@alliancehr.co.uk), a collaborative initiative with many high street retailers and brands to build legal and ethical labour standards compliance in the garment, GM and consumer goods retail supply base. He is also founder and programme lead of Stronger Together*, (www.stronger2gether.org) - a business led multi-stakeholder collaborative initiative whose purpose is to support organisations to tackle modern slavery within their businesses and supply chains.

He has recently given written and oral evidence to the BEIS "Future world of work and rights of workers" inquiry.

Neill Wilkins, from the **Institute of Human Rights and Business**

Contact: neill.wilkins@ihrb.org

Founded in 2009, IHRB is an international think tank on business and human rights. IHRB's mission is to shape policy, advance practice and strengthen accountability in order to make respect for human rights part of everyday business. Neill is a programme manager specialising in the human rights challenges faced by migrant workers and the companies who recruit and employ them. He has undertaken a number of initiatives with the apparel, construction and hospitality sectors and the international employment industry to promote responsible recruitment.

Caroline Haycock, Director of Ethical Trade & Corporate Responsibility, **Debenhams plc**.

Debenhams Plc is a £650m market cap UK listed company, having returned to the stock exchange in 2006. Debenhams trades from over 240 stores across 27 countries, including 161 store in the UK. Debenhams has a growing multi-channel business - 14% of its sales now come through its "Debenhams Direct" online portal.

Debenhams were a founding member of the Fast Forward audit initiative.

*Note: Stronger Together is in the process of establishing itself as a CIC/Charity, and is seeking social impact funding and Trustees with an investment background to join its Board. Please get in touch with David Camp for more information.