INSIGHT POLICY

December 2023

IFM Investors

Combatting Modern Slavery:
moving beyond transparency

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Many modern slavery laws to date have focused on requiring companies to review their supply chains and report on modern slavery risks and the actions being taken in response. With modern slavery a growing problem, public policy in some jurisdictions appears to be shifting beyond transparency, to include a greater focus on outcomes.

Modern slavery is a growing problem

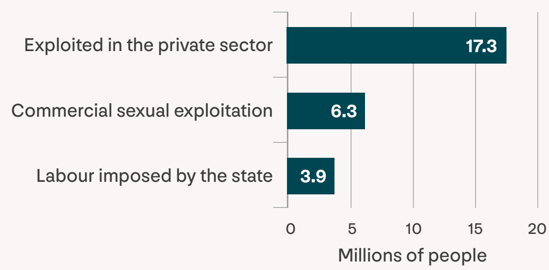
Modern slavery encompasses forced labour and forced marriage. It refers to situations of exploitation that a person cannot leave because of threats, violence, deception, or other means of coercion. For example, migrant workers who are forced to work on construction sites or farms in poor conditions until they repay debts incurred to people traffickers.

International Labor Organization (ILO) estimates indicate that as many as 50 million people were living in modern slavery globally in 2021.[1] This is 10 million more than the ILO's 2016 estimates.[2]

According to the ILO, forced labour is the most prevalent form of modern slavery and is present to some degree in every country. It is also a growing problem. The ILO's 2021 estimates indicated around 27.6 million people in forced labour, compared to 25 million in 2016. Figure 1 below shows the breakdown of reasons for people in forced labour, for the 27.6 million people ILO estimated were in forced labour in 2021[3]. Those exploited in the private sector are the largest group. In addition, around 12 per cent of all those in forced labour are children. The Asia Pacific region has the highest number of people in forced labour (15.1 million) and the Arab States the highest prevalence (5.3 per thousand people).

FIGURE 1

BREAKDOWN OF REASONS FOR PEOPLE IN FORCED LABOUR (MILLIONS)[4]



[1] https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf
[2] https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf
[3] Chart bars add to 27.5m rather than 27.6m people due to rounding.
[4] Derived from Table 1 in ILO (2022) Global Estimates of Modern Slavery: Forced Labour and Forced Marriage

The ILO has attributed recent increases in forced labour to a series of compounding crises, including the global COVID 19 pandemic, growing numbers of armed conflicts, and climate change. These disruptions to established patterns of employment and education, combined with increases in extreme poverty and forced migration, have significantly increased the vulnerability of the already poor and socially excluded to becoming forced labourers.[5]

How forced labour presents in G20 countries

Companies in G20 countries can be exposed to forced labour risks via their supply chains. For example, via the purchase of uniforms, cleaning and catering services, electronic products such as computers and printers, as well as corporate merchandise. This highlights that forced labour can occur in many parts of a company's supply chain.

The global shift toward renewable energy (RE) technologies, such as solar photovoltaics and batteries, presents another area of high modern slavery risk. This is due to several reasons, including the complexity of RE supply chains, rapidly changing procurement strategies driven by accelerating decarbonisation efforts globally, and the fact that many RE products rely on critical minerals. Critical minerals such as cobalt and nickel are sometimes located in jurisdictions with low levels of labour rights protections and heightened risks of child labour.

In addition, investors and asset managers may invest or lend to businesses whose operations or supply chains include various forms of forced labour. The ILO estimates that of all workers involved in forced labour around the world, 28 per cent are in construction, potentially working on developments made possible by loans and investments by large financial entities.

Modern slavery threatens the reputation of companies found to have benefited from it, and the sustainability of their operations and supply chains. It follows that jurisdictions and companies with strong and effective policy frameworks for combatting forced labour risks are more likely to have a competitive advantage in attracting investment over those that do not.

What IFM Investors is doing

As a responsible employer and asset manager IFM is committed to identifying, assessing and mitigating modern slavery risks and impacts in both our operational supply chain and the supply chains of companies in the investment portfolios we manage. To this end, we have taken steps that include:

- Collaborating with third-party specialists to develop and implement a gap analysis looking at suggested improvement areas in the assessment of modern slavery risks in our investments.
- Committing to develop sectoral charters for Australian assets in the IFM infrastructure equity portfolio. These charters aim to facilitate mutually beneficial engagement between IFM, the Australian Council of Trade Unions (ACTU) and applicable unions, and identify priority areas for focus which include protecting against modern slavery risk[6].
- Continuing to work closely with the Australian Council of Superannuation Investors (ACSI) and other investors to monitor compliance and the quality of modern slavery reporting across ASX 200 companies, as applicable.
- In relation to IFM corporate procurement, oversight of modern slavery is becoming embedded as business-as-usual, raising the profile of modern slavery risks in our engagement with suppliers.

[5] ibid
[6] Following the signing of the inaugural Seaports Charter with the ACTU in FY22, in May 2023 we signed the Airports Charter with the ACTU. Operationalising the Seaport and Airport Charters is a key focus in FY24."

Regulatory developments in the UK, EU and Australia

In 2015 the UK became the first country to require companies to report annually the steps taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains or business operations. The UK's Modern Slavery Act was followed three years later by Australia's Modern Slavery Act, which took effect in 2019.[7]

The Australian Modern Slavery Act (in common with the UK Act) can be described as a 'transparency framework' requiring businesses that meet specified turnover thresholds to describe what assessments of exposure to modern slavery risks have been conducted and what actions have then been taken. However, the Act does not prescribe what those actions should achieve or require companies to report on outcomes.

In June, the OECD updated its Guidelines for Multinational Enterprises on Responsible Business Conduct, stating that enterprises should 'contribute to the elimination of all forms of forced or compulsory labour and take immediate and effective measures towards the elimination of forced or compulsory labour as a matter of urgency.'

This urgency is justified considering the recent statutory review of the Australian Modern Slavery Act led by Professor John McMillan AO (the McMillan review), which:[8]

- Noted that transparency frameworks rest on two mistaken assumptions: (a) that awareness of human rights challenges within companies will lead to necessary change and outweigh commercial and other pressures; and (b) that consumers will adjust their buying preferences and business loyalties based on modern slavery reporting.

- Reflected upon the dozens of submissions made and concluded that, 'There is no hard evidence the Act has caused meaningful change for people living in conditions of modern slavery. Across the thousands of pages of modern slavery statements…there is only a handful of examples of modern slavery incidents being detected or people given specific protection or remedial help.'

> **ACSI's review found only a small cohort of companies clearly disclosed and explained more complex or advanced actions to manage modern slavery risks**

Likewise, a 2023 stocktake by ACSI of ASX 200 reporting under Australia's Modern Slavery Act found that ASX 200 companies are taking foundational actions to manage modern slavery risks, including through risk assessments of supply chains (96%), use of contract clauses (67%), internal training (90%) and collaboration (51%).[9]

However, ACSI's review found only a small cohort of companies clearly disclosed and explained more complex or advanced actions they were taking to manage modern slavery risks such as:

- Working with suppliers to build their capacity to manage modern slavery risks (6%)

- Building the internal capacity of boards and senior leadership on modern slavery (3%)

- Consulting with potentially affected groups or their representatives (such as workers or their representatives) as part of risk assessment processes (2%) – which are actions that IFM has taken in relation to our Australian airports and seaports, as outlined under the 'What IFM is doing' heading above; and

- Defining effectiveness or an effective response to modern slavery to assist with tracking performance (10%).[10]

Both reviews found evidence suggesting that modern slavery due diligence is overly concerned with completing process steps (such as reporting), rather than being targeted at securing specific outcomes (such as preventing and ending forced labour).

[7] We have not comprehensively covered regulatory developments to combat forced labour in other countries. For example, in the US the 1930 Tariff Act prohibits the importation of any product that was mined, produced or manufactured wholly or in part by forced labour; and the 2010 Dodd Frank Act requires certain public companies in the US to disclose their use of tin, tungsten, tantalum and gold in their products and determine if they are sourced in an ethical manner.
[8] An overview of the McMillan Review's recommendations can be found here.
[9] ACSI (2023) Compliance without ambition: Taking stock of ASX200 reporting under Australia's Modern Slavery Act, p. 7.
[10] ibid

Where to from here?

The McMillan review noted widespread support for a stronger due diligence framework in the Act. Although the Australian government has not formally responded to the review yet, a stronger due diligence framework is consistent with emerging global support for human rights due diligence that is both mandatory and focused on outcomes.[11]

This trend is reflected in the development of the European Commission's Corporate Sustainability Due Diligence Directive (CSDDD). If adopted, the CSDDD will require EU and non-EU companies of a certain size[12] to conduct human rights and environmental due diligence in which they need to not only identify actual or potential adverse human rights impacts, but also 'prevent or mitigate potential impacts' and 'bring to an end or minimize actual impacts.'[13]

The proposals being negotiated by the EU have been criticised by some advocacy groups, and some in the Parliament, for defining the scope of CSDDD coverage by reference to high employee and turnover thresholds that exclude SMEs. There are also concerns that member states may be allowed to decide if the CSDDD should apply to their national financial sectors, and that due diligence requirements for financial entities may be limited to one-off assessments during the pre-investment stage. It remains to be seen if these concerns are assuaged by the final CSDDD text.

However, the EU's focus on preventing, mitigating and ending actual and potential impacts will likely require many companies to take a more outcomes-orientated approach to combatting the various forms of modern slavery. We expect this will contribute to the creation of a lower-risk business environment for investors and others, which will help to enhance the competitive position of the EU.

For a mix of ethical and business reasons, the EU's approach, therefore, seems likely to set the agenda for policy makers elsewhere. We will seek to provide further updates as amendments to these frameworks are finalised.

IFM has publicly stated its stance against all forms of human rights breaches. Read the latest IFM Investors Modern Slavery Statement here.

11 The Government has not formally responded in full to the review, but it has announced the creation of a federal modern slavery commissioner whose primary role will be to promote compliance with the Act; and the establishment of a Modern Slavery Expert Advisory Group that will advise the Government on how to strengthen the Act.
12 The proposed scope of coverage is (i) for EU-based companies, net turnover above €40 million and more than 250 employees, and (ii) for non-EU companies, net turnover above €150 million (provided at least €40 million is generated from within the EU). Corporate groups are captured if the parent company meets certain thresholds.
13 European Parliament (2022) Corporate sustainability due diligence: How to integrate human rights and environmental concerns in value chains.

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Compliance code: IFM-13December2023-3243995