

THE ROLE OF INTELLIGENCE IN THE DISRUPTION OF HUMAN TRAFFICKING, SLAVERY AND FORCED LABOR

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The discovery of clandestine camps and mass graves on the border of southern Thailand and Malaysia in May 2015 has rightly put into the global spotlight the trafficking of Rohingya people from Myanmar to Malaysia via Thailand. This underpins Asia's subpar record on addressing the issue of human trafficking and forced labor. In the 2014 "Trafficking in Persons Report" issued by the U.S. State Department, eight countries in the Asia Pacific region were listed on the Tier 2 watchlist, which flags countries whose governments do not fully comply with the minimum standards of the Trafficking Victims Protection Act (TVPA) but are making significant efforts to bring themselves into compliance with these standards. Four other Asia Pacific countries were listed in the lowest Tier 3 category, which highlights countries that do not comply with the minimum standards of the TVPA and are not making significant efforts to do so.

In addressing this global issue, criminal enforcement and prosecution still remains a central strategy. However, successful enforcement actions in relation to human trafficking remain few, particularly considering the scale of the issue. In the 2014 United Nations Office of Drugs and Crime (UNODC) report on human trafficking, only 40% of countries registered 10 or more convictions on an annual basis between 2010 and 2012. Only 16% of the countries have exceeded 50 convictions annually. Furthermore, only 13% of countries have been observed to exhibit an increasing trend of convictions. On the other hand, the International Labour Organization (ILO) estimated that almost 21 million people became victims of forced labor in 2012.

There are a number of reasons that account for the low prosecution rates. Firstly, that the currently accurate on-going data and intelligence about human trafficking, forced labor and modern slavery remains limited and tools to improve this position are still nascent.

Secondly, much work has concentrated on sex trafficking, with substantially less on labor issues.

Thirdly, transnational human trafficking trade is made up of highly complex and fluid networks of transactional and local actors this presents a monumental task for any organization to investigate and identify.

Fourthly, most countries have yet to put in place comprehensive laws against human trafficking and, on a global front, national laws have yet to form a coherence required to address this transnational problem.

Fifthly, very few countries have made available the resources necessary to enforce their existing laws, let alone the enforcement requirements of new laws with still further reaching obligations.

Sixthly, those victims identified, a very small number of the possible total (44,000 according to the US State Department's J-TIP Report 2014), tend to refuse cooperation with authorities for fear of reprisal.

Finally, there is often a high degree of corruption that enables this illicit trade, as has clearly been exhibited in the Rohingya people trafficking camps uncovered in Southern Thailand.

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GLOBAL FINANCIAL SYSTEM

What remains surprisingly unfamiliar to many decision makers, investigators and organizations working to stop human trafficking, is that access to the global financial system can be used as an effective instrument against this illicit trade.

In the regulated global financial system, there has been a long precedence of systemic requirement and an established culture of Know-Your-Customer (KYC) processes. The Financial Action Task Force (FATF), which sets the de facto global standard in Anti-Money Laundering (AML) and Counter Financing of Terrorism (CFT) regulations, has included human trafficking as part of the list of predicate crimes involved in money laundering for a number of years.

In the financial sector and other regulated industries, there are already clear mandatory requirements for these organizations to conduct customer due diligence. After legislation instituted from 'War on Drugs' in the U.S. the Bank Secrecy Act (BSA) and later the U.S. Patriot Act, as well as other national and international anti-money laundering (AML) and countering the financing of terrorism (CFT) much time and money has been spent on creating laws, regulations and guidance around AML/ CFT requirements. Teams of professionals, training resources and powerful infrastructure exist globally within financial institutions dedicated to identifying illicit sources of funding and criminal activity within their clientele.

The illicit trade of human beings is fundamentally a profit driven enterprise which is estimated to generate US\$150 billion annually. A simple and logical deduction would infer that denying criminals this profit, or simply disrupting the flow of finances in this transnational trade, would significantly compromise illicit operations. This highly lucrative trade, where profits generated from forced sexual exploitation can reach US\$21,800 per victim annually, will at some point find its way into the legitimate economy via the regulated financial system and in doing so becomes vulnerable to detection under existing AML legislation.

THE ILLICIT LABOR MARKET

Developments in extra jurisdictional and cross industry regulations such as the introduction of the UK Bribery Act and stricter enforcement of the U.S. Foreign Corrupt Practices Act (FCPA) have placed the spotlight on commercial organizations to build and implement more robust internal controls such as Know-Your-Supplier (KYS) processes to mitigate regulatory risks in their supply chains. A large number of organizations have begun to include a wider and more comprehensive set of risk topics within their KYS controls which often include environmental crime, human trafficking, and forced labor and slavery concerns.

While conversations on the topic of global human trafficking would most often be associated with the sex trade, the scale of forced labor far exceeds that of sexual exploitation. In 2014 the International Labour Organization (ILO) estimated that there are close to 19 million victims of forced labor being exploited by private individuals or commercial enterprises. The Asia Pacific region alone accounts for 11.7 million victims of forced labor, which is perhaps a low estimation considering 161 million people earn less than US\$2 per day (World Bank). Despite the multitude of labor abuses reported daily as

well as the increasing reports that indicate that these practices are on the increase, a significant percentage of organizations in the Asia Pacific region have yet to build KYC and KYS systems and due diligence controls to protect their businesses and supply chains from human trafficking and other human rights abuses. In a region where forced labor is estimated to generate approximately US\$51.8 billion annually, it would not be surprising that global attention, media focus and enforcement pressures will remain fixated on this region of the world.

Increased enforcement trends would indicate the growing attention on the subject of forced labor. The 2014 Human Trafficking Report published by the UNODC indicates that while globally detected victims trafficked for the sex trade continues to dominate the scale at 53%, there is a growing trend of detecting victims trafficked for forced labor which has risen to account for 40% of global trafficking victims.

POWER OF INTELLIGENCE TO DISRUPT

Using the regulated financial systems as an instrument to help the fight against human trafficking presents a unique catalyst in addressing this global issue. Suspicious activity identified by a financial institution in the KYC process can be drawn to the attention of the national Financial Intelligence Units (FIU) through the filing of a Suspicious Transaction Report (STR) or Suspicious Activity Report (SAR). The FIU can then initiate the involvement of the relevant law enforcement agencies. But most important the financial institution must cease transacting with the client in that manner and possibly cease all business.

Financial records are regarded as one of the most valuable and dependable sources of information during investigation. In a number of enforcement cases where victims were unwilling to cooperate, evidence gathered from financial records was sufficient to uncover the network and eventually led to successful convictions.

This process may appear straightforward, but the reality is that actionable information on human trafficking and forced labor is in very short supply. In a 2010 FATF meeting on combating human trafficking, participants highlighted the lack of adequate information as a barrier to effectively fighting this illegal activity. Human trafficking, like any other illicit trafficking activity, involves a multiplicity of criminal participation. Participants, most likely unknown to each other, perform many different tasks concomitantly, from brutal physical violence, transportation, coordinating exploitation, to the banking of the proceeds.

In order to optimize the usage of the financial system as an effective instrument against human trafficking and forced labor, relevant stakeholders including organizations, financial institutions and law enforcement must work together in an ultimately collaborative approach by sharing and contributing information.

In the Asia Pacific region where the vast majority of trafficking cases tend to be sub- regional, local NGOs, law enforcement agencies and local journalists often sit on a wealth of valuable information that is rarely shared. Without the context of the larger picture, the bits of information from those working on the frontline rarely makes its way out of the local community.



CONCLUSION

Human trafficking is a complex global issue driven and sustained by the exploitive nature of global economic inequality which preys on the most vulnerable people within society. Anything less than a long term, holistic approach which addresses the criminal, financial and social aspects of human trafficking would do little to tackle the issue. Most anti-trafficking strategies have stopped short of optimizing the full power of information and data available to disrupt this illicit practice. The information about human trafficking activities, the environment in which it takes place, the participants and beneficiaries, and the forces driving the establishment and sustainability of this illicit trade has largely been focused on victim-care, law enforcement, advocacy and victim related research.

The anti-trafficking community must be convinced that by reducing access to the financial system, the exploitation of people for profit requires a coherent strategy. Creating awareness and alerting financial institutions to the part that they can play in the fight

against human trafficking and forced labor by preventing and ceasing their current involvement in the movement of funds and availability of banking services, introduces a potential and powerful partner in stopping this illicit exploitation and alleviating the human suffering which goes hand in hand with this crime. The availability of information relevant to human trafficking and forced labor continues to be in short supply. Databases, indices and ratings built on deep pools of truly independent intelligence and trustworthy information will have to be developed. These sources, verification and channels of collaboration and ultimately distribution will be a work in progress.

The spotlight has come to rest on the heinous crimes of human trafficking, slavery and forced labor. What is needed is a truly collaborative effort involving all stakeholders from human rights advocates, governments, organizations, through to the global financial system and its multifaceted channels as well as law enforcement, all have a role to play in ensuring that these activities are stopped and the perpetrators face justice.

Duncan Jepson founded Liberty Asia, to fight human trafficking in Asia. It is the recipient of a US State Dept J-TIP award to develop and implement a victim case management system created using the Salesforce platform. Liberty Asia has been pioneering an approach using available anti-money laundering infrastructure to disrupt the supply of banking and financial services to the funding of modern slavery.

A Singapore based corporate lawyer by profession, Jepson works in investment management focusing on regional M&A, governance, product development and white-collar crime investigation. He was at ING Investment Management Asia Pacific for nine years where he was regional general counsel and head of compliance. Jepson is currently head of legal for BNY Mellon Investment Management Asia Pacific.

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