

MODERN SLAVERY AND BUSINESSES: THE ROLE OF THE AFRICAN UNION AND ITS MEMBER STATES

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“OVERSEAS CRIME
WITH OVERSEAS
EFFECTS,” (LAWYER
FOR NIGERIA)

- FT HEADLINE: 26 OCTOBER: 2022:
- **‘Nigeria fails in request for compensation over Glencore corruption**
- **London judge refuses country’s call to be paid damages when commodities group is sentenced’**

EXTRATERRITORIALITY & GLENCORE

- **Serious Fraud Office (SFO)** investigation revealed that Glencore paid US \$29 million in bribes to gain preferential access to oil in Africa.
- Application of the **Bribery Act, 2010** (similar to the effect of Modern slavery Act in an international context)
- **Mr Justice Fraser**, Southwark Crown Court : “the facts demonstrate not only significant criminality but sophisticated devices to disguise it”
- Glencore **corporate culture in West Africa**: “.... in which bribery was accepted as part of the West Africa desk’s way of doing business...”
- Glencore pleaded **guilty to 7 counts of bribery in five African countries** including Nigeria.
- Financial penalty imposed by the judge: £280 million.

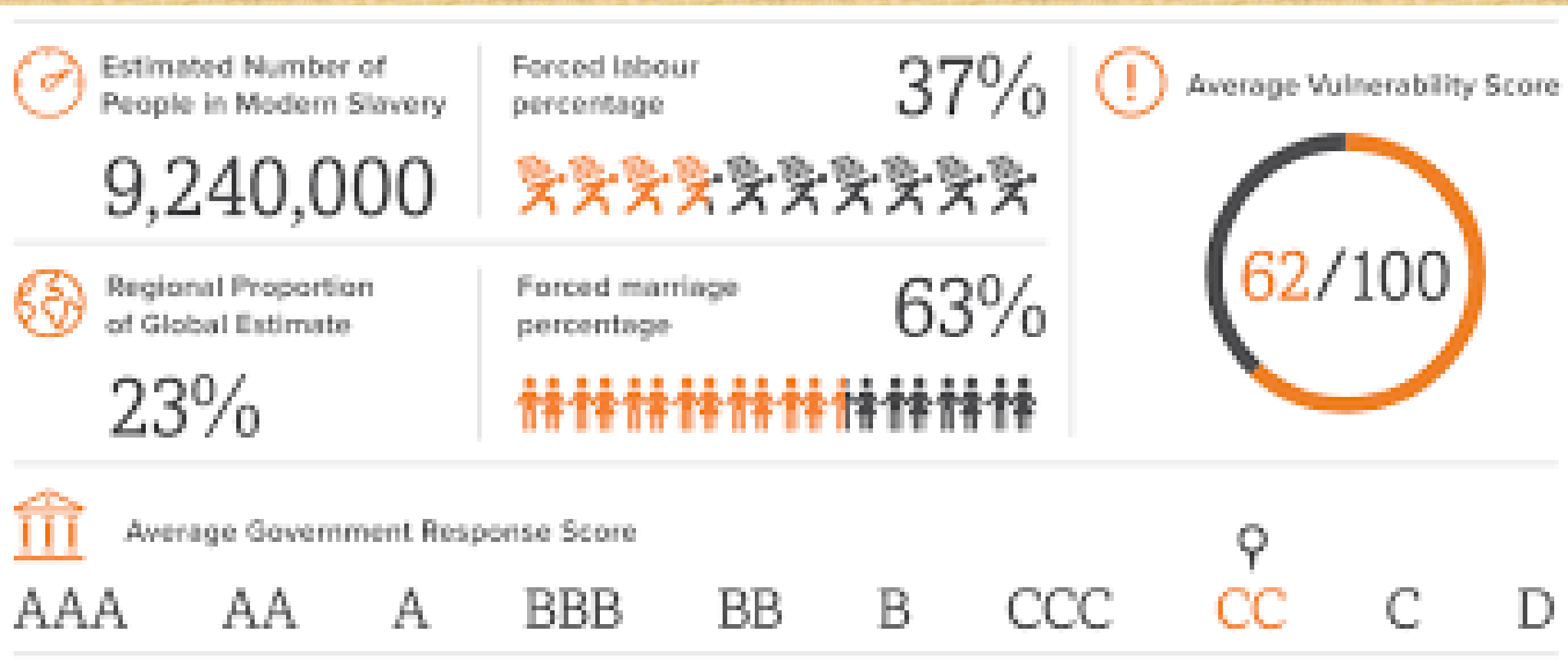
NIGERIA & GLENCORE

- The Nigerian Government wanted compensation as 'victim of the crime'.
 - "Achieving a large fine may be inwardly very attractive for the SFO because they get the congratulations of the attorney-general . . . but that's money coming into the United Kingdom for offences committed in Nigeria."
 - "overseas crime with overseas effects," (Lawyer for Nigeria)
- The Court held that Nigeria has 'no standing' as third parties in the case. Compensation denied.
- The Glencore case & Nigeria's interest shows the limit of foreign law in aiding African States with regard to activities that took place on their territory.
- In the context of today's talk, the question is: **can the Modern Slavery regulation in other jurisdictions work for the interest of African States?**
- This is of more significant because there is **scant regulation** of modern slavery across the African continent.

NOTABLE LAWS

- USA: California Transparency in Supply Chains Act of 2010
- USA: Dodd-Frank Act's conflict minerals rules (section 1502), 2010
- **UK: Modern Slavery Act 2015**
- France: Duty of Vigilance Law, 2017
- The Netherlands: Due Diligence on Child Labour Act, 2017
- Australia: Modern Slavery Act 2018
- Germany: Act on Corporate Due Diligence in Supply Chains, 2021

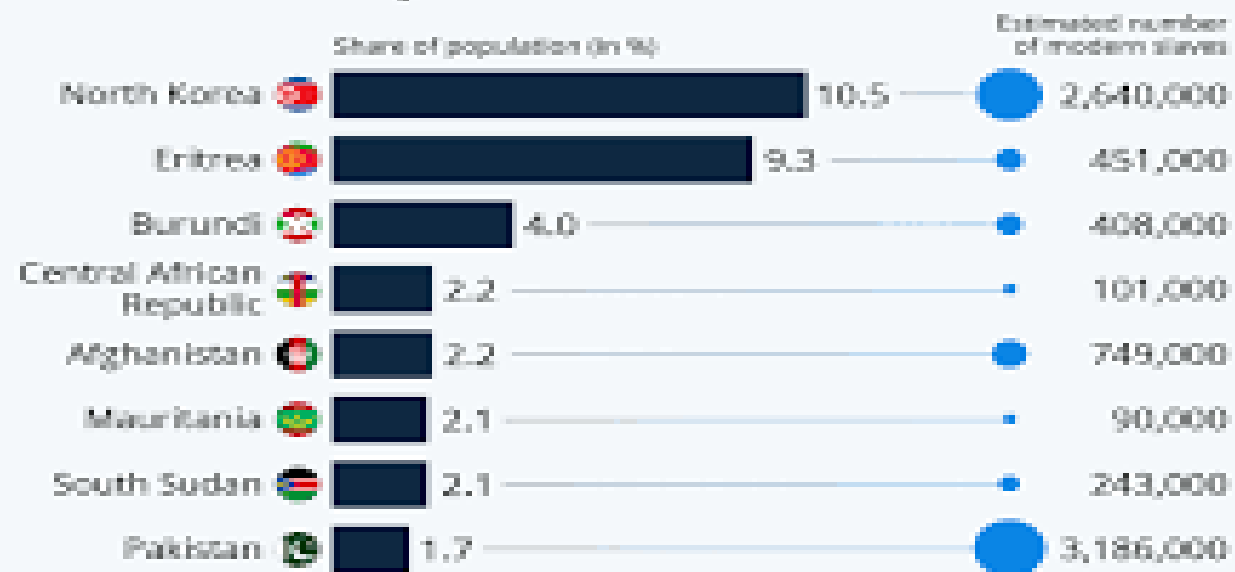
THE IMPACT OF MODERN SLAVERY IN AFRICA – GLOBAL SLAVERY INDEX



MODERN SLAVERY HOTSPOTS

The Hotspots of Modern Slavery

Countries with highest estimated prevalence of modern slavery in 2018*



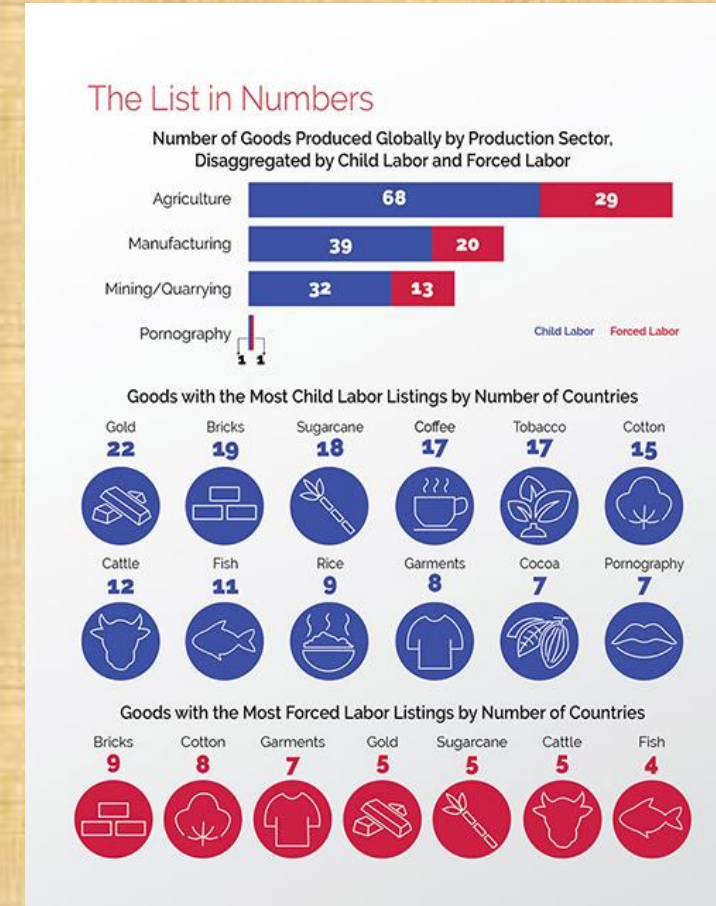
* Latest data available. Share of population includes migrant workers & human trafficking victims.

Source: Walk Free Foundation



BUSINESSES & CRITICAL SECTORS

- The **US Bureau of International Labor Affairs (ILAB)** maintains a list of goods and their source countries which it reasonably believes are produced by child or forced labour.



COCOA

- “Chocolate’s Heart of Darkness: Child Labour in Ivory Coast
- The dark side of a \$100bn industry where **enslaved children** work in cocoa fields for the chocolate we all love to eat.”

- *Documentary on Aljazeera*



WHAT IS THE AU DOING?

- Broadly, the AU has been criticized for having
 - a disjointed policies,
 - lack of a clear voice and
 - weak institutions with regard to modern day slavery.
- The AU could point to some broad initiatives such as:
 - The Ten Year Action Plan to Eradicate Child Labour, Forced Labour, Human Trafficking and Modern Slavery (2020- 2030).
 - The AU Agenda 2063

URGENT NEED FOR AFRICA'S RESPONSE

- The need for the African Union to lead a collective approach.
- Resource extraction industries & agriculture and the potential for modern slavery.
 - E.g. rubber, tobacco etc.
- The expanding China Multinationals' interest.
- Collective strategy to include developing **a model law** on modern slavery to encourage member States to regulate.
- Need to encourage local businesses to also **report** on modern slavery.
- Need to be part of the **African Data Policy Framework**.

DEVELOPMENTS IN MEMBER STATES?

- The challenge to acknowledge the idea of 'Modern slavery' in the African context
- The 'culture' angle.
- Modernising and enforcing Labour laws?
- Follow the 'disclosure' approach?
- An evolving agenda.

THANKS FOR LISTENING

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