

MODERN SLAVERY

The human person as chattel is ancient history. This is true and not true. People- as- property is also modern reality.

Perhaps your imagination involuntarily makes a shuddering, sickening leap to Nazi concentration and forced labor camps, the Soviet Gulag, China's Cultural Revolution or the Khmer Rouge. Of course our Cradles of Civilization embraced slavery energetically and efficiently. Maybe the torturous images and cultural and moral corruption depicted in "*Roots*", "*Django Unchained*" or "*11 Years a Slave*" haunt and horrify you.

The word "plantation" will forever be tainted, the history of sugar is not sweet nor cotton crisp and clean, (and if you are recalling America's deep south 200 years ago, think Uzbekistan¹ today); tobacco production has putatively caused more suffering than cigarettes, a diamond is (servitude) forever, much about consumer electronics is profoundly uncool. The ignominious list goes on.

Mercifully but perversely, these historical stains on the conscience of humanity do not pervade our minds as we dine in an elegant restaurant, stroll the Champs Elysees on vacation, chat with fellow parents at our children's exclusive private school, thank our gracious hosts in Knightsbridge or Manhattan for dinner so attentively served by their uniformed staff, delight in the opulence of an exotic and exclusive holiday spa resort. More mundanely, slavery is not typically front of

¹. *Uzbekistan is the world's sixth largest producer of cotton. During the annual cotton harvest, citizens are subjected to state sanctioned forced labor. Monitoring by international organizations has meant the government has begun to take steps to improve the situation, however, reports from the 2015 harvest estimate that over one million people were forced to work.*

mind when you pop out for a manicure, some cat food and a bag of frozen prawns, nor when your kind gesture to a lover or a friend, “Say it with flowers” (A rose by any other name may be child and women bonded labor?²) or a fruit basket (Was your banana harvested precariously by unpaid children contaminated by pesticides in a compound surrounded by armed guards?³). The laid back dude rolling his joint is blithely innocent of the possible forced labor back-story.

Modern slavery, with almost unfathomable contradiction, lurks in the dark and depths of the domestic and international supply chain and struts in a miniskirt in the urban gloaming under her pimp’s surveillance or pushes an infant heiress in a thousand dollar stroller across Central Park.

The statistics stupefy, even if, by necessity, they comprise extrapolated calculations. According to the International Labor Organization (ILO), there are 21 million people globally suffering in forced labor of some kind.⁴ Other estimates double that number. Alliance 8.7: ‘For a world without forced labor’, reports that roughly 168 million children are in forced or bonded labor of some genre, much of it hazardous, injurious and deadly. Human Rights Watch reports considerably higher numbers calculating that 100 million children worldwide work in dangerous, inhumane conditions in numerous and diverse sectors.⁵

² <https://www.theatlantic.com/international/archive/2012/02/theres-a-1-in-12-chance-your-v-day-flowers-were-cut-by-child-laborers/253084/>

³ Chicago Sun Times 05/08/2014 Jan Shakowsky

⁴ <http://www.ilo.org/global/topics/forced-labour/policy-areas/statistics/lang-en/index.htm>

⁵ <https://www.hrw.org/topic/childrens-rights/child-labor>

According to the United Nations, modern slavery and trafficking is the second-largest criminal industry in the world; the ILO assesses annual profits from forced labor at \$150bn.⁶ An industry of such scale and depravity, will not succumb readily to obsolescence.

Of course, I am expected to start with the –as far as we know– world leader in modern slavery, India. But before we ready our stones of condemnation for the developing world, let’s take a look through the panes of our own glass houses in developed countries such as the USA and the UK. [7% of today’s slaves](#)⁷ live in North America or the European Union.

In the U.S. and Europe, migrant/undocumented workers, children, indigenous peoples and other groups suffering discrimination on different grounds are disproportionately affected. Some victims working to pay off a “debt “ are unaware that they are exploited as slaves.

Definitions matter and cover a spectrum that extends slavery to human trafficking, sexual exploitation, forced marriage, child marriage, bonded labor and enforced servitude with denial of basic human rights. What you count, what can be measured are inevitably mere indicators of a monstrous submerged iceberg; consequently, numbers range wildly, particularly in the absence of nationally representative data. But even if known and reported cases are not prevalence estimates, they still offer important insights as do studies by the United States Department of Justice Federal Bureau of Investigation’s Criminal Justice Information Services Division.

⁶ <http://www.ilo.org/global/topics/forced-labour/policy-areas/statistics/lang-en/index.htm>

⁷ <http://www.ilo.org/global/topics/forced-labour/policy-areas/statistics/lang-en/index.htm>

In 2015, the National Human Trafficking Resource Center (NHTRC) found that 5,544 Human Trafficking cases were reported based on 21,947 calls.⁸ These reports implicate certain sectors, particularly in trafficking, such as domestic work, agriculture, traveling sales crews, restaurants/food service, and health and beauty services. In the same year, the most reported venues/industries for sex trafficking included commercial-front brothels, hotel/motel-based trafficking, online advertisements, residential brothels, and street-based sex work.

The sociologist Sheldon Zhang from the San Diego State University proffered more shocking estimates in 2012 that “there are 38,458 victims of labor trafficking violations in San Diego County.”⁹ There could be as many as 2,472,000 trafficking victims just among unauthorized Mexican immigrants in the U.S...”

The National Center for Missing and Exploited Children (NCMEC) estimates that “1 in 5 of the 11,800 runways reported to the National Center for Missing & Exploited Children in 2015 were probably victims of the sex trade.”¹⁰ Every disheveled

⁸ "Hotline Statistics", *National Human Trafficking Resource Centre*, last accessed May 26, 2016, <https://traffickingresourcecenter.org/states>

⁹ Sheldon Zhang et al., 'Estimating Labor Trafficking among Unauthorized Migrant Workers in San Diego', *The ANNALS of the American Academy of Political and Social Science*, 653, 1, pp. 65-86 (2014).

¹⁰ "Child Sex Trafficking", *National Centre for Missing and Exploited Children*, last accessed May 26, 2016, <http://www.missingkids.org/1in5>

child in a doorway or motel room has a story and most are unlikely to have been the protagonists in their demise.

There is no comfort to be drawn -even if such moral relativism were conceivable – from the existence of more conservative estimates of the scale of the atrocity. The GSI estimated 57,700 people in modern slavery in the US in 2016 and the 2013 Walk Free Foundation’s *Global Slavery Index* posited that there were “57,000 to 63,000 people enslaved in the U.S. We do not really know.”

Again, methodologies for estimation irrefutably underrepresent the true scale problem and reporting- based statistics tend only to track certain sectors or populations and also depend on awareness and ability to report.

In 2016, the Walk Free Foundatio¹¹, Gallup, and Polaris (which supports the NHTRC studies) undertook survey research to probe general awareness of the NHTRC’s hotline number among the American public, through the Gallup U.S. nightly public opinion survey. The results are sobering with a mere 6.7% of participating Americans aware of the NHTRC specifically and 12% aware that a human trafficking hotline exists. We are forced to infer that the 5,544 cases reported in 2015 is, as proposed above, the misleading tip of the actual prevalence iceberg of human trafficking in the U.S.

In terms of supply-chain slavery, the U.S. was the first country (through the *2010 California Transparency in Supply Chains Act*¹² and the *2012 United States Executive Order 13627*), to

¹¹ Walk Free Foundation, *Global Slavery Index 2013*, (Walk Free Foundation, 2013), accessed 26/05/2016: www.globalsslaveryindex.org

¹² California State Senate, *California Transparency in Supply Chains Act of 2010*.

require companies grossing over \$100,000 in annual worldwide receipts to report on their measures to eliminate slavery in supply chains and to impose duties on federal contractors and subcontractors to take preventative actions to eliminate slavery.

The Government went further to promote supply-chain integrity in February 2016 by closing a loophole in the *Tariff Act of 1930*; it had previously permitted imports irrespective of how they were produced provided that demand exceeded supply (“consumptive demand”). Customs and Border Protection can now seize and block all imports made with forced labor. Moreover, the burden of proof can be met by petitions from any interested party demonstrating “reasonably but not conclusively” that imports were affected by forced labor; this is in addition to regularly published U.S. Department of Labor lists of goods produced by child or forced labor. Yet the bouquets and bananas keep rolling in...

At the domestic level, in 2015, the U.S. Government also inaugurated the Office on Trafficking in Persons (OTIP), a bureau in the Department of Health and Human Services focused on human trafficking. It is charged importantly with creating a cohesive national human trafficking victim service delivery system for all trafficking victims nationwide.¹³

What about the UK? The risk models for the incidence of modern slavery are similar to those of the U.S.

¹³ Mark Greenberg, 'ACF Creates New Office on Trafficking in Persons', *Administrator for Children and Families*, June 10, 2015, accessed: <http://www.acf.hhs.gov/blog/2015/06/acf-creates-new-office-on-trafficking-in-persons>

The scale of the problem is still not fully known, but estimates are in the hundreds of thousands of victims. These people are predominantly from Eastern Europe, Vietnam and Nigeria, with a roughly equal number of men and women, according to the NCA. But any vulnerable population is at risk and their inherent vulnerability and fear hinders arrest and prosecution of perpetrators.

Criticism has been leveled at the police for their arrest record but, in fact, there are more than 300 live policing operations in the UK targeting modern slavery, according to the National [Crime](#) Agency (NCA); it reports there were 111 arrests in May and June of this year alone related to 130 potential victims.

Directly and domestically, implicated sectors recently include Irish and Scottish fisheries, nail salons, construction, food processing, illegal cannabis farms , car wash businesses, the domestic “servants” of wealthy professionals, even diplomats and ultra rich foreign residents-importing with them practices deemed more socially acceptable in their countries of origin. Sex trafficking, predominantly but certainly not exclusively in women and girls, is regrettably ever present and dreadfully prevalent.

Particularly shocking, although every case is abominable, were a series of criminal trials this October that led to the conviction and heavy sentencing of 11 family members. The investigation into the Rooney family by Lincolnshire police was one the biggest operations of its kind. Eleven people were jailed for up to 15 years for exploiting at least 18 victims of modern slavery, including one individual enslaved for 26 years, who was forced to dig his own grave.

The Rooney's victims, aged between 18 and 63, many of whom were homeless, alcoholics or had mental disabilities, were lured from the streets outside hostels and shelters to work for the family's tarmacking business, with promises of employment, food and shelter. They were kept in caravans without running water or toilet facilities constantly under threat of violence. They ended up under-nourished and horribly exploited seven days a week. Especially disturbing, in this and so many instances already alluded to, is that these victims work among us, on the street, in our driveways or in other, familiar commercial venues.

Modern slavery surrounds us at home.

How complex and compelling then is the labyrinth of international supply chain issues insidiously infecting a plethora of consumer goods from food to clothes to electronic devices and beyond?

In 2015, the UK government took legislative action in the [Modern Slavery Act](#), to address the prevention and prosecution of modern slavery, domestically and in the supply-chain and to introduce protection from criminal liability for victims.

This set of consolidating and new legislative provisions had broad scope:

- Consolidate and simplify existing offences into a single act;
- Ensure that perpetrators receive suitably severe punishments for modern slavery crimes;
- Enhance the court's ability to put restrictions on individuals if necessary to protect people from the harm caused by modern slavery offences;

- Appoint an independent anti-slavery commissioner to improve and coordinate responses to modern slavery;
- Introduce a defense for victims of slavery and trafficking;
- Place a duty on the Secretary of State to produce statutory guidance on victim identification and victim services;
- Enable the Secretary of State to make regulations relating to the identification of and support for victims;
- Provide for independent child trafficking advocates;
- Introduce a new reparation order enabling courts to compensate victims with assets confiscated from perpetrators;
- Enable law enforcement to stop boats suspected of holding or trafficking slaves; and
- Require businesses over a certain size to disclose each year what action they have taken to ensure there is no modern slavery in their business or supply chains.

The last provision noted above, Section 54 of the Act, specifically promotes corporate transparency in supply chains. It has attracted controversy from opposing camps, either as an unfair disclosure burden on British businesses or contradictorily as ineffective and “toothless”.

The Modern Slavery Act requires any business – or part of a business – with global turnover exceeding £36m – that “carries on business in the U.K.” i.e. supplies goods or services in the U.K. (even if domiciled outside the U.K.) to produce and publish an annual slavery and trafficking statement in a “prominent” place on its website. The statement must specify the actions the organization has taken to ensure there is no slavery in any part of its business, including its supply chains. (Ambiguity obtains unfortunately as to whether a wholly – owned U.K. subsidiary operating outside the U.K. market, say in Saudi Arabia or Brazil, would fall within the ambit of the law.)

Publication of the Section 54 statement can be enforced by a High Court injunction and potentially an unlimited fine.

Companies may formulate their statements as they see fit, provided they are succinct and in plain English, but the overriding aim is that they cite the measures taken to ensure their supply chains are free of slave labor.

Strictly speaking, a company could comply legally by stating that it done nothing to prevent slavery – hardly a wise move vis-a-vis investors, consumers, and employees. Moreover, the Home Office has articulated its expectation that businesses take the obligation seriously and demonstrate year on year progress in their self-policing of their own supply chain.

Admittedly, the law does not institute legal liability for companies' management of their supply chains nor does it require a guarantee that their products and services are untainted by slavery. This invites the obvious criticism that the law is impotent. However, it represents a move towards heightened transparency, forcing the issue onto the corporate agenda and into the public domain. In time, transparency should expose the meager inadequacy of sticking a provision into SLAs or sub-contracts, running awareness workshops or the occasional audit and inspire more substantive action.

The Article 54 transparency provisions were inspired by the *"2010 California Transparency in Supply Chains Act"* referenced above. The call for transparency has incited consumer responses in the form of class action law suits for deceit based on "inadequate" public disclosure, targeting Nestle, Costco, Mars, and Hershey among others.

Sometimes consumer awareness and reputational risk are enough to force action. Nestlé, the world's largest food

manufacturer, publically uncovered and disclosed modern slavery practices in their seafood supply chain in Thailand.¹⁴ Conversely, Nestlé failed before the U.S. Supreme Court to have a lawsuit dismissed that sought to hold them liable for child labor harvesting cocoa in the Ivory Coast.¹⁵ Patagonia, a company with a high social and sustainability profile, uncovered that some workers in its Taiwanese fabric mills were burdened by recruitment-related debt that could take up to two years of a three year employment contract to pay off.¹⁶ Patagonia has since taken unprecedented measures to address forced labor in their supplier factories.

In the U.K., there may not yet be an avenue to Court for supply chain failures but the “court of public opinion” will unhesitatingly hold organizations and their brands to account. Additionally, the criminal system already has powers to pursue direct perpetrators of slavery practices as mentioned above.

From Lincolnshire in England to Los Angeles in America, from those who source locally to those with global supply networks, the root causes of human exploitation begin with poverty and vulnerability, and grow with inadequate vigilance and the

¹⁴ "Nestlé takes action to tackle abuses in the seafood supply chain", *Nestlé*, November 23, 2015, accessed 26/05/2016, <http://www.nestle.com.au/media/newsandfeatures/nestl%C3%A9-takes-action-to-tackle-abuses-in-the-seafood-supply-chain>

¹⁵ Reuters, 'Supreme Court Rejects Nestle Bid to Throw Out a Child Slavery Suit', *Fortune*, January 11, 2016, accessed 16/03/2016: <http://fortune.com/2016/01/11/nestle-supreme-court-child-slavery/>

¹⁶ Declan Croucher, 'Solutions: How Patagonia is Addressing Forced Labour in its Supply Chain', *Verité*, accessed 16/03/2016: <http://www.verite.org/vision/june2015/solutions>

absence of vital political, social and legal infrastructure to tackle this heinous problem.

This discussion has focused on measures adopted and challenges still obtaining in two of the most privileged democracies in the world. How daunting then is the global challenge to which we must answer. Battle has been engaged, but this will be a long fight. In the 21st Century, slavery must “not be”. This is a fundamental provision of the United Nations post 2015 Sustainable Development Goals and the 2030 agenda. In this context, there can be no question of our standing blithely and blindly by whilst men, women and children, at home and abroad, suffer “the slings and arrows of outrageous fortune”. We must take arms against (this) sea of troubles and by opposing end them”. A great armory is needed from multi-lateral treaties, national legislation and enforcement mechanisms, enlightened social programs and governmental, not for profit and NGO intervention in vulnerable communities and individual and collective conscience in Civil Society. It’s going to take more than a village this time...and more than a small group of thoughtful, committed citizens, but that is not a bad place to start. In this shameful global theatre of human misery, the “willing suspension of disbelief” is as insidiously ignorant as it is ignoble. Nothing worth doing is easy and “everything is impossible until it is done”.¹⁷

¹⁷ Nelson Mandela