



Modern Slavery - A New Perspective

November 2022 | Kreisson

Recently we caught up with Jacob Sarkodee, Chief Impact Officer of International Justice Mission (IJM) Australia, to hear more about the challenge of changing the perspectives of major businesses to consider the human impact of overseas procurement of cheap goods and services.

IJM is a leading international anti-slavery organisation that is committed to protecting people in poverty from violence. IJM partners with local authorities to strengthen justice systems to enforce the law, reduce slavery, police abuse of power and violence against women and children.

[Legislative](#) changes in Australia have brought the issue of modern slavery to light for corporations seeking to procure goods and services from overseas.

Fundamentally, 'modern slavery' is a global phenomenon which includes a range of activities that seriously deprive individual liberty and freedoms. These activities extend beyond mere unfair labour practices and unfair pay, as slavery violates fundamental human rights through coercion, threats, deception and physical control.

THE CHALLENGE

According to Jacob although Australian corporations may recognise the importance of eradicating any instance or risk of slavery within their own business, this does not account for the criminal activity of overseas entities that employ modern slavery practices to produce cheap goods and services within the supply chain of those businesses.

That being so Jacob explains that Corporations need to also understand the circumstances that give rise to modern slavery which are outside their immediate control.

According to Jacob most bonded labour and forced labour takes place in the furthest upstream components of the supply chain, not at the point of manufacturing or processing as the [evidence suggests the extraction of raw materials holds higher risk of modern slavery](#). These instances of modern slavery mostly occur in regions where governments and law enforcement are failing to prevent exploitation.

Most instances of modern slavery are not within the immediate tiers of the supply chain and are not visible to the end consumer. Organisations that utilise forced labour are often unregistered, and the lack of paperwork or formal contractual arrangements creates an impenetrable and murky environment into which it is not practical for responsible businesses to investigate. Jacob described this unregulated environment as the "informal economy".

As a result of these challenges, reporting entities are reluctant to take significant action. However, the failure of responsible businesses operating within a regulated context to address the risk of modern slavery only further enables criminal actors to exploit forced labour in an unregulated context.

CREATING CHANGE

Modern slavery legislation provides a framework for entities to consider the blind spots in their business operations and supply chains which may present a risk for modern slavery to take place. Under the [Modern Slavery Act 2018 \(Cth\)](#),

Australian businesses are required to submit an annual modern slavery statement which, among other things, should identify:

1. risks of modern slavery practices in the operations and supply chain of the reporting entity, and any entities it owns or controls; and
2. actions taken by the reporting entity, and any entities it owns or controls to assess and address risks including due diligence and remediation processes.

While the legislation aims to increase transparency, viewing the problem from a compliance perspective alone does not encourage companies to make positive impacts.

IJM Australia's [Spot Fires in Supply Chains Report](#) highlights the limitations of the current compliance regime in Australia.

*“modern slavery is
fundamentally a matter of
criminal law, it is a crime to
the person”*

- Jacob Sarkodee, Chief Impact Officer

The Report found that more than 7 out of 10 of the 404 annual modern slavery statements surveyed did not provide any details of modern slavery risks beyond the reporting entity's immediate suppliers. Further, less than 1 in 5 of the reporting corporations stated that they consulted at least one affected group or stakeholder as part of their modern slavery risk assessment.

Without the engagement of victims and stakeholders, corporations will miss key insights which can educate decision-makers and help frame modern slavery risk management approaches.

In addition to a compliance-based approach, IJM hopes to see to a more substantive and targeted response which starts with partnering with survivors and consulting groups that represent

workers in communities at high risk of modern slavery.

Jacob explained that one key example of this type of response was conducted by Outland Denim, an Australian fashion brand that [implemented a due diligence program](#) to support vulnerable workers in the garment industry's supply chain. The program allowed workers in specific regions to lodge grievances to enable facilitators to investigate such grievances and then report to appropriate brands, government bodies and NGOs for resolution.

According to Jacob, Outland Denim's strategy not only informed the company of its modern slavery risks by directly communicating with people working within the company's supply chains, but also acted to remediate abuses of power by partnering with local organisations that are in a position to support victims and address exploitation.

Jacob recommends that businesses should take action to consult survivors, local community groups and even trade unions to understand the causes and context of modern slavery. A well-informed response to modern slavery risk can provide opportunities for businesses to assist vulnerable people as well as ensure that entities' supply chains are not linked to abusers of human rights.

AUSTRALIAN MODERN SLAVERY LEGISLATION UPDATE

On 22 August 2022, the Australian Government released for public consultation an [issues paper](#) on the effectiveness of the first three years of the *Modern Slavery Act 2018* (Cth) (the Act). The paper is part of the statutory review of the Act, which is due to be completed by 31 March 2023.

Currently, The Act requires large businesses and other entities in Australia with a revenue of more than \$100m to report annually to the Australian Government on how they are addressing modern slavery risks in their domestic and global operations and supply chains. Those reports are then placed on an online public register. Currently, there is no offence or civil penalty for non-compliance with the reporting requirement.

The issues paper provides the key issues which

are being explored as part of the Australian Government's review of the Act, which include:

- whether the Act has had a positive impact;
- whether the Act's reporting requirements are appropriate;
- whether to change the reporting criteria;
- whether to introduce penalties for non-compliance; and
- the administration of the Act and the role of an Anti-Slavery Commissioner.

The issues paper is [open for public consultation](#) from 22 August 2022 to 22 November 2022.

The NSW Modern Slavery Act commenced on 1 January 2022. The NSW Act requires NSW State-owned corporations to volunteer to report under the Commonwealth Act and introduced the NSW Anti-Slavery Commissioner who has various regulatory and supervisory functions.

LEARN MORE

[Click here](#) to learn more about IJM Australia.

[Click here](#) to read IJM's recent Spot Fires in Supply Chains Report.

[Click here](#) to read earlier publications by Kreisson in respect of Modern Slavery issues.

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