

MODERN SLAVERY:
THE DARK SIDE
OF CONSTRUCTION

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CONTENTS

Foreword	4
Modern Slavery	6
The Global Picture	8
Changing Legislation	12
CASE STUDY: New York University Campus, Abu Dhabi UAE (2010 – 2014)	13
VIEWPOINT: Qatar one year on	16
Next Steps	19
Appendix	22

FOREWORD

BY CHRIS BLYTHE,
CHIEF EXECUTIVE, CIOB



Construction is a bipolar industry. On the public side, we create inspirational buildings, pushing the boundaries of architecture and technology; solving ever more difficult challenges.

The dark side - the systematic exploitation of millions of vulnerable migrants - is rarely acknowledged, even by the clients and multinationals that commission and create our shiny new cities.

Our sector is rife with human rights abuses. Bonded labour, delayed wages, abysmal working and living conditions, withholding of passports and limitations of movement are all forms of modern slavery.

And our business models must take a large part of the blame: the global trend towards outsourcing and cut price contracting makes it easy for main contractors to duck out of their responsibilities. The plight of the most vulnerable gets lost among the long and complex supply chains. It's too convenient to blame the subcontractor or poor local legislation.

You might think that modern slavery is not a problem where you work. Think again. Human exploitation is a global issue, embedded both in the developed and developing world. And it's just as prevalent in construction as in other industries, from Northern Canada to New Mexico, from Japan to Jaipur, from Europe to the UAE.

Slavery is also a problem on UK construction sites. Home Office officials tell me that many in positions of influence and power are turning a blind eye to obviously forged documents, even on large scale projects. In doing so, they are not only colluding in exploitation, they are supporting organised crime.

At present, global attention is mainly focussing on high profile projects for world events such as the FIFA World Cup in Qatar, or next year's Olympics in Brazil. In the future, it will be more difficult to hide abuses in any country. New legislation, such as the UK Modern Slavery Act, will force large organisations to report annually on human rights issues within their supply chains both at home and overseas.

Our business model is predicated on passing risk down the supply chain. But these risks are never passed down in reality, they remain ethically and morally the responsibility of the people at the top. So it's time to change the business model and to start facing up to our responsibilities. Not taking action now could lead to untold reputational damage and commercial risk.

CIOB is at the heart of this debate. Last year's Members' Forum in Qatar was a watershed moment as we discussed CSR and the respect for people agenda in the region. We also signed a memorandum of understanding with the government client, the Qatar Foundation, encouraging uptake of their migrant worker welfare initiative through CIOB membership.

We've since been working with a range of organisations including Amnesty International, the Institute for Human Rights and Business, the Home Office, the Department for Business, Innovation and Skills and Engineers Against Poverty, as well as other industry bodies, to find a way forward internationally.

This paper is intended to kick-start discussion on what we, as individuals and organisations, can achieve. It's easy to feel powerless against what seems like relentless commercial pressure and global trends. But you would be surprised at what is possible.

As managers on some of the world's highest profile projects, CIOB members are in a unique position to influence for good. If we work collectively, we can make a difference.

MODERN SLAVERY

There are an estimated 36 million enslaved people globally. Modern slavery has been found to exist in 167¹ countries.

The Index ranks the UK 124th out of 167 countries, with an estimated 8,300 people in modern slavery. However, Home Office figures suggest that this number could be considerably higher – up to 13,000 people.

The International Labour Organisation (ILO) divides the issues into three broad categories:

Unfree recruitment:

- Deceptive recruitment, when a person is recruited with false promises about work and employment conditions, content or legality of employment contract
- Forced recruitment, when someone is forced to work for the employer against their will.

Work and life under duress:

- An excessive volume of work
- Tasks that are beyond what can reasonably be expected within the framework of national labour law
- Situations of coercion, degrading living conditions; limitations on freedom
- Forced overtime

Impossibility of leaving an employer:

- Being excessively dependent on one employer
- Use of threat or financial penalty that make it impossible to leave
- Confiscation of identity papers/passport and travel documents

¹ [*The Global Slavery Index, 2014*](#)

“The difficulties facing construction workers, and especially migrants, have always existed but the scale and intensity has increased in the last 10 to 15 years alongside increased outsourcing, the growth of agency labour and bogus self-employment.

Construction work is hard and where workers have a choice - mainly in the more developed parts of the world - many prefer not to work in the sector. The gap is filled by migrants from low wage economies travelling to richer countries in the hope of lifting their families out of poverty. Due to wage differentials, we've seen people with PhDs labouring on construction sites. But the balance of power is never in their favour. Every delayed payment or dispute can have devastating consequences for the labourers.

Contractors are often oblivious to unscrupulous labour agents or subcontractors that are withholding money, or forcing employees to work at a lower than previously agreed rate. Some workers are not paid for months, years, or even until the project is completed. Many are literally starving while continuing to send as much money as possible back to their families.”

Jill Wells, Senior Researcher, Engineers Against Poverty

THE GLOBAL PICTURE

It's easy to get a distorted picture of slavery and bonded labour. Media stories tend to be triggered by high profile prestigious projects, such as Qatar's work for the FIFA World Cup, or by tragic accidents such as the 23 cockle pickers who died in Morecambe Bay in 2004, or the collapse of the Rana Plaza in Dhaka, Bangladesh, where more than 1,000 garment workers died and a further 2,500 were injured.

But human rights abuses are prevalent across the globe, and workers can be just as vulnerable in their own countries as they are abroad, as the following construction-related examples illustrate:

CHINA

Low-skilled temporary migrant workers account for roughly four fifths of the workforce in China, which is expected to overtake the USA, becoming the world's largest construction sector by 2018.

"Because the vast majority of construction workers are temporary migrant workers, often without the right of residence in urban areas, they have been subjected to various forms of exploitation. By 2011 there were almost 45 million peasant workers employed in the sector, the vast majority labouring outside their own township..."

"...The majority do not receive written labour contracts and often only have verbal agreements with subcontractors. Thus, when their wages are delayed or are never, in fact, paid, they have little direct formal recourse."

Development Viewpoint 77, Centre for Development Policy and Research, School of Oriental and African Studies (SOAS), June 2014

INDIA

"In the greater Delhi area, 99 per cent of the [construction] workers are migrants from other regions... living conditions of workers (and sometimes their family members) are poor, whether they reside in worksites or labour camps. Toilet and water facilities are inadequate and space is highly congested. Electricity supply is limited during both mornings and evenings."

CANADA

“More than half of construction workers complained about work-related health problems... They wear no protection of any kind at work yet face major health risks, such as pervasive dust particles and the constant danger of accidents...”

Development Viewpoint 80, Centre for Development Policy and Research (SOAS), July 2014

“The Canadian government has dramatically increased its Temporary Foreign Workers programme over the last decade, leading to an influx of predominantly unskilled workers from Mexico and Latin America.”

“Because of the constraints of their temporary visas, unskilled migrant workers are highly dependent on their employer. Fear of being sent home prevents them from voicing concern about working conditions and health risks. Unlike their skilled colleagues, they are largely unable to join or form unions.”

“The plight of migrant workers has been made worse by major cutbacks in the public sector. These have led to a significant reduction in the number of government inspectors that can hold employers to account.”

Dr. John R. Calvert, Faculty of Health Sciences,
Simon Fraser University, British Columbia, 2015

“Alberta currently has the highest per capita use of migrant workers, largely due to the oil sands projects – 22 times higher than the rest of the Canada – and their situation reveals troubling rates of mistreatment. As a 2010 audit by the Alberta Ministry of Employment and Immigration discovered, 74 per cent of migrant workers were mistreated by their employers, who typically violated labour laws on overtime, holiday and vacation pay.”

The Invisibles: migrant workers in Canada,
Alberta Federation of Labour, 2013

THE GLOBAL PICTURE

UK

“Labour exploitation is the second most common form of modern slavery exploitation in the UK, after sexual exploitation – 37 per cent of potential victims referred to the National Referral Mechanism in 2013 had experienced this form of modern slavery... The most common forms of labour exploitation reported by victims identified by the National Crime Agency Strategic Assessment in 2013 were in the block paving, agriculture, food and construction sectors...”

Department for Business, Innovation & Skills, 2015

USA

“Unskilled migrants, predominantly from Mexico and Central America, account for approximately 25 percent of the construction workforce in the USA. Undocumented and largely working without union representation, they are highly vulnerable to exploitation.

Across the country, the biggest problem that construction labourers face is wage theft by unscrupulous subcontractors. There have also been cases of workers trapped in locked facilities, forced to work in slave-like conditions.

Compared to their skilled colleagues, migrants are also exposed to higher levels of risk on site. A recent study by the Labour Occupational Health programme in California found that injury and fatality rates were disproportionately high among Latino workers, compared to the sector as a whole.”

Dr Susan Moir, Director of the Labour Resource Centre,
University of Massachusetts, Boston

The following extracts are from an International Labour Organisation (ILO) report on migrant workers in the Gulf:

“...27 per cent [of migrant workers in the UAE] said their monthly salaries had been fluctuating or irregular over the previous 12 months... 38 per cent had not received all the pay due to them from work in the previous three months because the employer had held back wages; of those, 90 per cent were construction workers.”

“Throughout the region, migrant workers complained about unacceptable living and working conditions. Afghan construction workers in the UAE said: ‘15 of us sleep in a room of 25 metres square and at times we can be up to 25’.”

“Employers [in the region] frequently use threats and insults... An Egyptian construction worker in Lebanon admitted: we are often blackmailed by the employer’.”

“Another Egyptian worker in the country added: ‘Most of the time, when you have a sponsor, he controls everything... We don’t have the option to leave our sponsor because it’s very difficult to find another one... If you leave, you become illegal and will have problems with the authorities who will detain you’...”

“For low-skilled workers, passport retention is widespread and workers frequently have to pay to get their passports back... A Nepalese community leader in the UAE admitted: ‘Companies will sometimes keep the passports of low-skilled workers, but never the middle and high skilled ones’...”

Helen Harroff-Tavel and Alix Nasri, *Tricked and Trapped, Human Trafficking in the Middle East*, International Labour Organisation (ILO), 2013

CHANGING LEGISLATION

Pockets of legislation are taking effect around the world that will force larger companies to be more accountable for their supply chains. As these laws will force organisations to take responsibility for human rights issues both at home and abroad, their influence is likely to be far reaching over the longer term.

- **The California Transparency in Supply Chains Act 2010 that came into effect in January 2012 requires certain companies to report on their specific actions to eradicate slavery and human trafficking in their supply chains.**
- **The European Non-Financial Reporting Directive will come into force in EU countries in 2016, forcing organisations with more than 500 employees to file annual reports on a range of non financial aspects including human rights, bribery and employee working conditions.**
- **The UK Modern Slavery Act of 2015, which received Royal Assent in March 2015, covers slavery, servitude, forced or compulsory labour and human trafficking. Similar to the Bribery Act of 2010, it will apply to all large businesses carrying out business in the UK, including partnerships and companies registered overseas, and their worldwide operations.**

Significantly, the act makes it clear that the consent of the victim is not an automatic defence. Under the act, a commercial organisation must prepare a slavery and human trafficking statement for each financial year detailing:

- **The steps the organisation has taken that year to ensure that slavery and human trafficking is not taking place – in any or its supply chains or parts of its business.**
- **Or a statement that the organisation has taken no such steps.**

Although the act will not mandate organisations to publish details of their activities, CIOB believes that social and shareholder pressure will increasingly force them to comply. Failure to report will put the organisation at reputational and financial risk, and could damage relationships with key stakeholders.

CASE STUDY

NEW YORK UNIVERSITY CAMPUS,
ABU DHABI UAE (2010 – 2014)

How do projects go wrong, even when the client is trying to act responsibly?

CASE STUDY
NEW YORK UNIVERSITY
CAMPUS, ABU DHABI UAE
(2010 – 2014)

New York University (NYU) Campus project in Abu Dhabi, UAE, is a salutary lesson of how a client can fail to protect workers rights, despite setting out with the best intentions.

Recognising the difficult working conditions and abusive labour practices that labourers often encounter in the region, client NYU published a set of fair employment guidelines before construction work began on site, also implementing a compliance monitoring regime.

NYU's original intention was to ensure that the guidelines should protect all 30,000 workers engaged through the lifetime of the construction programme. But the university campus quickly began to attract negative and damaging headlines.

Among the accusations in The New York Times, The Guardian and The Times articles and NGO reports were that workers had paid exorbitant recruitment fees (an illegal practice in the country), and were earning lower than agreed wages and living in poor quality accommodation. Workers had also been forced to give up their passports to their employer, in contravention of NYU guidelines.

What had gone wrong?

A report produced by independent investigators Nardello & Co. for NYU (published in April 2015) found that a major source of the problem was not the guidelines themselves – which they described as ‘admirable’ and largely being complied with – but that the contractors and monitors were redefining who would fall within their parameters.

For practical reasons, exemptions to the guidelines had been introduced to a narrow group of workers whose involvement in the project was more peripheral – such as vendors delivering goods to site. Unknown to the client, contractors on site began to expand the exemptions to other areas: subcontractors whose work fell below

US\$1 million; workers who were on site for less than 31 days at a time, or had gaps of 30 days between visits. There was a lack of clarity among monitors about how the exemptions should be applied and interpreted.

As a result, subcontractors were financially incentivised to break the contracts into smaller sizes, reducing their labour costs, and increasing profit. Nardello estimated that between 30 and 35 per cent – or around 10,000 workers, were ultimately not protected by the guidelines.

The most prevalent violations of the guidelines, according to Nardello, were payment problems. NYU has since pledged to reimburse workers' recruitment fees.

Aside from the human misery that the exemptions created, the international scandal was highly damaging to the reputations of international contractors, monitors and client. As modern slavery stories move higher up the news agenda, it's likely that prestigious projects such as this will receive increasing international attention with more scandals to follow.

The Nardello report's recommendations include:

- **Abolishing exemptions so that all workers are protected by the same guidelines**
- **Simplifying the compliance monitoring regime from several parties to one central party**
- **Stronger penalties for compliance violations**
- **Increased number of worker interviews and payroll audits**
- **Monitors to have control over a segregated bank account for compliance –related pay and to directly pay workers that have not received wages or, alternatively, to pay the subcontractor when proof is provided that workers have been paid.**

VIEWPOINT: QATAR ONE YEAR ON

BY STEPHEN LINES FCIQB,
SENIOR COMMERCIAL
MANAGER, QATAR RAIL

Last year's Members' Forum in Doha, Qatar shone the light on the unique human rights challenges faced by this tiny Gulf State. Qatar's migrant workforce now tops 1.6 million, easily accounting for 85 per cent of the population. An estimated half a million foreign workers are working within the construction sector, predominantly on major infrastructure and stadia programmes ahead of the 2022 FIFA World Cup.

In full glare of the global media, human rights violations on Qatari projects have been well documented, from late or missing payments, to poor living and working conditions, or being forced to work for lower than agreed wages. As is the case in most of the Gulf region, workers are left vulnerable by the kefala system, which ties them to an employer who keeps their passport, leaving them powerless to protest at their treatment, or leave their job without repercussions.

But change is happening fast, under the country's Migrant Worker Welfare Initiative – locally known as Karama (meaning 'dignity'). New legislation has forced a step change in payment mechanisms. On all projects money is now transferred electronically to individual bank accounts, and the practice is spreading rapidly.

Employers must issue regular statements declaring how much they have paid their workers each month. Companies that don't pay on time are increasingly like to get a call or visit from a government official: Qatar's Ministry of the Interior has taken on an additional 250 inspectors over the past six months to ensure that standards are upheld.

The Qatar Foundation has also set up a confidential hotline for workers. It's easy to write this off as a PR stunt, but I have anecdotal evidence that the service is being used, and that workers trust that their complaints will remain anonymous.

New higher quality accommodation blocks have been constructed with some 2,000 workers now housed in conditions befitting a healthy existence and space for 25,000 due to open shortly.

The government is taking steps to do the right thing. As an example, new legislation has been passed to install air conditioning on workers' transport. But it cannot act alone. Support from professionals working at the top of the supply chain is essential to ensure that good practice is upheld and enforced among all teams. We need to be mindful, also, that anyone working without documentation in Qatar's informal economy will receive no protections whatsoever.

I've been working in the Gulf for 13 years. Every day I've seen expats turn up to site in their air conditioned SUVs or luxury cars, witness violations and abuses, and drive away from the problem.

We need to start changing attitudes not only inside Qatar but through the entire region. Improving the lives of vulnerable workers should be the responsibility of anyone who is a CIOB chartered member.

“...enterprises, regardless of their size, sector, operational context, ownership and structure, should respect human rights wherever they operate. Respect for human rights is the global standard of expected conduct for enterprises independently of states’ abilities and/or willingness to fulfil their human rights obligations, and does not diminish those obligations.”

OECD Guidelines for Multinational Enterprises, 2011

NEXT STEPS

Creating viable and effective frameworks and assurance schemes seems to be the logical next step towards protecting human rights within our industry's supply chains.

But, as New York University's experiences in the UAE illustrate, such schemes must be developed, embedded and monitored with care. They should be a central part of the business, not something that is arbitrarily bolted onto a CSR report. Contractors should be prepared to open their supply chains up to independent scrutiny. The process will not always be comfortable, but it will be an essential catalyst for driving genuine change.

CIOB is currently in discussion with a number of government and non-governmental organisations, as well as tier one contractors and industry bodies. Our ultimate aim is to provide a toolkit to help organisations become more socially responsible.

We now need your help. CIOB members are working in senior roles across the globe: your collective experience and views will be invaluable as we navigate this difficult and emotive topic.

Tackling human rights issues may feel overwhelming in an international context, but organisations don't need to act alone. We can work faster if we collaborate together.

Act with us now. Don't get left behind.

“When monitoring their operations to detect possible human rights violations, there is sometimes a tendency to turn the process into a box-ticking exercise, but companies should avoid this. They should carry out genuine due diligence using international standards — such as the OECD guidelines on multinational enterprises — to guide them, rather than hide behind contracts or inadequate local legislation to defend a lack of action.

Amnesty International has seen cases of main contractors and clients reluctant to send a sack of rice to workers employed by subcontractors, who were struggling for food, apparently because they did not consider that the workers were their direct responsibility and that this would set a precedent. Within the context of multimillion — or billion — dollar developments, which often provide generous rewards for foreign professionals and skilled labour, this position is not only untenable and out of line with international standards, it betrays a loss of perspective of the real human impact that labour abuse can have.

Companies need to think through the consequences of their actions. They may feel, for example, that they have done their duty by terminating the contracts of subcontractors that are not paying workers. But if they fail to put the right protections in place, they could be leaving labourers in an even more vulnerable and precarious situation than before.”

**James Lynch, Head, Business and Human Rights Team,
Amnesty International**

CIOB would like to thank Engineers Against Poverty, Amnesty International, BIS, Institute for Business and Human Rights and the European Institute of Construction Labour Research for helping us research this document.

APPENDIX

The following Dhaka Principles for migration with dignity, published in 2011 by the Institute for Human Rights and Business, are a good basis for starting discussions:

- Core Principle A: All workers are treated equally and without discrimination
- Core Principle B: All workers enjoy the protection of employment law
- Principle 1: No fees are charged to migrant workers
- Principle 2: All migrant worker contracts are clear and transparent
- Principle 3: Policies and procedures are inclusive
- Principle 4: No migrant workers' passports or identity documents are retained
- Principle 5: Wages are paid regularly, directly and on time
- Principle 6: The right to worker representation is respected
- Principle 7: Working conditions are safe and decent
- Principle 8: Living conditions are safe and decent
- Principle 9: Access to judicial remedy/credible grievance mechanisms is provided
- Principle 10: Freedom to change employment is respected and safe, timely return to home country is guaranteed.



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