UN Report Highlights Concerns With Modern Slavery In Canada



The United Nations recently published the *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, following the visit of the Special Rapporteur, Tomoya Obokata, to the Canadian cities of Ottawa, Moncton, Montréal, Toronto and Vancouver between August 23 and September 6, 2023 (the "UN Report"). The aim of the visit was to assess the efforts of the Government of Canada to prevent and address contemporary forms of slavery.

The publication of the report comes just weeks after the May 31, 2024 deadline requiring qualifying entities with a Canadian business presence to file an annual report on the steps they take to prevent and reduce the risk of forced labor in their supply chain further to the adoption of the *Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act* ("Supply Chains Act"). Failure to report or the reporting of false information under Section 20 of the Supply Chains Actcould result in a fine of up to $250,000 and director criminal liability.

While the adoption of the Supply Chains Act is heralded in the UN Report as an important measure in combatting modern slavery, it insists that further measures are required to transform supply chain reporting into a meaningful exercise. Such measures would include the obligation to identify, prevent, remedy and address instances of forced labour or child labour identified as a result of the reporting, something that is currently missing from the legislation. In the 2024 Federal Budget, the Government of Canada indicated its intention to table new due diligence legislation to eradicate forced labour from Canadian supply chains and to strengthen the import ban on goods produced using forced labour.

Temporary foreign workers in Canada

In particular, the UN Report delivers a scathing assessment of the treatment of temporary foreign workers in Canada, calling Canada's Temporary Foreign Worker Program a "breeding ground for contemporary forms of slavery". The program is reproached for creating issues related to underpayment and wage theft, physical, emotional and verbal abuse, excessive working hours, limited breaks, lack of personal protective equipment, harassment, exploitation and abuse. These issues have been identified despite workplace inspections revealing generally high rates of compliance amongst Canadian employers. This serves as a reminder that the prevention of modern slavery is a complex endeavour that cannot simply be equated to compliance with local laws and requires a broader, holistic approach from organizations.

While the UN Report has recommended a series of measures for redressing the deficiencies identified, Canadian businesses are reminded in the interim of the importance of respecting laws at the federal and provincial levels aimed at protecting temporary foreign workers. Paying special attention to the treatment of temporary foreign workers is an important component for ensuring that corporate commitments to preventing and combatting modern slavery are being met.

The UN Report also serves as a reminder to employers of temporary foreign workers to be aware of the specific requirements pertaining to the employment of this category of workers which, in some Canadian jurisdictions, may include the obligation for employers to proactively inform workers of their rights under employment and labour standards legislation. This is a critical step for managing the risk associated with a variety of potential employment-related claims, including wage and hours, health and safety and harassment and discrimination issues.

Recommendations for employers

The UN Report serves as a stark and sobering reminder to Canadian businesses that issues of modern slavery not only arise in the global supply chain and overseas activities but are very much a local issue.

As such, it is important for Canadian businesses to periodically and proactively conduct risk assessments and implement appropriate measures to prevent the use of forced labour in their operations. Possible measures include, among others, policies on modern slavery, procedures for reporting non-compliance, auditing compliance with applicable employment and labour standards legislation and employee awareness training.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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