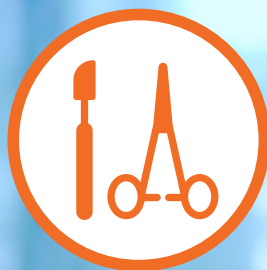


DO NO HARM?



Procurement of Medical Goods by Australian Companies and Government

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Executive Summary

There are hidden costs in the production and procurement of medical goods by Australian companies and the public sector: mounting evidence shows that there is a high occurrence of labour and human rights abuses in the production of goods such as gloves, surgical instruments, clothing, footwear and electronics. The production of these healthcare goods is tainted by hazardous working conditions, labour exploitation, child labour and other abuses.

The existence of labour and human rights abuses in medical goods supply chains has implications for Australian healthcare companies and public procurement, as the health and well-being of Australians should not come at the cost of the abuse and exploitation of workers in low-wage countries. Consequently, ethical production, procurement and management of medical goods supply chains is of critical importance.

Australian healthcare companies that produce or procure these items, as well as government, healthcare organisations and end-users, have the power and the responsibility to protect workers in medical goods supply chains. This report finds that despite their legal and moral responsibilities, the healthcare sector and government in Australia are failing to address labour and human rights violations linked to the production of healthcare goods.

The report examines Australian publicly listed manufacturers, Ansell, Cochlear, Fisher & Paykel, Nanosonics and ResMed. While all of these companies are taking some steps to address abuses in their operations and supply chains, many gaps exist. For example, none have published policies on rights of migrant workers, the use of labour hire companies, recruitment fees, provision of written payslips and contracts, and confiscation of passports. None of the companies indicate whether there is a complaints mechanism and remediation process for workers in their supply chains.

“ The healthcare sector and government in Australia are failing to address labour and human rights violations linked to the production of healthcare goods. ”



Publicly listed companies that procure healthcare goods are hardly addressing labour and human rights issues in their supply chain at all. While Ramsay Healthcare and Sonic Healthcare have a publicly available supply chain or sourcing policy, other companies examined entirely fail to publically address the risk of labour and human rights abuses in supply chains. Companies without public policies include Australian Pharmaceutical Industries Ltd, Estia Health, Healthscope, Japara, Primary Health Care Ltd, Regis Healthcare, Sigma Pharmaceuticals and Virtus Health.

Despite widespread and continuing reports of abuses, the Australian healthcare industry is approaching labour and human rights abuses reactively, instead of taking a proactive risk mitigating and remedial approach their supply chains. This means that workers continue to be exploited in producing healthcare goods for Australians.

Through their purchasing power, Federal and State government in Australia can also exert influence on labour and human rights in medical goods supply chains. Yet, procurement guidelines mainly focus on “value for money” and neglect ethical dimensions. The persistent focus on driving the prices of medical goods and raw materials down exacerbates worker exploitation and undermines attempts to improve their circumstances. Regrettably, Australia lags behind other countries that work to protect workers in global supply chains.

“Regrettably, Australia lags behind other countries that work to protect workers in global supply chains.”



Summary of Recommendations

Companies

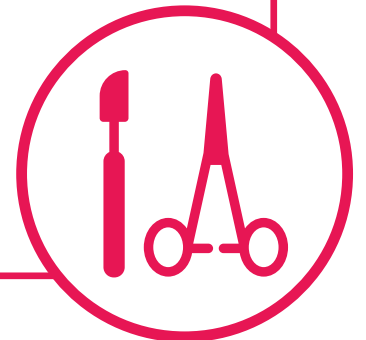
- ✓ Establish and apply a code of conduct for the entire supply chain, including sub-contractors and other third parties such as providers of raw materials;
- ✓ Consider the rights of migrant workers by prohibiting passport confiscation, and restricting the use of labour hire companies and excessive recruitment fees;
- ✓ Define working hours and minimum wage, supply a written payslip and contract;
- ✓ Protect and encourage freedom of association and collective bargaining;
- ✓ Perform labour and human rights risk assessments for operations and supply chains, disclose the location of operations and establish independent auditing systems;
- ✓ Ensure zero tolerance for discrimination, forced labour, child labour, and physical or mental disciplinary practices;
- ✓ Ensure there is a complaints mechanism and remediation process for workers.





End-Users

- ✓ Medical professionals should make a point of raising ethical purchasing of healthcare goods with colleagues and industry peers;
- ✓ Healthcare organisations should establish an ethical sourcing policy, preferably with support from the board of directors;
- ✓ Medical associations should approach suppliers and manufacturers to enquire about their operations and supply chain labour policies and practices;
- ✓ The award and renewal of contracts should depend on demonstrated efforts to ensure equitable labour conditions in supply chains.





Government

- ✓ Expand the ethical guidelines in the Commonwealth Procurement Rules and similar procurement policies at state and territory level;
- ✓ Perform and mandate risk assessments based on industry, commodity and location to determine the extent of exposure to supply chain exploitation;
- ✓ Require parties bidding for government contracts to provide information about measures they have taken to avoid labour exploitation in their supply chains;
- ✓ Make the award and renewal of government contracts, as well as subsidies to medical organisations, conditional on efforts to avoid exploitation in supply chains;
- ✓ Develop a procurement-connected policy relating to ethical supply chain practices, giving ethical suppliers a competitive advantage;
- ✓ Commit to a National Action Plan to implement the UN guiding principles on business and human rights.
- ✓ Introduce reporting requirements and require companies to perform risk assessments and demonstrate measures that mitigate human rights abuses.





Introduction

The fragmentation of labour in global supply chains is at the hands of a small number of multinational corporations: 60% of global trade in the real economy depends on the supply chains of 50 corporations, which employ only 6% of workers directly and rely on a hidden workforce of 116 million people.¹

According to the International Labour Organisation (ILO) there are almost 21 million people in forced labour around the world, 12 million of whom are located in the Asia-Pacific region.² The Asia-Pacific region also has the largest number of child labourers, almost 78 million individuals.³ Considering that seven countries in the region comprise Australia's top ten import sources,⁴ labour and human rights abuses pose a significant problem for Australia.⁵

The rise of global supply chains and obscure employment relations causes significant governance challenges. As the global economy is no longer firmly rooted in nation-states, a governance gap has emerged which threatens the protection of labour and human rights.⁶ Although enforcement of rights and laws remains a core function of the nation-state, governments may lack the capacity or willingness to regulate labour standards.⁷

These developments prompted the rise of private regulation: as transnational corporations coordinate activities throughout their operations and supply chains, they are in a unique position to influence working conditions and human rights, either directly in their own operations or indirectly through engagement with suppliers. Private regulation commonly takes the shape of codes of conduct and associated management and auditing systems.

“ There are almost 21 million people in forced labour around the world, 12 million of whom are located in the Asia- Pacific region. ”



In recent years a number of enquiries into the working conditions in the medical goods industry have been undertaken by labour unions and other civil society organisations. These studies have uncovered widespread labour exploitation and human rights abuses in several factories in Asia, including in the manufacturing of medical gloves, in the sourcing of raw materials such as latex and rubber, and during the production of surgical instruments.⁸

This report enquires into what the Australian healthcare industry, as well as federal, state and territory governments, are doing to protect the health and well-being of workers in medical goods supply chains. It assesses their publicly available policies and practices, and gauges their effectiveness for addressing the risk of known labour and human rights abuses.

Considering the substantial size of publicly listed healthcare companies, and the fact that governments spend around one quarter of tax revenue on health goods and services, Australian listed healthcare companies and governments are well placed to use their influence on the market to push for improved labour standards and better protection of workers.

“ Studies have uncovered widespread labour exploitation and human rights abuses in several factories in Asia. ”

Healthcare in Australia

1





Healthcare in Australia

The Australian healthcare sector employs 1,167,000 people, accounting for 11.6% of the entire workforce.⁹ Health spending has tripled in the last 25 years and was estimated to be \$161.6 billion in 2014-15, comprising 10.0% of gross domestic product.¹⁰ On a daily basis, Australian hospitals, general practitioners and other healthcare providers use thousands of medical gloves, surgical instruments, electronic equipment and professional clothing and footwear, as well as gowns for patients, sheets and towels.

The Australian Federal, State and territory governments spent AU\$ 108.2 billion on health in 2014-2015, respectively constituting 41% and 26% of total government expenses. Non-government expenditure makes up the remaining AU\$ 53.4 billion. Per person, AU\$ 6,657 is spent on health goods and services annually.¹¹ Considering that non-labour expenses typically comprise around 30-40% of health budgets¹², procurement makes up a large part of health budgets and needs to be managed properly.

In the private sector, 18 healthcare companies are listed on the Australian Securities Exchange (ASX) 200, which together constitute the S&P/ASX200 Health Care Index. As of 1 February 2017, their combined market capitalisation was \$AU 116.1 billion.¹³ This means that the health sector constitutes 7.3% of the total value of outstanding shares on the ASX200, making it the fourth largest industry in Australia in terms of publicly listed capital, behind the financial sector, the materials industry and the real estate sector.¹⁴

Healthcare companies listed on the ASX produce and source many goods in and from Asia. Ansell is a global manufacturer and supplier of healthcare products, gloves predominantly, and has 52 facilities in 35 countries.¹⁵ Other manufacturers of healthcare goods such as Cochlear, Fisher and Paykel Healthcare, Nanosonics and ResMed produce technical equipment. Healthcare organisations that procure goods include health and aged-care providers, specialised healthcare services, and companies that retail pharmaceuticals.

It is self-evident that healthcare goods and services are vital in ensuring the overall health and well-being of Australians, and demand for these goods and services will increase in the years to come due to an ageing population and increased life expectancy. However, this contribution to the health and well-being of Australians comes at a human cost.

“ Health spending has tripled in the last 25 years and was estimated to be \$161.6 billion in 2014-15. ”

2

Exploitation in Medical Goods Supply chains





Exploitation in Medical Goods Supply Chains

Asia is a key actor in global supply chains because of its low-cost labour, while many African countries are important suppliers of precious metals, often used in the production of electronics. While export of manufactured goods and natural resources are important economic contributors, there are concerns about the conditions to which workers in these regions are subjected, which are often exploitative and infringe on their human rights.¹⁶

Apart from the use of low-cost labour, the growing cohort of migrant labourers exacerbates labour exploitation and human rights abuses. Asian manufacturing is highly reliant on migrant labourers, who arrive through government organised programs as well as illegally. For example, in Malaysia there are over 3 million migrant workers, while in Thailand there are estimated to be at least 1.8 million, mainly from neighbouring countries such as Myanmar, Cambodia and Laos.¹⁷

Because of their insecure status, migrant workers often perform work that domestic employees will not do because it is deemed dirty or hazardous. To their further detriment, migrant labourers are often recruited by third parties that charge high fees – which sometimes need to be repaid through bonded-labour – and are known to limit freedom of movement by confiscating passports. Migrant workers comprise a vulnerable group who are systematically marginalised, putting them at great risk of human rights abuses.

Free trade agreements and export zones also undermine decent work: labour provisions in trade agreements are often weak and have inadequate enforcement mechanisms¹⁸, while export zones often loosen regulation to attract investment and companies, thereby undermining workers' rights. This is despite the fact that recent research by the ILO shows that labour provisions in trade agreements do not lead to a reduction or diversion of trade flows, but actually increase the value of trade on average.¹⁹



Another aggravating factor is the increasing precariousness of employment in Asia: contract labour and fixed-term work are becoming increasingly common, putting workers in positions where they are more easily exploited.²⁰ Precarious work holds down wages by denying workers basic labour rights, for example by frustrating efforts to form or join unions and to bargain collectively.²¹ Workers are also less likely to raise concerns for fear of dismissal.

Freedom of Association is an important instrument to protect against exploitation. Yet, in addition to workers being undermined by precarious work, many governments in Asia are involved in anti-union activities: either by manipulating the industrial relations system and not allowing independent unions, or by not permitting groups such as migrants to join unions, or by failing to enforce labour regulations.²²

These developments have also impacted on medical goods supply chains. The production of gloves, surgical instruments, clothing and electronics, as well as the sourcing of rubber and metals, are linked to abuses such as extreme working hours, inadequate pay, forced overtime, excessive recruitment fees, confiscation of passports, anti-union activities, poor safety, below-standard accommodation, physical and mental abuse, and forced and child labour.²³

Gloves

The medical gloves industry produces 150 billion pairs of gloves each year, most of which are manufactured in Malaysia, Thailand and Sri Lanka, leading to \$US 5.2 billion in revenue annually.²⁴ The manufacturing of gloves is characterised by a number of risks, particularly (accidental) exposure to toxins²⁵, handling of chemicals without adequate training and equipment²⁶, as well as exposure to extreme temperatures and dangerous noise levels.²⁷

In addition to hazardous working conditions, workers' rights are also systematically violated. For example, at the production facilities of Australian company Ansell in Sri Lanka, severe production targets resulted in workers fainting and urinating in their work stations. In addition, workers were paid less than \$US 80 cents per hour without overtime pay, and the dormitories were found to be sub-standard.

“Precarious work holds down wages by denying workers basic labour rights, for example by frustrating efforts to form or join unions and to bargain collectively.”



After concerns were raised, Ansell initially did not engage with workers and union representatives, and the local Sri Lankan trade union president was reportedly assaulted. The repercussion of a strike at the Sri Lankan Ansell factory in 2013, in sympathy with 11 dismissed workers, was the further dismissal of almost 300 workers.²⁸ After years of campaigning and dialogue, IndustriALL Global Union and its Sri Lankan affiliate have finalised a Memorandum of Understanding with Ansell that sees the majority of workers rehired.²⁹

Migrants working at the Malaysian Ansell factory were charged recruitment fees equivalent to three months' worth of wages by labour hire companies and while employed had their identity documents confiscated. In addition, following a strike ten worker representatives were dismissed. In response, Ansell hired audit company Goodpoint to inspect its Malaysian production facilities in early 2016. The audit found that identity documents had been returned to employees, while recruitment fees are now handled by the factory itself.³⁰

In January 2016 Ansell supplied the audit report to labour rights organisation Finnwatch. It found that workers are no longer contractually obliged to work overtime and passports were returned to migrant workers. Furthermore, the factory itself now pays the recruitment fees, while migrant workers are now also allowed to resign before the end of their contract. Ansell's employment contract also no longer prohibits migrant workers from joining trade unions.³¹

Ansell is not the only glove manufacturer that has been tainted by health and safety concerns and labour and human rights abuses. In March of 2016, a fire partially destroyed a facility of Malaysian company Comfort Glove.³² At another Malaysian company, Top Glove, allegedly the world's largest glove manufacturer, there have been reports of abuses that involve illegal detention of employees, being forced to hand over ATM cards and PIN codes while being physically threatened, and being beaten by security guards.³³



The Swedish NGO Swedwatch uncovered that workers at Kossan, a Malaysia-based glove manufacturer, laboured for 12 hours a day, seven days a week without receiving pay for overtime. Kossan mainly employs migrant workers whose employment is highly insecure, with tenure ranging from one year, day-to-day and even ad hoc employment. None of the workers received a contract.³⁴ In addition to passports being confiscated, not receiving a payslip, and wages being withheld without reason, workers were also physically harassed.³⁵

Thai-based glove company Sempermed also mainly employs migrant workers, who are subjected to harsh work regimes and the threat of dismissal if targets are not met. Workers routinely labour for 13 hours a day, being denied overtime pay, a contract, payslips, or leave entitlement. Migrant workers must pay excessive recruitment fees and a monthly fee for work permits, while being regularly asked to work 100 hours of overtime each month.³⁶

Although the contracts of migrant workers at Sempermed are now available in their native language, the Burmese version did not mention a salary of triple their normal pay for overtime on national holidays. The Burmese contract also stipulates that workers are not allowed to marry Malaysian citizens and that pregnant workers will be dismissed.³⁷

In summary, it can be seen that while some improvements have been made in these glove factories, there are a number of ongoing concerns such as: harsh production targets, high recruitment fees and wage deductions, identity document confiscation and under-aged workers, while migrant workers continue to be exploited and discriminated against.³⁸

Rubber

Apart from abuses in the production of healthcare goods, worker exploitation also occurs further up the supply chain, for instance when sourcing raw materials such as natural rubber. Since the cost of latex comprises about half of the total production cost of gloves³⁹, suppliers compete in a race to the bottom to deliver it as cheaply as they can.

Regrettably, this means that exploitation is also rife in the parts of gloves supply chains where natural rubber is harvested. Indeed, the United States Department of Labor, in its list of goods produced by child and forced labour, identifies Burma, Cambodia, Indonesia, Liberia and the Philippines as countries where these abuses are linked to the sourcing of rubber.⁴⁰

“ In addition to passports being confiscated, not receiving a payslip, and wages being withheld without reason, workers were also physically harassed. ”



The Scandinavian NGOs Danwatch and Finnwatch found labour abuses at rubber plantations in Malaysia and Indonesia: plantation workers typically laboured the entire week, were paid less than the living wage, used hazardous chemicals without proper equipment or training, and were employed as day labourers despite working on the plantation for a longer period of time, meaning that their employment and income is highly precarious.⁴¹

Surgical Instruments

In addition to gloves, the production of surgical instruments is also linked to labour and human rights abuses. Pakistan produces a large proportion of the world's surgical instruments such as scissors, forceps, scalpels and suture needles. This production specifically occurs in the city of Sialkot, which produces around 80% of the world's supplies.⁴² The United States Department of Labour has linked the production of these goods to the use of child labour.⁴³

In 2008, the British Medical Association uncovered that British hospitals buy surgical tools that are produced in dangerous conditions in Pakistan, where workers are exposed to carcinogenic chemicals, metal dust and high noise levels, while manufacturers employ child labourers.⁴⁴ Although the National Health Service (NHS) spends £20 billion on procurement annually, workers producing healthcare goods get paid as little as £1.40 a day.⁴⁵

An investigation by Swedwatch found children as young as seven labouring in dangerous workshops that lacked any health and safety measures.⁴⁶ While the ILO child labour conventions recognise that families rely on income earned through their children, no children younger than 13 are allowed to work, work should not interfere with their schooling, and it should not be dangerous.⁴⁷ Because of the hazardous conditions, under-aged children should not work in the production of surgical tools.

A complicating factor is that companies typically sub-contract parts of the production process to smaller workshops that frequently subject workers to appalling sweatshop conditions. Even in instances where circumstances in larger factories improve, sub-contracting continues to pose a real threat to labour and human rights. It is estimated that two-thirds of all the work in the surgical tools industry is contracted out to small and unregulated workshops.⁴⁸



The demand for cheap goods has led to cut-throat competition that undermines labour standards. Because the prices suppliers receive are low, it is difficult for them to invest in appropriate health and safety.⁴⁹ As such, pricing is a critical issue and has resulted in a race to the bottom: in some instances, prices at Pakistani manufacturers of surgical tools are the same today as they were in 2007, regardless of higher production costs and energy prices.⁵⁰

A 2015 follow-up investigation by Swedwatch found that manufacturers had made some progress, such as payment of minimum wages, limits to overtime, written contracts and adoption of child labour policies. Yet, Swedwatch also uncovered continuing violations such as the lack of health and safety, and workers not becoming permanent employees after a year, as required by Pakistani law, as well the continuing use of child labour in backstreet workshops.⁵¹

Metal

Because of the emphasis on low-cost production of surgical tools, margins are also cut at the source of the production process where raw materials are processed. Steel for the surgical instruments that are manufactured in Sialkot is sourced from the nearby cities of Daska and Gujranwala. At large forges there is a lack of adequate health and safety and no union representation. Child labour is prevalent in smaller backstreet forges and workshops.⁵²

The work that the children perform in these workshops, often six days a week up to 12 hours a day, in environments with poor ventilation and lighting, takes a high toll. A survey of 104 children working in surgical instrument production in Pakistan, compared to 75 non-working school children from the same region, found that working children had higher average urinary concentrations of steel-related metals, with values typically exceeding the adult upper limits, while working children also reported more respiratory issues and asthma.⁵³

“ The demand for cheap goods has led to cut-throat competition that undermines labour standards. ”



Garments

The clothing and footwear sector is well-known for widespread labour exploitation. Tragedies such as the Rana Plaza factory collapse have highlighted exploitative practices in the clothing and footwear industry. A number of initiatives have been taken since to address labour and human rights abuses, yet many reports by NGOs show that progress is slow and many companies lag behind.⁵⁴

Many of the initiatives to improve labour conditions have focused on the suppliers of well-known fashion brands, and have largely ignored manufacturers that produce workwear not intended for general consumers. For example, labour rights organisation Swedwatch has criticised how manufacturers of theatre and patient gowns treat their workers.⁵⁵

In Southern India, factories that dye textiles for the health sector have produced copious amounts of waste, contaminating the local environment. Another large factory in India that produces patient clothing and medical workwear has its workers, mostly women, labouring for 90 hours a week. This is much higher than the legal maximum of 60 hours. Refusal of overtime results in dismissal, as do efforts to establish a union.⁵⁶

Apart from India, patient clothing and uniforms of healthcare professionals, as well as sheets, towels, and other textiles are also produced in Pakistan. Workers at Pakistan's textile companies are often forbidden to form trade unions at the threat of dismissal. Many work 12 hours a day, six days a week, which is more than the legal maximum, while there is no overtime pay for recently hired workers. Toxic chemicals are used when dyeing and bleaching the textiles, while workers lack protective clothing and have not received safety training.⁵⁷

Cotton

Workers at Pakistan's large textiles companies are often paid wages lower than the minimum wage. Even if workers in garment production get paid the minimum wage – about US\$ 70 a month, many families cannot get by on this limited income, and are therefore forced to send their children to work at factories in activities such as cleaning cotton.⁵⁸



Cotton is closely associated with the use of child and forced labour. The majority of child labour in the world is found in agriculture, where 59% of child labourers between four and 17 years old are found.⁵⁹ Both cotton and garments top the United States Department of Labor's list of goods with most forced labour listings by number of countries and sectors.⁶⁰

Because cotton production is very labour intensive, frequently entire families migrate to work on farms, including children. State-initiated child and forced labour is a significant problem as well: the largest cotton producer in the world, Uzbekistan, forces adults and children – some as young as ten – to pick cotton under threat of punishment.⁶¹

Electronics

Apart from non-technical commodities such as gloves, surgical instruments and garments, other medical goods are more advanced in nature, such as electronic healthcare equipment. The vast majority of electronics manufacturing takes place in Asia, which produces both consumer electronics and specialised goods such as electronic healthcare equipment.

The Asian electronics manufacturing industry is characterised by a range of labour and human rights abuses. According to the United States Department of Labour, types of exploitation that are associated with electronics produced in Asia are child and forced labour.⁶² Prominent examples of labour exploitation connected to consumer electronics involve Apple and its supplier Foxconn⁶³, and more recently the South-Korean company Samsung.⁶⁴

Following pressure from civil society organisations, the majority of consumer electronics brands now have supply chain and sourcing policies in place that describe the minimum labour standards required from suppliers. Consumer electronics brands have been a logical target of civil society campaigns because of the threat of brand damage. However, little is known about the producers of specialised goods such as electronic healthcare equipment.

It would be naïve to assume that labour exploitation does not occur in these parts of the electronic manufacturing industry. On the contrary, it is reasonable to suggest that because of the reduced visibility in the public eye, exploitation has simply not yet been brought to light,

“ The majority of child labour in the world is found in agriculture, where 59% of child labourers between four and 17 years old are found. ”



while the push for better working conditions has not spread throughout the entire industry. In any case, every single company that produces or sources electronics or components from Asia can be expected to undertake a labour and human risk analysis.

Metals and minerals

Apart from manufacturing electronics, the sourcing of raw materials used in the production of electronics, such as tin, copper, gold, tantalum and tungsten are important raw materials for the electronics manufacturing industry, and pose a risk of labour exploitation and human rights abuses: the US Department of Labour identified 28 mined goods that are associated with forced labour, and 12 that are connected to child labour.⁶⁵

An important contributing factor is that a significant share of these resources is located in conflict-affected areas, where they may contribute, directly or indirectly, to armed conflict, including terrorist financing, human rights violations and hindering economic and social development.⁶⁶ Metals and minerals are labelled as ‘conflict minerals’ when they are sourced from the Democratic Republic of Congo (DRC) and adjoining countries. Since armed militias seized mines in 2009, working conditions have deteriorated into slavery-like circumstances.⁶⁷

Encouragingly, in the United States companies are required to undertake due diligence and make public disclosures about conflict minerals in their supply chains when those minerals originate from the DRC or adjacent countries.”⁶⁸ Yet, companies from other jurisdictions have no such requirement. China is the number one mining nation in the world, and has increased its investment in African mining by 25 times in less than ten years. A project that has attracted half a billion dollars of Chinese investment is the Kamo a copper deposit, recognised as the world’s largest undeveloped copper deposit, located in the DRC.⁶⁹

Thus it is clear that any Australian company that sources minerals from Africa or manufactures electronics in Asia is at risk of being implicated in labour and human rights abuses. Furthermore, these materials do not have to be sourced from conflict regions to be linked to labour exploitation and human rights abuses. For example, the BBC exposed the sourcing of tin from artisanal mines in Indonesia using child labour, which ultimately ended up in Apple’s supply chain.⁷⁰

3

Australian Healthcare companies





Australian Healthcare Companies

Each healthcare company will be exposed to particular types of risks associated with specific goods: manufacturers and suppliers need to focus on their own operations and those of their suppliers, as well as where they source their raw materials from. Procurers of healthcare goods, whether they are listed companies, hospitals or general practitioners, should consider the labour and human rights risks associated with the goods they purchase.

The S&P/ASX200 Health Care Index encompasses two main industry groups and six industries. The first industry group includes companies who manufacture healthcare equipment and supplies or provide healthcare related services, and owners and operators of healthcare products, providers of basic healthcare services, and owners and operators of healthcare facilities and organisations. The second industry group includes companies involved in the research, development, production and marketing of pharmaceuticals and biotechnology products.⁷¹ This report will focus on the Health Care Equipment & Services industry group.

The Health Care Equipment & Services industry group comprises 15 companies: five of which are sub-classified as Health Care Equipment & Supplies, and ten of which as Health Care Providers & Services. Companies in both groups have the responsibility to protect workers, but do so in different ways: the Health Care Equipment & Supplies companies have to make sure that they manufacture healthcare goods in a socially responsible way and that they source raw materials ethically, while the Health Care Providers & Services companies, as end user of medical goods, can be expected to source healthcare items ethically.

“Procurers of healthcare goods should consider the labour and human rights risks associated with the goods they purchase.”



Methodology

This report analyses publicly available information of the healthcare companies listed on the ASX200, such as disclosures in annual and sustainability reports, as well as in corporate governance documents such as codes of conduct and ethical sourcing policies. The criteria that are used to review the healthcare companies are based on the evidence of labour and human rights risks, as well as the development of good practice outside of Australia.

The adoption of an ethical code of conduct outlining provisions for the protection of labour and human rights, in direct operations and supply chains, is becoming increasingly common. Establishing and publicly disclosing such a policy is important for manufacturers and suppliers, as well as for procurers of healthcare goods, as it demonstrates a public commitment to redress labour exploitation while raising the bar for the industry as a whole.

Considering the issues in medical goods supply chains, both companies that produce and procure healthcare goods can be expected to establish and disclose policies that address working hours, wages, payslips and contracts, freedom of association, health and safety, disciplinary practices, and child and forced labour. Bearing in mind the dependence on migrant labour, policies should also consider the rights of migrant workers, discrimination, labour hire companies, recruitment fees, and the confiscation of identity documents.

Apart from establishing a policy, companies are increasingly expected to assess the risk of human rights abuses. The UN Guiding Principles on Business and Human Rights state: 'In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed'.⁷²



Therefore, in addition to establishing codes of conduct and ethical sourcing policies, companies are increasingly required to proactively evaluate and remediate labour and human rights violations, in their own operations and in their supply chains. Companies can do this by performing preventative labour and human rights risks assessments, by making sure that working conditions can be investigated by independent parties, and by establishing a complaints mechanism and remediation process for workers with grievances.

While both producing and procuring healthcare companies are at risk of being implicated in labour and human rights abuses, they have specific methods to influence labour and human rights standards. For example, manufacturers can establish rules for the sub-contracting of work, the sourcing of raw materials, and disclose the location of significant operations, while procurers can require their suppliers to demonstrate adherence to the policy while furthermore giving priority to ethical suppliers.

Manufacturers and Suppliers

Of the five producers of healthcare goods listed on the ASX200, four companies produce electronic equipment – Cochlear, Fisher & Paykel, Nanosonics and ResMed – while one company manufactures protective gear – Ansell. Each of these healthcare companies will be exposed to different risks, around such factors as the kinds of products they produce, the locations of their operations and the types of raw materials used.

For example, Cochlear, Fisher & Paykel, Nanosonics and ResMed are manufacturers of technical healthcare equipment. This means that their production process is linked to the sourcing of precious metals that carry labour and human rights risks. While the production of technical goods requires a high degree of skilled manufacturing, the sourcing and assembly of individual components involves the use of unskilled labour.

“ Companies are increasingly required to proactively evaluate and remediate labour and human rights violations. ”



While Cochlear mainly manufactures in Australia and Sweden, it sources components from Europe and the Americas as well as Asia.⁷³ Fisher and Paykel Healthcare manufactures and assembles all its products in New Zealand and Mexico, ‘including many components’⁷⁴, but it does not identify where it sources other components from. Nanosonics has a manufacturing facility in Australia, yet it is unclear whether they have additional production facilities overseas, and the company does not indicate where it sources materials from.⁷⁵

ResMed manufactures in Australia, France, Singapore and the United States, but sources ‘2,000 individual components or materials from over 170 suppliers’ from the Asia-Pacific region and Europe.⁷⁶ Ansell’s production of protective gear involves the sourcing of a different raw material, natural rubber, a commodity that is associated with the risk of child and forced labour. Apart from sourcing high-risk materials, the production process itself is characterised by unskilled labour, meaning there is a high risk of labour exploitation. Furthermore, many of Ansell’s manufacturing locations in Asia⁷⁷ are associated with labour and human rights risks.

Performance

Encouragingly, all five manufacturing companies have established and publicly disclosed a code of conduct concerning their manufacturing operations and their supply chains. Common among these policies are provisions concerning health and safety training and management systems: all five companies describe these key issues in their codes of conduct. In addition, three companies refer to sub-contracting and four refer to discrimination in their policies.

However, disappointingly, other critical areas concerning supply chains are less frequently addressed or not at all. Topics that are less commonly reported on, despite being identified as posing a significant risk to workers, are the regulation of working hours and minimum wages, the right to organise freely and collectively bargain, provisions to avoid unacceptable disciplinary practices and forced and child labour, as well as independent auditing of operations and supply chains.



None of the five manufacturing healthcare companies address the rights of migrant workers, the use of labour hire companies, recruitment fees, provision of written payslips and contracts, and confiscation of passports. Finally, neither do any of the companies indicate whether there is a complaints mechanism and remediation process for workers. Regardless of the documented abuses, the companies fail to address these critical issues.

Procurers

Healthcare procurers do not produce healthcare goods but can nevertheless exert significant influence on their supply chains. Purchasing power is a powerful lever that can be used to generate changes to labour conditions. Through their purchasing decisions, large procuring organisations such as ASX listed healthcare companies can influence their suppliers and encourage them to behave ethically and responsibly.

Healthcare organisations listed on the ASX200 that procure goods include private healthcare providers, aged-care providers, suppliers of specialised healthcare services, and companies retailing pharmaceutical goods. While these businesses are diverse, every one of these companies sources medical goods that are associated with risks to labour and human rights, whether concerning gloves, surgical instruments, garments or electronic goods.

As publicly listed entities, these businesses have an obligation to inform investors and consumers of the labour and human rights risks that the companies are exposed to through their sourcing practices. As a consequence, these companies can be expected to establish and disclose ethical sourcing policies, express their concerns about the production of high-risk healthcare goods to manufacturers and suppliers, and prioritise ethical business partners.

“ Purchasing power is a powerful lever that can be used to generate changes to labour conditions. ”



Manufacturers and Suppliers

	Ansell Ltd	Cochlear Ltd	Fisher & Paykel Healthcare Corporation Ltd	Nanosonics	ResMed Inc.
This concerns the publicly available policy or policies of manufacturers and suppliers of healthcare goods and describes the labour and human rights standards they impose on themselves, as well as their sub-contractors and parties they source partially finished goods or raw materials from.					
Has a code of conduct or similar policy publicly available	✓	✓	✓	✓	✓
Complaints Mechanism and Remediation Process					
Migrant Workers					
Working Hours	✓				
Minimum Wage	✓				
Payslip and Contract					
Health and Safety Management System	✓	✓	✓	✓	✓
Health and Safety Training	✓	✓	✓	✓	✓
Freedom of Association / Collective Bargaining	✓				
Labour Hire Companies / Recruitment Fees					
Passport confiscation					
Independent Auditing	✓				✓
Discrimination	✓		✓	✓	✓
Child Labour	✓				✓
Forced Labour	✓				✓
Disciplinary practices	✓				✓
Sub-contracting	✓	✓			✓*
Sourcing of raw materials					✓*
Discloses location of operations					✓
Identifies human rights risks and exercises due diligence	✓**				✓*

* Satisfies these criteria as the company is required to report under the California Transparency in Supply Chains Act, and the Dodd-Frank Conflict Minerals Act

** Satisfies this criterion as the company is required to report under the UK Modern Slavery Act 2015



Procurers

	Australian Pharmaceutical Industries Ltd	Estia Health Ltd	Healthscope Ltd	Japara Healthcare Ltd	Primary Health Care Ltd
This concerns the publicly available policy or policies of procurers of healthcare goods, and describes the requirements they have for their manufacturers and suppliers					
Has a code of conduct or similar policy publicly available					
Complaints Mechanism and Remediation Process					
Migrant Workers					
Working Hours					
Minimum Wage					
Payslip and Contract					
Health and Safety Management System					
Health and Safety Training					
Freedom of Association / Collective Bargaining					
Labour Hire Companies / Recruitment Fees					
Passport confiscation					
Independent Auditing					
Discrimination					
Child Labour					
Forced Labour					
Disciplinary practices					
Sub-contracting					
Sourcing of raw materials					
Discloses location of operations					
Identifies human rights risks and exercises due diligence					

* Satisfies these criteria as the company is required to report under the California Transparency in Supply Chains Act, and the Dodd-Frank Conflict Minerals Act

** Satisfies this criterion as the company is required to report under the UK Modern Slavery Act 2015



Procurers (continued)

	Ramsay Health Care Ltd	Regis Healthcare Ltd	Sigma Pharmaceuticals Ltd	Sonic Healthcare Ltd	Virtus Health Ltd
This concerns the publicly available policy or policies of procurers of healthcare goods, and describes the requirements they have for their manufacturers and suppliers					
Has a code of conduct or similar policy publicly available	✓			✓	
Complaints Mechanism and Remediation Process					
Migrant Workers					
Working Hours	✓			✓	
Minimum Wage	✓			✓	
Payslip and Contract	✓			✓	
Health and Safety Management System	✓			✓	
Health and Safety Training	✓			✓	
Freedom of Association / Collective Bargaining	✓			✓	
Labour Hire Companies / Recruitment Fees					
Passport confiscation	✓				
Independent Auditing					
Discrimination	✓			✓	
Child Labour	✓			✓	
Forced Labour	✓			✓	
Disciplinary practices	✓				
Sub-contracting	✓				
Sourcing of raw materials					
Discloses location of operations				✓	
Identifies human rights risks and exercises due diligence	✓ ^{**}				

* Satisfies these criteria as the company is required to report under the California Transparency in Supply Chains Act, and the Dodd-Frank Conflict Minerals Act

** Satisfies this criterion as the company is required to report under the UK Modern Slavery Act 2015



Performance

However, out of the ten healthcare procurers listed on the ASX200, only two companies –Ramsay Healthcare and Sonic Healthcare – have established and publicly disclosed an ethical sourcing policy. This is deeply troubling considering the range of labour and human rights abuses that have been exposed in medical goods supply chains.

It is possible that these companies do have policies in place to mitigate the risk of labour exploitation and human rights abuses, yet have not disclosed them. However, this lack of transparency leaves shareholders and consumers in the dark as to what the human rights impacts of these businesses are and what preventative action these companies are taking.

The two companies that do have a supplier code of conduct address health and safety training and management systems, discrimination, child and forced labour, as well as freedom of association. Regrettably, as with the manufacturing companies, migrant workers are not acknowledged as a vulnerable group of workers, and no statement is made about the use of labour hire companies and the charging of recruitment fees.

Furthermore, there is no indication that suppliers must demonstrate adherence to the policy, and there is no mention of auditing by third parties. None of the companies require suppliers to have a complaints mechanism and remediation process in place for workers. Worryingly, neither do any of the companies mention human rights due diligence in their supply chains.

“ This lack of transparency leaves shareholders and consumers in the dark as to what the human rights impacts of these businesses are and what preventative action these companies are taking. ”



Recommendations

Producing and procuring companies that currently have not established and disclosed a supply chains or sourcing policy are neglecting to publicly address the labour and human rights impacts of their business. Those companies that currently do have a policy available should acknowledge the vulnerability of migrant workers and address other critical labour and human rights issues that have so far been neglected.

- ✓ Establish and apply a code of conduct for the entire supply chain, including sub-contractors and other third parties such as providers of raw materials;
- ✓ Consider the rights of migrant workers by prohibiting passport confiscation, and restricting the use of labour hire companies and excessive recruitment fees;
- ✓ Define working hours and a minimum wage, supply a written payslip and contract;
- ✓ Protect and encourage freedom of association and collective bargaining;
- ✓ Perform labour and human rights risk assessments for operations and supply chains, disclose the location of operations and establish independent auditing systems;
- ✓ Enforce zero tolerance for discrimination, forced labour, child labour, and physical or mental disciplinary practices;
- ✓ Ensure there is a complaints mechanism and remediation process for workers.





End-Users

As the purchasing power of a procurer grows, so does the potential to protect labour and human rights. However, the reality is that many medical goods are sourced by minor procurers. Instead of having one or more large purchasers, medical goods are often sourced by individual hospitals, general practitioners or other healthcare providers. Yet, this does not mean that individuals and smaller collectives cannot play a role in creating ethical supply chains for medical goods.

End-users such as general practitioners, surgeons and nurses can act as a catalyst for change in medical goods supply chains by lobbying those responsible for supplying and manufacturing medical goods, asking them to take measures to avoid labour exploitation. Lobbying could entail individual healthcare professionals speaking to their colleagues in general practitioners' clinics or hospitals, or could involve approaching a local healthcare procurement collective, or regional or national organisations that provide health services, to discuss the importance of ethical procurement.

Apart from lobbying colleagues and industry peers, end-users can also apply pressure to suppliers and manufacturers of medical goods. This can be done by asking questions about labour standards from a sales representative, or by bringing up supply chain labour conditions during the tendering process or in contract negotiations with suppliers. Fortunately, Australian medical professionals can draw on ethical procurement guidance for healthcare organisations developed by the British Medical Association and the Ethical Trading Initiative.⁷⁸

“ As the purchasing power of a procurer grows, so does the potential to protect labour and human rights. ”



Recommendations

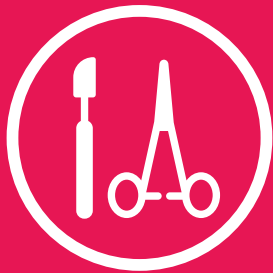
Individually, end-users of medical goods such as general practitioners, surgeons and nurses can make a difference by raising concerns with their colleagues and industry peers. Collectively, medical associations, purchasing cooperatives and worker collectives such as labour unions can ask manufacturing and procuring healthcare organisations to establish policies and demonstrate efforts to reduce the risk of labour and human rights abuses.

- ✓ Medical professionals should make a point of raising ethical purchasing of healthcare goods with colleagues and industry peers;
- ✓ Healthcare organisations should establish an ethical sourcing policy, preferably with support from the board of directors;
- ✓ Medical associations should approach suppliers and manufacturers and enquire about their supply chain labour policies and practices;
- ✓ The award and renewal of contracts should depend on demonstrated efforts to ensure equitable labour conditions in supply chains.





Public Procurement in Australia





Public Procurement in Australia

In a similar way to companies, governments can also adopt ethical procurement policies and stipulate contractual requirements that support and push decent employment practices. Indeed, considering the size of public expenditure on health, governments arguably have even more purchasing power than many healthcare companies and organisations combined.

The UN Guiding Principles on Business and Human Rights clearly define the role of national governments to respect human rights while procuring goods and services: “States should promote respect for human rights by business enterprises with which they conduct commercial transactions”.⁷⁹ The requirement of government to engage in sustainable public procurement practices is also addressed in the Sustainable Development Goals.⁸⁰

Through their own procurement, or by outsourcing or subsidising healthcare procurement to healthcare organisations, all levels of government are at a high risk of being exposed to supply chain labour exploitation and human rights abuses. Meanwhile, as the pressure on health budgets continues to grow, healthcare organisations focus on cost-cutting and savings instead of on the ethical dimensions of healthcare procurement.⁸¹

At present, an information sheet urges Commonwealth procurement officers to ensure that businesses supplying goods or services to the government are not implicated in human trafficking, slavery or slavery-like practices in supply chains.⁸² In addition, the Commonwealth Procurement Rules prohibit contractual agreement with parties that have had a judicial ruling against them, in particular concerning worker entitlements, and who have not fulfilled any resulting order from the court.⁸³

In March 2017, the Commonwealth Procurement Rules were modestly expanded with the following rule: “Officials must make reasonable enquiries that the procurement is carried out considering relevant regulations and/or regulatory frameworks, including but not limited to tenderers’ practices regarding: a. labour regulations, including ethical employment practices; b. occupational, health and safety; and c. environmental impacts.”⁸⁴



Apart from procurement policies, the Commonwealth Criminal Code has made it an offence for Australian individuals or businesses to engage in financial transactions that involve slavery, irrespective of the jurisdiction where these practices take place.⁸⁵ However, despite these provisions, no Australian company has been prosecuted for being implicated in the use of slavery or trafficking in the production of goods which have been sold in Australia.⁸⁶

Guidelines

In addition to the Commonwealth Procurement Rules, voluntary guidelines are available via the Australian Procurement and Construction Council (APCC). Their framework for sustainable procurement seeks to provide a set of principles to ‘assist the governments of State, Territory and Commonwealth jurisdictions and New Zealand to integrate the principles of sustainability into the procurement of goods, services and construction.’⁸⁷

The fourth principle of the APCC framework states that government should “[s]upport suppliers to government who are socially responsible and adopt ethical practices”, by requiring them to show commitment to sound ethics and governance, to meet requirements regarding employment and health and safety, and to consider socially disadvantaged groups. However, jurisdictions have no obligation to apply the principles.⁸⁸

The Procurement Policy Framework of New South Wales does mention the APCC guidelines, and refers to environmental and social factors in a general way.⁸⁹ The Victorian Purchasing Board has five policies, none of which explicitly mention ethical sourcing, and four directives, the first of which mentions ‘value for money’.⁹⁰ The Queensland Procurement Policy is based on six principles, the first of which is ‘we drive value for money in our procurement’.⁹¹

While it is to be expected that different procurement policies exist in states and territories across Australia, the current procurement policies are consistent in predominantly focusing on costs. The provisions for ethical sourcing are marginal or non-existent and are entirely overshadowed by the demand for value for money.

“ The provisions for ethical sourcing are marginal or non-existent and are entirely overshadowed by the demand for value for money.”



Risk Assessments and Disclosures

In order to determine the degree of exposure to exploitation in supply chains, it is critical that governments in Australia perform risk assessments that identify labour and human rights risks on the basis of location, industry and commodity. Such due diligence would involve designing appropriate and preventative responses to ethical breaches.

Beyond performing risk assessments, governments can also impose reporting requirements on companies bidding for government tenders or organisations that receive government subsidies. For example, governments could require suppliers to perform their own risk assessment of their operations and supply chains, and ask them to demonstrate what actions they are taking to prevent or mitigate the risk of labour and human rights exploitation.

To send a clear message to current and aspiring suppliers, as well as to healthcare organisations that receive government subsidies for procurement, compliance with such reporting guidelines would have to be a prerequisite to engage in a financial transaction with government or a government subsidised organisation, while non-compliance would ultimately result in the termination of contracts or subsidies.

Procurement-connected policy

In addition to establishing more detailed ethical procurement guidelines, performing risk assessments and introducing disclosure requirements that describe efforts to avoid labour exploitation, the government also has the option to create a *procurement-connected policy* concerning supply chain exploitation.⁹²

Procurement-connected policies apply to all non-corporate Commonwealth entities. The Australian government has currently developed such policies on indigenous procurement, requiring a percentage of contracts to be awarded to indigenous businesses; and on gender equality, where suppliers are required to obtain a letter of compliance from the Workplace Gender Equality Agency.⁹³



The development of a procurement-connected policy addressing labour and human rights abuses would articulate the commitment as well as expectations of the Australian government concerning exploitation in supply chains. In addition, it would put ethical suppliers at a competitive advantage, and would harness market forces to stand up for workers in the medical goods industry and other sectors that have a high risk of exploitation.

Other countries

Several governments and governmental departments in Europe have recently developed and implemented policies that aim to protect workers in medical goods supply chains. This includes the procurement of health products nationally in Norway, and by regional governments in Sweden, as well as by the NHS in the United Kingdom.⁹⁴

In Norway and Sweden, medical goods suppliers are required to demonstrate minimum labour standards, and must allow procurers to perform an audit of labour conditions if desired. Two regional governments in Sweden have so far funded the monitoring of labour rights in their supply chain for gloves.⁹⁵

In the UK, the Labour Standards Assurance System (LSAS) requires suppliers in the NHS supply chain to demonstrate they exercise due diligence and have systems in place to diminish risk of labour and human rights abuses. Compliance is verified by a third party, allowing the NHS to show its stakeholders that labour standards in supply chains are being managed effectively.⁹⁶ LSAS has become a cornerstone of the NHS Ethical Procurement Strategy.⁹⁷

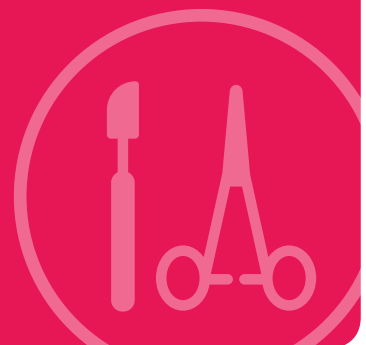
“Several governments and governmental departments in Europe have recently developed and implemented policies that aim to protect workers in medical goods supply chains.”



Recommendations

The developments in other jurisdictions in the world make it clear that the Australian government does not have to reinvent the wheel when it comes to ethical procurement in the healthcare sector, but can learn from best practices overseas.

- ✓ **Expand the ethical guidelines in the Commonwealth Procurement Rules and similar procurement policies at state and territory level;**
- ✓ **Perform and mandate risk assessments based on industry, commodity and location to determine the extent of exposure to supply chain exploitation;**
- ✓ **Require parties bidding for government contracts to provide information about measures they have taken to avoid labour exploitation in their supply chains;**
- ✓ **Make the award and renewal of government contracts, as well as subsidies to medical organisations, conditional on efforts to avoid exploitation in supply chains;**
- ✓ **Develop a procurement-connected policy based on ethical supply chain practices, giving ethical suppliers a competitive advantage.**



5

Regulatory Developments outside Australia





Regulatory Developments outside Australia

A recent report published by Catalyst Australia has identified a number of supply chain reform initiatives around the world which have been developed as a response to human rights violations in supply chains. It finds that existing Australian regulation to address supply chain issues is less robust compared to best practice overseas.⁹⁸

However, there is scope to expand Australian regulation concerning the labour and human rights abuses in supply chains, based on international best practice. The report argues that Australia should learn from measures taken in other jurisdictions and take urgent action in the face of continuing reports of labour exploitation and human rights issues in supply chains.

International

Nation-states have an obligation under international law to protect human rights, which includes protecting against abuses perpetrated by private actors. The G20 Labour Ministers, following their meeting in Melbourne in 2014, encouraged the implementation of international labour standards by governments and promoted responsible business practices and ethical supply chain engagement with reference to international standards.⁹⁹

The UN Guiding Principles on Business and Human Rights were unanimously endorsed by the UN Human Rights Council in 2011, following a resolution co-sponsored by Australia. They comprise international human rights standards based on three pillars: (1) the state duty to protect human rights; (2) the corporate responsibility to respect human rights; and (3) greater access by victims to effective remedy, both judicial and non-judicial.¹⁰⁰

The UN Guiding Principles on Business and Human Rights seek to move beyond the dichotomy between voluntary and mandatory standards, by creating a framework that requires governments to protect individuals from business-related human right abuses, and demands that businesses respect human rights. Thus they provide a common global platform for corporate accountability.

“ Existing Australian regulation to address supply chain issues is less robust compared to best practice overseas. ”



The development of a National Action Plan (NAP) is a process used by governments to translate the UN Guiding Principles on Business and Human Rights into practice. Despite supporting a resolution of the UN Human Rights Council in 2014, urging states to adopt NAPs, the Australian government has not as yet developed an NAP.¹⁰¹

European Union

A 2014 directive by the European Commission requires states to implement legislation that requires non-financial reporting of ‘public interest entities’, such as listed companies, describing non-financial impacts of operations and supply chains – including on human rights, as well as measures to identify and prevent risk, based on a “comply or explain” approach”. This directive is currently undergoing stakeholder consultation.¹⁰²

Furthermore, since 2014, the European Union Procurement Directive gives authority to public procurement offers to require compliance with labour rights while tendering or awarding government contracts. This enables procuring parties to contractually shield workers from exploitation, allowing governments, hospitals and health organisation to use their purchasing power to choose socially responsible products throughout the supply chain.¹⁰³

Finally, the European Parliament passed a bill in May 2015 that enforces the obligatory traceability and monitoring of supply chains that involve conflict minerals, a measure that will affect an estimated 800,000 European companies.¹⁰⁴

United Kingdom

In the UK, as of the first of April 2015, the *Modern Slavery Act 2015* requires businesses, including those supplying goods to the public sector, with a yearly turnover of at least £36 million to disclose what measures they are taking to ensure that slavery, forced labour and human trafficking are not taking place in their own operations or at their suppliers.¹⁰⁵

This Act has global reach and potential implications for companies in Australia, as when an Australian company has a UK-based subsidiary, or an Australian company markets and sells its products and services in the UK, or an Australian company secures capital from UK sources, it will be subject to the Act.



Considering the size of some of the Australian manufacturers and suppliers of healthcare goods, it is highly likely that they will be required to disclose what actions they are taking to combat slavery and trafficking in their operations and supply chains. In February 2017, the Attorney-General George Brandis asked the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into and report on Establishing a Modern Slavery Act in Australia.¹⁰⁶

United States

In November 2012 the Dodd-Frank conflict minerals provision came into effect, which seeks to prevent the complicity of companies in the conflict in the Democratic Republic of Congo via the trade of minerals.¹⁰⁷ Initial reports under this provision show encouraging results¹⁰⁸, although critics have pointed to the low levels of verification by a number of companies.¹⁰⁹

The effect of this legislation is noticeable in the case of ResMed, which is listed on the ASX as well as the New York Stock Exchange, and is thus required to make disclosures as a result of this Act, as can be seen in the table of manufacturers and suppliers on page 16.

Furthermore, in 2012 the Obama administration announced an Executive Order, requiring Federal government contractors in the United States, with contracts that exceed \$US500 million in value, to take measures to ensure that their supply chains are free of human trafficking and slavery. The Executive Order was finalised in March 2015.¹¹⁰

At the state level, the Californian Transparency in Supply Chains Act has been effective since 2012. The Act requires companies of \$100 million annual revenues or more to “disclose [their] efforts to eradicate slavery and human trafficking from [their] direct supply chain[s] for tangible goods offered for sale.”¹¹¹

“ The
Dodd-Frank
conflict minerals
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the conflict in
the Democratic
Republic of
Congo. ”



Recommendations

As is the case with public procurement, the Australian government can learn from regulatory developments in other jurisdictions to redress supply chain labour exploitation and human rights abuses. It can be seen that regulatory developments overseas are already impacting on Australian companies, or will do so in the immediate future.

The Australian government should:

- ✓ Commit to a National Action Plan to implement the UN guiding principles on business and human rights;
- ✓ Introduce reporting requirements and require companies to perform risk assessments and demonstrate measures that mitigate human rights abuses.



Findings and conclusion

6

Findings and conclusion





Findings and Conclusion

Healthcare in Australia can only be ethical if it benefits the population while simultaneously ensuring that no labour and human rights abuses occur during the production of medical goods. Manufacturers, suppliers and procurers of healthcare goods therefore have a responsibility to protect labour and human rights in their own operations and supply chains.

While ASX listed healthcare companies – manufacturers and suppliers specifically – have established and disclosed policies addressing operations and supply chain practices following the exposure of widespread exploitation, there are many important issues that are not being addressed, in particular the plight of migrant workers in Asia and fundamental rights such as freedom of association. The performance of procurers of healthcare goods listed on the ASX is even worse, with only two out of ten companies disclosing an ethical sourcing policy.

The advent of the UN Guiding Principles on Business and Human Rights has changed the essence of corporate social responsibility, which is no longer about philanthropy but about addressing the issues that a business causes or contributes to through its operations or supply chains. The blatant failure of so many healthcare companies to address important issues in their own operations and supply chains is therefore inexcusable.

Any individual or organisation that procures medical goods should use their purchasing power to exert pressure on suppliers and manufacturers to clean up their act. Healthcare organisations and governments should put in place ethical sourcing policies and practices that can help protect workers in supply chains, while end-users can lobby those responsible for the procurement of medical goods, to encourage positive change.

“ Any individual or organisation that procures medical goods should use their purchasing power to exert pressure on suppliers and manufacturers to clean up their act. ”



The narrow cost focus in healthcare procurement is a critical factor that continues to undermine labour and human rights. In order to improve conditions in medical goods supply chains, it is vital that the sourcing of healthcare goods increasingly occurs on the basis of demonstrated ethical practices instead of on a mere cost basis, thereby giving ethically committed manufacturers and suppliers a competitive advantage.

Inaction has left the Australian government and the healthcare industry on the back foot and having to respond to regulatory developments and exploitation overseas instead of proactively dealing with these concerns. It is paramount that the Australian government and the healthcare industry shift away from reactive approaches to labour and human rights abuses in supply chains, towards proactive risk mitigating and remedial strategies.

“ It is paramount that the Australian government and the healthcare industry shift away from reactive approaches to labour and human rights abuses in supply chains, towards proactive risk mitigating and remedial strategies. ”

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