

**Speech by John Morrison relating to OSCE conference:
“Ethical issues in Preventing and Combating Human Trafficking”**

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**Panel 1: Ethical sourcing to prevent forced labour and trafficking in human beings
in the private sector**

I would like to thank the OSCE and the Alliance Against Trafficking in Persons for inviting the Institute for Human Rights and Business to speak to you today. I want to challenge us all to be as concrete as possible about the actions that governments and businesses can take to make a valuable contribution to the global fight against human trafficking. But identifying tangible actions is tricky: it is a complex problem.

The minimum estimate by the International Labour Organisation is 20.9 million persons in forced labour and human trafficking globally, of which 3 million are in the OSCE area and at least 880,000 are in the EU. Yet according to the 2014 US TIP Report, in 2013 there were only 44,758 victims identified globally, and even less prosecutions, 9,460 and only 5,776 globally.. This in a more general context where human exploitation has diminished - from a world, only 250 years ago, when 75% of the world's population were the subjects of economic exploitation – as slaves, serfs or peasants tied to land they did not own. We need, as Adam Hochschild would put it, a similar business and human rights revolution to that which outlawed slavery from most of the world between 1780 to 1880. The challenge we have is that much contemporary human trafficking is insidiously hidden and wrapped into the complex set of relationships that define the modern era.

First, however, it needs to be stressed that businesses have much in common with the wider issue of human migration. Trading between peoples and the movement of people have been part of the human condition for thousands of years. This has been generally a positive symbiosis. Migrants are themselves often great entrepreneurs, and business itself creates opportunities for worker migration. Most often worker migration is legal and often encouraged by governments, particularly if we note the role that remittances play in many poorer economies. But in addition to legal migration, many millions of migrants are

smuggled across borders every year, for reasons of work or asylum, and they too are vulnerable to human rights abuse, as recent events in the Mediterranean have reminded us. In fact those reliant on human smugglers are perhaps some of the most vulnerable to be trafficked – what starts as a smuggling relationship can become a fully exploitative one. Therefore government and business policies on human trafficking cannot be separated completely from wider issues of worker migration or worker exploitation.

On balance, business has much to gain from worker migration. This at a time when business itself can be seen as an ever more complex web of value chain relationships – it has actively sought to separate its units of production around the globe for reasons of efficiency, diminishing liability and flexibility. Managing these relationships poses a challenge for many companies. It is only comparatively recently that companies have become aware of the human vulnerability that can exist within this web of relationships, ranging from the supply chain to consumer marketing, mergers and acquisitions to product licensing, human resources to finance.

It is often said that the true social cost of production is externalized from the price paid by powerful international companies, and also by the low prices consumers also now expect to pay. Recent events in Bangladesh have highlighted how human rights can be squeezed out of business relationships. Neither “The Alliance” or “Accord” of companies working to deal with the systemic failings that led to the Rana Plaza disaster earlier this year, in which over 1,100 workers died, would say that the tragedy was in any way a random act of god. Rather it was the result of human vulnerability that had not been adequately addressed by government officials and companies, one in which corruption also played its role. It is no coincidence that Bangladeshi migrant workers (the sisters and brothers of many of those who died in the factory collapse) still remain amongst the most vulnerable in the world, prone to exploitation in receiving countries, and in the worst cases to forced labour or trafficking.

Both sexual and worker exploitation can be found in “normal” recruitment chains around the world. It is for this reason, that my Institute – working with the Government of Bangladesh, community organisations, International Trade Unions, international brands and the global recruitment industry, launched the **“Dhaka Principles for Migration with Dignity”** in 2011 – setting out 10 “human rights due diligence” steps that any business should apply to its business relationships – in particular within sectors or geographies

where the risk of trafficking and exploitation is highest. This builds directly on the relevant ILO standards. Practices such as passport retention or the prepayment of recruitment agency fees by the worker, and not the employer, lead directly to creating the kind of vulnerability that can result in human trafficking. The ***Dhaka Principles*** are relevant to any labour agency anywhere in the world and within any industrial sector – sexual and worker exploitation knows no geographic border.

Trafficking is an international crime and those who perpetrate the crime are indeed criminals deserving of punishment. However, to prevent trafficking we need also to think about the relationships where businesses might unwittingly contribute to the abuse. In many ways, human trafficking can also be understood as “a flawed and abusive recruitment process”.

Yet, even today, most companies are unaware of how third party labour providers interact with their own value chains, and the risk that bad practice engenders. For too many companies, risk is still thought of exclusively in financial or operational terms, and not in terms of human risk.

The 2011 United Nations Guiding Principles on Business and Human Rights, as well as the OECD and European Union instruments that follow them, state that businesses and governments must indeed provide adequate remedies, but so too must business undertake appropriate due diligence to prevent harm and to mitigate potential adverse impacts. Within the context of an international crime such as trafficking, business leaders must not just avoid criminal culpability but also ensure that their companies have taken appropriate steps to minimize the risk of them contributing, or being linked to, harms perpetrated by others.

As Professor Ruggie, the former UN Special Representative on Business and Human Rights (and now incidentally my Chair), businesses must “know and show” they are respecting human rights. But the critical questions then are now:

- How much knowledge about harms such as human trafficking should a business seek to acquire?
- How should it act on this knowledge?
- How transparent should it be about its risks and potential adverse impacts?

From a criminal law perspective, there is a clear disincentive for business leaders to have knowledge about grave abuses such as human trafficking, but now we are expecting these same companies to actively seek knowledge in order to prevent. Through time, this gap between “known” and “should have known” will start to close – as it has on business-relevant issues such as corruption or health and safety – but at the moment most business is generally uncertain about how proactive it should be in acquiring knowledge about human trafficking. Compare this with the USA where the Federal Government now requires business to undertake human rights due diligence in relation to trafficking, to report on its risks and mitigations, and that the state itself should also undertake due diligence in terms of its public procurement. The Brazilian Government has gone still further, publishing a “dirty list” of all companies judged to have benefited from modern forms of slavery including trafficking.

The “show” requirement is also now also in place in California – where its supply chain legislation specifically targets trafficking, contemporary slavery and forced labour. We have yet to see such legislation in the UK will include such requirements. Greater clarity for business must come, in one form or another, or else UK business is left exposed and uncertain about the expectation of government in due diligence terms.

In the meantime we have the ***Dhaka Principles*** and increasingly business and others are developing related thinking and guidance around their own operations and specific sectors. One such example is the ***SEE Formula Guidance*** (Scrutinise, Engage Ensure) that we promoted to all hotels in London at the time of the 2012 Olympics through the lens of the ***Staff Wanted Initiative*** a joint project between ourselves and Anti-Slavery International. The guidance has been widely supported, including by the Metropolitan Police who are concerned by the level of sexual and labour exploitation to be found less than a mile from where we sit today. We also worked with the European Commission in 2012 to develop human rights guidance for the global recruitment industry, which has been promoted by the industry leaders themselves via the CIETT global business association.

Many businesses clearly want to do the right thing on trafficking, as can be seen by the broad-scale endorsement of initiatives such as the Business Coalition Against Trafficking. The leadership of the UK Government on business and human rights issues internationally

encourages us to believe that combating sexual and labour exploitation will remain non-partisan priorities for all the UK's main political parties.

The UK has twice as many private sector recruitment agencies than Germany or France and in two incidences the British Government has clarified its human rights due diligence expectations. Within the context of agriculture it has been through the Gangmaster Licensing Authority. For private security providers (for which London is one of the global hubs), it has been through the new International Code of Conduct recently launched in Switzerland. What then for recruitment providers in the construction, hotel, catering, residential care or domestic worker sectors – sectors in which experts know the risk of abuse is significant. What about the construction companies engaged in infrastructure for the 2022 Qatar World Cup – a country plagued by accusations about the abuse of migrant workers, who whilst not always trafficked are unable to resist the exploitation that results in hundreds of deaths each year?

There are a whole range of possible approaches we should consider. As well as mandating disclosure or reporting, government can legislate specific public procurement due diligence requirements for any businesses bidding for governmental contracts. Export Credit Agencies can also work to augment the “OECD Common Approaches”, based on the Performance Standards of the International Finance Corporation, to include due diligence requirements specific to trafficking in contexts where this presents a material risk. The UK's National Contact Point under the OECD Guidelines for Multinational Enterprises, can use its proactive agenda to raise awareness amongst UK companies, so too can UK Trade and Industry when encouraging investment in sectors and countries where the risk of human trafficking is high. How many UK Trade Missions have discussed the dangers of human trafficking with participating companies?

Finally, a more positive note. No business leader or entrepreneur choose their career because of a love of due diligence – unless perhaps they set up a law firm Telling businesses what they should avoid, what they should not do, will not in itself inspire the behavioural change required. The same is true on other issues such as anti-corruption – it is often better to drive such campaigns by focusing on the positive (i.e. integrity in business) and not just the language of avoidance and prevention.

So too with business and human trafficking. If labour recruitment is indeed one of the key nexus issues – then perhaps we can develop a model of what ethical recruitment might look like. There is some interesting work already underway in countries such as Nepal or the Philippines and perhaps we will see more of this also in the UK. What are the barriers such business leaders face? What are the incentives that need to be in place? How can we build a vision of talent and human dignity that both protects the rights of workers but also provides real and sustaining value to “user enterprise”. Like it or not, we are entering a future with increasing labour market flexibility and one in which labour providers will play a more and more prominent role. One only has to look at recent and generally positive labour agency legislation in China, a country almost defined economically by its internal migration, to see how international standards matter in domestic contexts. There are opportunities for businesses willing to lead on tackling exploitation across their relationships with governments, other companies and consumers. The high-level report on post 2015 UN Development Goals places a high emphasis on public-private partnerships to achieve social goals – human trafficking should be no exception.

Perhaps the USA is right in identifying public procurement as an important starting place. The State is a powerful economic actor, its procurement accounts for around 20% of a country’s GDP. As Gandhi once said: “be the change that you want to see in the world”. Governments can lead by example when it comes to tackling human trafficking in the supply chain. So too then the OSCE, we hope that that 57 governments that meet here can set some clear due diligence expectations of their companies, and in particular those that engage the services of third-party labour providers. We offer up the very clear and concrete steps in the Dhaka Principles as a model for this action, whether it be through economic incentives - public procurement requirements, trade agreements, export credit and so on – as well as clearly crafted law.

Thank you.