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Uncovering the Truth: An Analysis of Anti-Money Laundering
Legislation & Initiatives in the Fight Against Human Trafficking

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Executive Summary

Human Trafficking, also known legislatively as trafficking in persons is seen as a low risk, high reward activity as it is difficult to detect, investigate and prosecute. Trafficking in persons is also seen as an inescapable and invasive assault on victim's fundamental human rights and freedoms. The United Nations estimates that this illicit enterprise generates billions of dollars annually for traffickers and their associates. The billions of dollars of illicit proceeds are integrated into the financial system through a practice known as money laundering, which typically, although not always, involves three stages: (I) placement, (II) layering and (III) integration. The aim of this research report is to not only provide an overview of the invasiveness of human trafficking, but more specifically to highlight the ways in which organized crime groups and individuals utilize money laundering to disguise the illicit proceeds obtained through the exploitation of their victims. Lastly, this research report seeks to provide a summary and analysis of existing initiatives with the intention of providing prospective on the various ways in which investigative forensic accountants can assist in the fight against trafficking in persons.

Section(s)

Section I introduces the act of human trafficking, not only by defining what constitutes human trafficking but also presenting statistical data to draw a picture of the current landscape and challenges faced. This section will also differentiate the act of human trafficking from the act of human smuggling while providing a profile of the victims to provide a sense of those who are most vulnerable to the atrocity that is

trafficking in persons. Lastly, this section will also provide an overview of the current legislation in both Canada and the United States that seeks to address trafficking in persons and associated acts.

Section II introduces the concept of money laundering and relevant anti-money laundering legislation. This section also delves into the various ways in which criminal actors seek to conceal the profits derived from their illegal activity by taking a deeper look at the three stages of the money laundering cycle – (a) placement, (b) layering and (c) integration. Lastly, this section acquaints readers with an understanding of the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and the Financial Action Tasks Force (FATF) by summarizing the key actions taken by these two organizations in their efforts to aid in the detection of money laundering schemes.

Section III summarizes international efforts in the fight to end human trafficking, by first looking at the United Nations Trafficking in Persons Protocol which set the stage for the fight against trafficking in persons with the implementation of their framework for action. This section then looks into the strategies of Canada, the United States, and the European Union as such strategies are based on the tenants of the UN's Trafficking in Persons Protocol.

Section IV provides an overview of collaborative role of financial institutions, law enforcement and government agencies and provides recommendations to enhance the role that each key actor plays in an effort to end human trafficking.

Section V introduces the concept of forensic accounting, the specialized skills of investigative forensic accountants and how such persons can be included in

collaborative efforts to enhance current strategies as it relates to trafficking in persons. This section also emphasizes the importance of financial investigations in cases of money laundering and the various ways in which investigative forensic accountants can be engaged to assist in such investigations. Lastly, this section provided an overview of anticipated challenges for investigative forensic and accountants and proposed solutions to enhance efforts to end trafficking in persons.

Section VI summarizes and analyzes three separate cases involving acts of human trafficking and supposed money laundering. The cases include *R. v. Moazami*, *United States v. Marcus* and *Operation NAIRA*.

Section I: Understanding Human Trafficking

What is Human Trafficking?

Human trafficking, also known as trafficking in persons, involves the “recruitment, transportation, transfer, harbouring, or receipt of persons by means of threat or use of force or other forms of coercion for the purpose of exploitation.”¹ In Canada, human trafficking is an offence under both the Criminal Code and the Immigration and Refugee Protection Act. Human trafficking is estimated to be the second largest illicit enterprise in the world drawing in nearly \$150 billion US in illegal profits each year. The proceeds of this crime are the result of the forced physical and/or sexual exploitation of victims by human traffickers. Unfortunately, the depth of inaction is steep, it is estimated that “in the sex trafficking trade alone, an estimated 30,000 people die each year from abuse, disease, torture and neglect.”² Such staggering statistics are often due to the hidden nature of human trafficking, the reluctance of victims and witnesses to come forward to authorities and the difficulty faced in identifying victims. As such, the true extent of human trafficking cannot be ascertained.

Victims and witnesses often do not come forward for a variety of reasons, including:

- I. Fear for their lives or the lives of their families
- II. Distrust of outsiders, including law enforcement and authorities

¹ United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons (November 2000), Article 3, paragraph (a) Accessed at <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons> on May 2, 2022.

² Grant Thornton. Preventing Human Trafficking: Global Issue, Calling Canada. Accessed at https://www.grantthornton.ca/globalassets/pdf/nat-17-100/3-gt_humantrafficking_final.pdf

- III. Foreign victims may fear detainment or deportation
- IV. Language barriers
- V. Intentionally misinformed of their rights within the country ³

However, it is known that human trafficking can be classified as a form of international organized crime as it is often perpetrated by organized criminal networks, as well as individuals. According to the United States National Action Plan to Combat Human Trafficking, trafficking networks may also be linked to other illicit activities, including, kidnap, extortion, racketeering, foreign corrupt practices, prostitution, drug trafficking, money laundering, document fraud, visa fraud, immigration related crimes and public corruption. ⁴ Traffickers will often engage in trafficking in persons in order to advance other illicit activities, either way traffickers earn substantial profits at the expense of their victim's freedom, rights, and dignity. Traffickers will often use a variety of tactics to control their victims, including withholding their victim's identity documents, sexual and/or physical abuse, intimidation, threats against themselves or their families, and the use of isolation. ⁵

Statistics on Human Trafficking in Canada

- 95% of trafficking victims that do come forward to police are women and girls.
- 83% of persons accused of human trafficking since 2009 have been men.

³ United Nations Office on Drugs and Crime. (2006). Toolkit to Combat Trafficking in Persons. Accessed at <https://www.unodc.org/documents/human-trafficking/HT-toolkit-en.pdf>

⁴ National Action Plan to Combat Human Trafficking (December 2021)

⁵ Government of Canada. (n.d.) National Strategy to Combat Human Trafficking. Accessed at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/ntnl-ctn-pln-cmbt-eng.pdf>

- Approximately 89% of victims of human trafficking were under 35 years of age with 21% of victims being under the age of 18. ⁶

Human Trafficking v. Human Smuggling

It is important to make a distinction between the act of human trafficking versus the act of human smuggling as the two are often confused with one another. As stated in Article Three of the United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air human smuggling can be classified as the “procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state of which the person is not a national or permanent resident” ⁷

<i>Human Trafficking</i>	<i>Human Smuggling</i>
Involuntary and non-consensual. The victim has not consented to anything, if consent has been given it is the result of undue coercion.	Voluntary and consensual. The individual has consented to being smuggled across an international border.
Trafficked persons are not free, they are continuously exploited through forced	Upon arrival at their destination, persons smuggled are free to do as they wish.

⁶ Public Safety Canada. (n.d.). <https://www.publicsafety.gc.ca/cnt/cntrng-crm/hmn-trffcng/abt-hmn-trffcng-en.aspx?wbdisable=true#:~:text=Difference%20between%20Human%20Trafficking%20and%20Human%20Smuggling,-Human%20trafficking%20and&text=Human%20smuggling%20is%2C%20by%20nature,consent%20of%20the%20person%20smuggled.>

⁷ United Nations. Protocol Against the Smuggling of Migrants by Land, Sea, and Air (November 2000), Article 3, paragraph (a) Accessed at <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-against-smuggling-migrants-land-sea-and-air> on May 2, 2022.

labour, whether that be of a sexual nature or otherwise.	
Illegal act is committed against a person.	Illegal act is committed against a country.
Victim does not have to be transported internationally; the crime often occurs within a country's own borders.	It is a transnational crime that involves the illegal transport of an individual(s) across an international border.
Profit is derived from the exploitation of the victim.	Profit is derived from the fee charged for the act of smuggling.

Despite their differences, it is not uncommon for smuggled persons to become victims of human trafficking upon their arrival at their destination.

Victims of Human Trafficking

The victims of human trafficking are often those most vulnerable, including, women, children, and at-risk persons (i.e., racial minorities, LGBTQ, persons with disabilities etc.). Vulnerable groups such as those mentioned above are also at an increased risk of being trafficked if the following applies:

- I. Behavioral and/or mental health issues
- II. Self-esteem issues
- III. Substance abuse
- IV. Impoverished
- V. Gang affiliation

VI. Criminal Record/History

Characteristics of Traffickers

Trafficking in persons, includes trafficking for the purposes of labour exploitation, sexual exploitation, and organ removal. In cases of trafficking for sexual exploitation, females comprise the majority of victims. However, when it comes to the profile of traffickers, whether their intention is to traffic victims for labour exploitation, sexual exploitation, or organ removal the majority of traffickers within Canada are males between the ages of 18 and 35 years old. In addition, the cases of females accused of trafficking in persons, the accused females were most often prior victims of trafficking themselves.⁸

Susceptibility to Human Trafficking

In the case of human trafficking, the contributory factors that make individuals susceptible to traffickers whether through coercive tactics or abduction can be classified as either push or pull factors.

I. Push Factors⁹

- High levels of unemployment
- High crime rates/violence
- Gender discrimination in the labour market
- Sexual and/or racial discrimination

⁸ Statistics Canada. (2021). Trafficking in Persons Canada, 2019. Accessed at <https://www150.statcan.gc.ca/n1/pub/85-005-x/2021001/article/00001-eng.htm>

⁹ Europol. (2011). Trafficking in Human Beings in the European Union. Accessed at <https://www.europol.europa.eu/sites/default/files/documents/trafficking-in-human-beings-in-the-european-union-2011.pdf>

- Religious persecution
- Limited opportunities to enhance their quality of life
- Poverty
- Human rights violations
- Collapse of social infrastructure
- Political instability and/or oppression
- Environmental conditions (i.e., protests, conflict, natural disasters)

II. Pull Factors

- Chance for a better quality of life
- Access to education
- Ability to escape discrimination
- Employment opportunities
- Demand for commercial sex acts
- Demand for workers within the sex industry and associated high earnings
- Diverse communities

Human Trafficking Red Flags

- I. The individual is always escorted by a third party who has possession of the individual's identity documents.
- II. Individual defers to another person to speak for them, if the person does speak themselves, they appear scripted and rehearsed.
- III. Individual avoids eye contact, especially with the person escorting them.

IV. The individual may show signs of physical abuse (i.e., burns, scars, bruising, fractures etc.) or also may show unusual marks or tattoos, an indication of branding.

Human Trafficking Legislation - Canada

The Criminal Code of Canada – Human Trafficking

Under section 279.01 of the *Criminal Code* of Canada, “every person who recruits, transports, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence”¹⁰

Section 279.01 – trafficking in persons

Trafficking in persons over the age of eighteen has a mandatory minimum of five years imprisonment, with a maximum sentence of life imprisonment if the offence involved the kidnap, assault, sexual assault, or death of the victim. In cases not involving kidnap, assault, sexual assault or death, the mandatory minimum is reduced to four years, with a maximum sentence of fourteen years imprisonment.¹¹

Section 279.011 – trafficking in persons under the age of eighteen years old

Trafficking in persons under the age of eighteen has a mandatory minimum of six years imprisonment, with a maximum sentence of life imprisonment if the offence involved the

¹⁰ Government of Canada. (n.d.) Legislation – Trafficking in Persons. <https://www.justice.gc.ca/eng/cj-jp/tp/legis-loi.html>

¹¹ Ibid. Section 279.01

kidnap, assault, sexual assault, or death of the child. In cases not involving such actions, the mandatory minimum sentence is reduced to five years with a maximum sentence of fourteen years imprisonment.¹²

Section 279.02 (1) – receiving a financial or material benefit with the knowledge and intent of committing and/or facilitating human trafficking of an adult.

The act of knowingly accepting a financial or material benefit from the perpetration of human trafficking carries a maximum sentence of ten years imprisonment if the trafficked victim is over the age of eighteen.¹³

Section 279.02 (2) - receiving a financial or material benefit with the knowledge and intent of committing and/or facilitating human trafficking of a child.

The act of knowingly accepting a financial or material benefit from the perpetration of human trafficking carries a maximum sentence of fourteen years imprisonment and a mandatory minimum sentence of two years imprisonment if the trafficked victim was under the age of eighteen.¹⁴

Section 279.03 (1) – withholding or destroying a person’s identity documents with the intent of committing and/or facilitating the trafficking of a person over the age of eighteen.

¹² Ibid. Section 279.011

¹³ Ibid. Section 279.02(1)

¹⁴ Ibid. Section 279.02(2)

The commission of this offence has a maximum sentence of five years imprisonment.¹⁵

Section 279.03 (2) – withholding or destroying a person’s identity documents with the intent of committing and/or facilitating the trafficking of a person under the age of eighteen.

The commission of this offence has a maximum sentence of ten years imprisonment and a mandatory minimum sentence of one year in prison.¹⁶

Immigration and Refugee Protection Act

Under the *Immigration and Refugee Protection Act* there are additional provisions that address trafficking in persons and related offences. Section 118(1) of the Act states: “no person shall knowingly organize the coming into Canada of one or more persons by means of abduction, fraud, deception or use or threat of force or coercion.”¹⁷ If a person contravenes section 118(1), they are guilty of an indictable offence and liable to a monetary fine not exceeding \$1,000,000.00 and/or life imprisonment. In determining the appropriate penalty for acts in contravention of section 118(1) “the court will take into account the following aggravating factors:

- I. Bodily harm or death occurred, or the life or safety of any person was endangered, as a result of the commission of the offence.

¹⁵ Ibid. Section 279.03(1)

¹⁶ Ibid. Section 279.03(2)

¹⁷ Immigration and Refugee Protection Act (S.C. 2001, c.27). Accessed at <https://laws.justice.gc.ca/eng/acts/i-2.5/page-14.html>

- II. The commission of the offence was for the benefit of, at the direction of or in association with a criminal organization.
- III. The commission of the offence was for profit, whether or not any profit was realized; and
- IV. A person was subjected to humiliating or degrading treatment, including with respect to work or health conditions or sexual exploitation as a result of the commission of the offence (P. 6).”¹⁸

Human Trafficking Legislation – United States of America

The *Trafficking Victims Protection Act* is a federal law in the United States that was enacted in 2000 to address trafficking in persons. It works strategically to address exploitation in persons, which is inclusive of both sex trafficking and labour trafficking. In order to do so, the *Trafficking Victims Protection Act* draws a distinction between the two trafficking in persons acts.¹⁹

22 U.S.C § 7102

Sex trafficking is seen to involve the “recruitment, harbouring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.”²⁰

¹⁸ Ibid. Section 118(1)

¹⁹ Trafficking Victims Protection Act. (2000). Accessed at <https://www.govinfo.gov/content/pkg/BILLS-106hr3244enr/pdf/BILLS-106hr3244enr.pdf>

²⁰ National Human Trafficking Hotline. (n.d.). Federal Anti-Trafficking Laws. Accessed at <https://humantraffickinghotline.org/what-human-trafficking/federal-law>

Labour trafficking is seen to involve the “recruitment, harbouring, transportation, provision, or obtaining of a person for labour or services, through the use of force, fraud or coercion for the purposes of subjection to involuntary servitude, debt bondage or slavery.”²¹

Challenges to Prevention, Protection, and Prosecution of Trafficking in Persons

I. Insufficient knowledge on the matter

Trafficking in persons is an inescapable international crisis. It is also a silent crisis, because despite its widespread nature it is still inconceivable to many. Many people believe that such inexcusable and atrocious acts only happen in third-world countries. The fact that the pervasiveness of this crime remains incomprehensible to many not only contributes to individuals’ vulnerability to becoming victims of this illicit activity but also hinders efforts to end trafficking in persons. A lack of public awareness only serves to create additional challenges in terms of access to supports and services. The reason being is that without knowledge of the true extent of the problem, there will inevitably be a gap in supports and services to address the issue and aid trafficking victims. In addition, an absence of knowledge amongst the community on a global scale only serves to reinforce and strengthen intolerance towards trafficking victims, fueling the belief that such acts were consensual.

II. Evolution of Technology

The truth is that while technological advances can enhance our ability to detect, charge and prosecute offenders, such as those engaged in human trafficking, those same

²¹ Ibid. Section 22 U.S.C. 7102

persons are also able to exploit technology to their advantage. According to the Interagency Coordination Group Against Trafficking in Persons, traffickers are able to exploit advances in technology to be able to detract from the illicit activities in which they are engaging and to limit detection. Technology has also equipped traffickers with the ability to:

- Hide their identities and strengthen their anonymity online.
- Recruit and exploit victims, especially children who are increasing vulnerable through the use of fake social media accounts and/or online chatrooms.
- Launder the proceeds of crime anonymously through the dark web and through the use of cryptocurrency.
- Strengthen their ability to control victims through the use of GPS software and surveillance technology, instilling fear in their victims by reinforcing the idea that they are always being watched. In addition, traffickers, especially those who traffic victims for sexual exploitation can take advantage of the ability to live stream sexually explicit acts for profit.
- Advertise their illicit services and expand their operations ²²

III. Transnational nature of human trafficking

²² Interagency Coordination Group Against Trafficking in Persons. (2019). Human Trafficking and Technology: Trends, Challenges and Opportunities. Accessed at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/07/report/human-trafficking-and-technology-trends-challenges-and-opportunities/Human-trafficking-and-technology-trends-challenges-and-opportunities-WEB...-1.pdf>

- Advances in technology have enabled traffickers to continue to exploit their victims without being in the same country which creates jurisdictional challenges, not to mention poses a challenge for evidence collection and extradition of traffickers.²³

Section II: Disguising the Proceeds of Human Trafficking

What is Money Laundering?

The International Labour Organization estimates the proceeds of human trafficking to be approximately \$150 billion US every year. So, if that's the case, how do traffickers make these illicit proceeds appear legitimate? They do so through engaging in money laundering. Money laundering involves "the conversion or transfer of property, knowing that such property is derived from any offence(s) for the purpose of concealing or disguising the illicit origin of the property or of assisting any persons who are involved in such an offence to evade the legal consequences of engaging in such activity"²⁴

Money laundering is a process that in most cases involves three stages: (1) placement, (2) layering, and (3) integration. Refer to Appendix A for a visual.

²³ Interagency Coordination Group Against Trafficking in Persons. (2019). Human Trafficking and Technology: Trends, Challenges and Opportunities. Accessed at <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/07/report/human-trafficking-and-technology-trends-challenges-and-opportunities/Human-trafficking-and-technology-trends-challenges-and-opportunities-WEB...-1.pdf>

²⁴ United Nations Office on Drugs and Crime. (n.d). Money Laundering. <https://www.unodc.org/unodc/en/money-laundering/overview.html>

I. Placement

- Involves placing the proceeds of crime into the financial system.

II. Layering

- Involves the conversion of the proceeds of crime into another form as a means to create complex layers of financial transactions in order to disguise the source of the funds (i.e., buying and selling of stocks, real estate etc.).

III. Integration

- Involves reintegrating the laundered proceeds back into the financial system in a way that appears legitimate.

The act of laundering the proceeds of crime requires caution and skill in order to limit detection, especially with enhancements to internal controls at financial institutions that are designed to alert stakeholders to suspicious transactions, and subsequently to report such transactions to FINTRAC. As such, laundering the proceeds of crime has become an area in which otherwise legitimate professionals can turn a profit by providing such services to criminals and organized crime networks.²⁵ Such individuals, known as professional money launderers (PMLs), help criminals and organized crime networks evade detection by laundering their illicit proceeds through the use of specialized knowledge and the exploitation of legal loopholes. Professional money launderers will also typically act or have acted in a legitimate capacity as either a lawyer, accountant, financial services provider etc. providing services or advice to legitimate clients as well. Such professionals are typically not aware of the illicit activity

²⁵ Financial Action Task Force. (2018). Professional Money Laundering. Accessed at <https://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf>

in which their clients are engaged, whether that be drug trafficking, human trafficking etc., they are only aware of the fact that the proceeds being laundered are not legitimate. As such, professional money laundering is classified as a subset of third-party money laundering which the Financial Action Task Force defines as “the laundering of proceeds by a person who was not involved in the commission of the illicit offence (P. 10).²⁶ Criminals and organized crime networks alike may engage professional money launderers as means to create distance between the illegal acts that they have engaged in, and the proceeds generated as a profit of these illicit acts. Such individuals may also engage the service of third-party money launderers as they may not possess the knowledge or skills to successfully launder the proceeds of crime without detection.²⁷

Professional money launderers can fall into one of three categories:²⁸ Refer to Appendix B for a visual of the stages of professional money laundering.

I. Individual (PML)

An individual professional money launderer possesses the specialized skills to place, integrate and launder the proceeds of crime for their criminal clientele. As the individual operates alone, they typically will diversify the products and financial institutions they rely upon to launder their client’s funds in order to evade detection.

II. Organization (PMLO)

A professional money laundering organization is comprised of two or more persons acting as a structured unit who through the use of their specialized skills and serve the

²⁶ Financial Action Task Force. (2018). Professional Money Laundering. Accessed at <https://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf>

²⁷ Ibid. Section II

²⁸ Ibid. Section II

criminal clientele, whether that be individuals, or organized crime groups by providing advice or laundering their client's illicit profits. The laundering of the proceeds of crime for such clientele is typically the exclusive activity in which these organizations engage, although not always. In addition, such organizations typically observe a hierarchal structure where each member handles a specific element of the money laundering cycle.²⁹

III. Network (PMLN)

A professional money laundering network consists of various associates or contacts that collaborate and subcontract to one another to launder the proceeds of crime for their criminal clientele. As such, these networks typically operate on an international scale and are able to serve a vast array of clientele. Such networks are able to open foreign banks, purchase foreign companies and launder their client's funds through existing infrastructure as they have connections with a wide array of network associates who can assist in such a capacity. The collaborative efforts of these networks allows for diversification as they are able to exploit various channels to launder the illicit funds and slide under the radar.

Potential Indicators of Money Laundering

Identification Indicators

- I. Inability to identify the client or there are questions/concerns surrounding the client's identity.

²⁹ Financial Action Task Force. (2018). Professional Money Laundering. Accessed at <https://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf>

- II. Client denies the need to provide identification or tries to obscure their identity by providing vague information that is difficult to verify.
- III. If identification is provided, the identification cannot be authenticated, appears altered and/or inaccurate, is inconsistent with other identity documents or makes use of various aliases.
- IV. Client alters the nature of their transaction request after being asked to provide identification.

Behavioural Indicators

- I. Client appears nervous and/or takes a defensive stance to being questioned.
- II. Client refuses to provide the requested information/documentation and/or appears reluctant to do so.
- III. Client avoids contact with employees that handle regulatory reporting/enforcement.

Profile Indicators

- I. Clients' financial transactions are inconsistent with their financial standing, spending patterns, occupation etc. (i.e., student, social assistance, disability payments, unemployed).
- II. Client's account shows frequent deposits of large sums of cash or rounded sums that are atypical from what would be expected and/or there is a sudden change in the client's financial profile that cannot be explained.³⁰

Anti-Money Laundering Legislation

³⁰ Government of Canada. (n.d.) Money Laundering and Terrorist Financing Indicators – Money Service Businesses. Accessed at https://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/indicators-indicateurs/msb_mlrf-eng

Canada's anti-money laundering legislation is contained within two main statutes (I) Criminal Code of Canada and (II) Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

Criminal Code of Canada

Under Section 462.31 (1) and (2) of the Criminal Code “everyone commits an offence who uses, transfers the possession of, sends or delivers to any person or place, transports, transmits, alters, disposes of or otherwise deals with, in any manner and by any means, any property or any proceeds of any property with the intent to conceal or convert that property to those proceeds, knowing or believing that, or being reckless as to whether, all or a part of that property or of those proceeds was obtained or derived directly as a result of the commission in Canada of a designated offence or an act or omission anywhere that, if it had occurred in Canada, would have constituted a designated offence is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.”³¹

Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)

³¹ Government of Canada. Criminal Code. R.S.C 1985 <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-462.31.html>

The Proceeds of Crime (Money Laundering) and Terrorist Financing Act is applicable to reporting entities, such as financial institutions. Under the Act, reporting entities are compelled to adhere to regulations contained therein, including ³²:

- I. Establishing a compliance program
- II. Identifying and verifying clients
- III. Retaining specified records
- IV. Reporting suspicious transactions

Financial Transactions and Reports Analysis Centre (FINTRAC)

FINTRAC is Canada's financial intelligence unit that aids in the fight against money laundering and terrorist financing by ensuring that businesses are in compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. ³³ The centre seeks to impart actionable financial intelligence for police, law enforcement, and national security agencies in order to assist in the investigation of cases of money laundering, terrorist financing offences or security threats. ³⁴ The centre acts independently from the entities in which it discloses financial intelligence. In order to satisfy its objectives, the centre takes the following actions:

- I. Receives and analyzes financial transactions reports
- II. Safeguards personal and private information

³² Osler, Hoskin & Harcourt LLP. (n.d.) Anti-Money Laundering and Terrorist Financing. <https://www.osler.com/en/resources/business-in-canada/browse-topics/additional/anti-money-laundering-and-terrorist->

³³ Government of Canada (n.d.). Financial Transactions and Reports Analysis Centre. Accessed at <https://www.fintrac-canafe.gc.ca/fintrac-canafe/1-eng>

³⁴ Ibid

- III. Ensures businesses are in compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act
- IV. Discloses financial intelligence to the appropriate authorities and partners to aid in the investigation into cases of money laundering, terrorist financing and threats to national security.
- V. Researches and analyzes available data to detect trends as they arise in relation to money laundering and terrorist financing activities.
- VI. Aim to inform the public and equip them with the necessary knowledge as it pertains to these illicit acts.³⁵

Financial Action Task Force (FATF)

The Financial Action Task Force (FATF) is an inter-governmental body that sets international standards with the aim of detecting and limiting acts of money laundering and terrorist financing.³⁶ It is an international task force that includes approximately two hundred countries. It seeks to coordinate a global response to the prevention, detection and prosecution of organized crime networks, and acts of terrorism. The task force targets not only those engaged in illicit activity such as drug trafficking, human trafficking, weapons smuggling but also individual aiding and abetting.³⁷ The task force analyzes trends and techniques employed by criminal actors to inform and strengthen international standards to which it ensures that countries are in compliance.

³⁵ Ibid. para 2

³⁶ Financial Action Task Force. (n.d.). Accessed at <https://www.fatf-gafi.org/about/>

³⁷ Ibid. Section 1

Section III. International Fight to End Human Trafficking

United Nations – Trafficking in Persons Protocol

The Trafficking in Person's Protocol aims to prevent, suppress, and punish the act of trafficking in persons. This protocol was first implemented by the United Nations in November 2000 as part of the UN's Convention against Transnational Organized Crime.³⁸ Countries that choose to adopt and adhere to this protocol are obligated to criminalize the act of human trafficking and develop their own anti-trafficking legislation that aligns closely with that of the UN's protocol.³⁹

As of September 2021, the Trafficking in Persons Protocol has been ratified by 178 parties.⁴⁰ It is a framework for action that seeks to provide an all-encompassing approach to combatting trafficking in persons. It is laid out in a four-pillar structure as follows:⁴¹

Framework for Action

- I. Prevention of human trafficking
- II. Protection of the victims
- III. Prosecution of the traffickers
- IV. Partnerships – domestic and international

Prevention

³⁸ United Nations Office on Drugs and Crime. (n.d). The Protocol. <https://www.unodc.org/unodc/en/human-trafficking/protocol.html>

³⁹ Ibid. Section 1

⁴⁰ Ibid. Section 1

⁴¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. (n.d.). Accessed at https://www.unodc.org/res/human-trafficking/2021the-protocol-tip_html/TIP.pdf

Prevention is an essential component to the United Nations anti-human trafficking framework, as without effective prevention efforts those most vulnerable will continue to be victimized at the hands of traffickers. The UN suggests the implementation of the five key action items in order to enhance prevention strategies and community programs.

- I. Adopt and implement legislative initiatives focused on community-based policies and programming that aim to prevent human trafficking and associated offences. Such initiatives need to keep in mind the importance of respecting the rights of victims by ensuring protection rather than re-victimization, such initiatives should focus on support for legal immigration.
- II. Ensure effective national child protection systems and the active participation of children in the creation of such initiatives.
- III. Ensure coherence amongst policy initiatives, whether those be in terms of migration, crime prevention, education, employment, health, security, equal opportunity, economic development, the protection of human rights, child protection, gender equality etc.
- IV. Implement and/or strengthen initiatives that aim to address vulnerability to exploitation by addressing the root causes of social inequality and indifference.
- V. Ensure appropriate needs assessments are conducted as the outcome of those assessments can be used to inform preventative strategies and community programs.

Protection

The UN's approach to the protection of victims is focused on the identification of victims in order to be able to advocate on their behalf and ensure their protection, as many are hesitant to come forward in fear of retribution. The UN recognizes that in order to improve efforts to protect victims, many countries need to enhance their victim identification processes. In order to strengthen countries abilities to protect victims and their families, the UN suggests: ⁴²

- I. Adoption or amendment of legislation in order to ensure an all-encompassing approach to the protection of trafficking victims, in such ways that empowers victims rather than re-victimizing them.
- II. Institute and/or strengthen the identification process
- III. Enhance enforcement legislation by issuing regulations, circulars and/or administrative guidelines.
- IV. Adopt and/or strengthen referral initiatives to enhance victim protection and assistance, including referral to the mental health system if needed.
- V. Apply international standards and a human rights-based approach to victim protection, taking into account the needs of those most vulnerable, especially children. Such approaches should include access to social services, granting relief periods, access to compensation and the option for temporary and/or permanent residency. It is also essential that such approaches ensure immunity for victims for their involvement in illegal activities as a result of being trafficked.

⁴² United Nations Office on Drugs and Crime. (2004). United Nations Convention Against Transnational Organized Crime and the Protocols Thereto. Accessed at <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

- VI. Embrace and implement strategies focused on ensuring that the return of the trafficking victim to the community is on a voluntary basis and that the appropriate risk assessments have been undertaken to ensure his/her safety.

Prosecution

Trafficking in persons is an international crisis that often goes unreported and as a result is under-prosecuted. Even in cases where traffickers are charged with specific offences under trafficking in persons legislation, conviction rates are still relatively low.

In order to improve prosecution efforts, countries need to take a multifaceted approach that focuses on the following:

- I. Prosecuting not only the act of trafficking in persons, but also related offences, including corruption, money laundering, obstruction of justice and participation in organized crime.
- II. Stricter penalties and ensuring that such penalties are proportionate to the severity of the offence.
- III. Ensuring that the proceeds of trafficking in persons and related offences are confiscated.
- IV. Prioritizing the rights of victims and witnesses and ensuring their protection before, during and after the prosecution of the offenders.
- V. Promoting collaborative efforts and cooperation among law enforcement and the community.
- VI. Taking a proactive approach that focuses on intelligence led investigative techniques and limit reliance on the testimony of trafficking victims.

Partnerships

The United Nations approach to developing and strengthening partnerships emphasizes the importance of both domestic and international collaboration. The UN recognizes that through collaborative partnerships institutions can avoid a duplication of efforts, inefficient use of resources and contradictory responses. As such, the Trafficking in Persons Protocol encourages the strengthening of collaborative efforts between government institutions, law enforcement, judicial authorities, labour organizations, immigration, and asylum authorities as well as non-governmental entities, including victim services providers, health care institutions, children protection agencies, as well as the private sector.⁴³

National Action Plan to Combat Human Trafficking

Canada was among the first few countries to ratify the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.⁴⁴ As such, the Government of Canada's aggressive and inclusive strategy in the fight against human trafficking is based on the tenants of the UN's Trafficking in Persons Protocol. Nonetheless, in an effort to enhance their strategy in the fight against trafficking in persons, the Canadian Government implemented of a fifth key action area to the UN's existing framework for action, including:

- I. Prevention of human trafficking

⁴³ Ibid

⁴⁴ National Action Plan to Combat Human Trafficking. (2012). Accessed at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/index-en.aspx>

- Canada's prevention strategy centers on the importance of knowledge and research as it relates to individuals' susceptibility to victimization.
- It recognizes the need for knowledge-based policies and initiatives that address the demand of commercial sex acts and labour exploitation, including social inequality, extreme poverty, language barriers etc.,
- It emphasizes the importance of training for first responders and essential service providers (i.e., law enforcement, paramedics, health care workers etc.). as they are typically the first point of contact for the victims.
- Advocates for the strengthening of the child protection system, social assistance for communities in need, education programs for vulnerable communities (i.e., RCMP's "I'm Not for Sale" campaign) and awareness raising campaigns specifically targeted at domestic and international partners, such as Canadian Embassies and consulates.
- Encourages the creation and dissemination of informative brochures advising individuals, such as foreign workers, international students etc. of their rights and the appropriate authorities to contact if needed in a format that is accessible to all (i.e., available in multiple foreign languages).

II. Protection of victims

- Centers on the essential nature of identification initiatives to quickly identify victims in order to safely separate them from their traffickers and provide them with access to health care, if needed.

- Authorizes immigration officers to issue temporary resident permits to foreign national trafficking victims and in turn provide victims with access to health care during their residency.
- Emphasizes the essential nature of the Department of Justice Victims Fund which provides financial assistance to trafficking victims as needed. The Department of Justice Victims Fund, in collaboration with Public Safety Canada has supported various trafficking in persons initiatives, including initiatives to address the exploitation of children.

III. Prosecution of offenders

- Highlights the integral amendments made to the Criminal Code with the introduction of Bill C-310. The amendment's made under this Private Member's Bill were designed to aid in the fight against human trafficking in Canada and abroad. The first amendment provides a non-exhaustive list of aggravating factors, including the use of threats, deception, or coercive practices. Such factors can be taken into consideration by the court when assessing whether the act has met the legal test to be classified as an act of exploitation. The second amendment enables Canadian prosecution of Canadian citizens or permanent residents who violate any trafficking legislation abroad.⁴⁵
- Encourages the use of various investigative techniques, such as undercover operations and surveillance.

⁴⁵ United Nations Office on Drugs and Crime. (n.d). The Protocol. <https://www.unodc.org/unodc/en/human-trafficking/protocol.html>

- Emphasizes the importance of inclusion with regard to the financial intelligence information disclosed by FINTRAC.
- Advocates for the implementation and adoption of training programs, for law enforcement officials and prosecutors alike and amendments to the cadet training program of the Canadian Police College.
- It also emphasizes the importance of establishing integrated teams that includes, law enforcement, social services and Canada Border Services Agency as an integrated approach will enable proactive investigations into suspected cases of human trafficking.

IV. Strengthening domestic and international partnerships

- Encourages invitations to be extended to experts in the field of human trafficking to educate society, preferably in a way that is accessible to all (i.e., via virtual events or live streaming) as such events will enable and encourage information sharing.
- Collect and share data on the origins of human trafficking as such data may help with identification efforts.
- Asks that countries that have not yet ratified the UN Trafficking in Persons Protocol to take action and do so in order to strengthen the international response to trafficking in persons.
- Encourages the establishment of partnerships with foreign governments to enhance capacity for preventing, detecting, and prosecuting trafficking in persons.

V. Empowerment

- Emphasizes the importance of supporting victims and survivors by providing them with access to social, health and legal services that can aid them in regaining their independence and dignity.⁴⁶
- Establishment of an advisory committee that is comprised of victims and survivors of human trafficking so that these persons can share their lived experiences, which will not only allow them to regain their voice and support one another but will also offer valuable insights to aid in the development and strengthening of anti-human trafficking policies and initiatives.
- Provided funding for community-led empowerment programs that help survivors reintegrate into the community, heal from the trauma they have experienced and address the harms experienced by victims.

United States – National Action Plan to Combat Human Trafficking

The United States National Action Plan to Combat Human Trafficking embarks on their commitment with the following statement, “human trafficking is an affront to the ideals that form the basis of our national strength: liberty, justice, equality, and opportunity... it erodes the safety of our communities, the security of our borders, the strength of our economy, and the rule of law.”⁴⁷ This statement captures the true essence of the international fight against human trafficking. It expresses the various

⁴⁶ National Strategy to Combat Human Trafficking 2019-2024. Accessed at <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2019-ntnl-strtyg-hmnn-trffc/index-en.aspx>

⁴⁷ The National Action Plan to Combat Human Trafficking. (2021). Accessed at <https://www.whitehouse.gov/wp-content/uploads/2021/12/National-Action-Plan-to-Combat-Human-Trafficking.pdf>

ways in which social inequities endanger our world by fueling corruption and exploitation. The US's action plan envisions a path forward, focused on empowerment and collaboration. In such a way, it is iterative of the United Nations framework for action focusing on empowering victims, prosecuting perpetrators, addressing social inequities, and encouraging alliances amongst all nations. The US's approach is informed by the experience of experts within the field, who have been on the front lines of the fight against human trafficking, but most importantly the action plan is based on the insights of survivors.

The United States National Action Plan to Combat Human Trafficking is based on the following key pillars:

- I. Prevention
- II. Protection
- III. Prosecution
- IV. Crosscutting Approaches and Institutional Effectiveness

European Union – Action Against Trafficking in Human Beings

In response to the international crisis of trafficking in persons, the Committee of Ministers of the Council of Europe endorsed the strategy laid out in the Council of Europe Convention on Action Against Trafficking in Human Beings.⁴⁸ The purposes of this convention, as stated in Article I are:

⁴⁸ Council of Europe (n.d.). About the Convention – Action Against Trafficking in Human Beings. Accessed at <https://www.coe.int/en/web/anti-human-trafficking/about-the-convention#:~:text=The%20Council%20of%20Europe%20Convention,combating%20trafficking%20in%20human%20beings>.

- I. To prevent and combat trafficking in human beings, while guaranteeing gender equality. ***“Prevention”***
- Emphasizes the importance of a human rights-based approach that is child sensitive and protects the rights of all persons as accorded to them in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.
 - The EU prevention approach not only encourages the development and implementation of various social welfare initiatives but also focuses its attention on the importance of addressing the demand for exploitation (i.e., social inequality, poverty, racial and gender discrimination, political unrest, addictions, gang involvement etc.).
 - The EU prevention approach also emphasizes the importance of enhancing identity documents in such a way that they cannot easily be falsified.
- II. To protect the human rights of the victims of trafficking, and in doing so design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as ensuring the effective investigation and prosecution of such illicit acts.
- “Protection and Prosecution”*** ⁴⁹
- The EU’s approach is child centered. It is highly attentive to ensuring the protection of child trafficking victims. In its approach to

⁴⁹ Council of Europe Convention on Action Against Trafficking in Human Beings. (2005). Accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf

the protection and prosecution of trafficking in persons of children, the EU emphasizes the importance of proactive identification measures.

- The Action Against Trafficking in Human Beings states: “as soon as an unaccompanied child is identified as a victim, each party shall:
(a) provide for representation of the child by a legal guardian...which shall act in the best interests of the child, (b) take the necessary steps to establish his/her identity and nationality and (c) make every effort to locate his/her family when it is in the best interests of the child.” (P. 9)⁵⁰
- The EU also focuses on the importance of ensuring the protection and well-being of victims following their identification. The Action Against Trafficking in Human Beings calls for member states to aid victims in their physical, social, and psychological recovery through providing access to medical care, legal services and temporary residence permits to ensure their safety and to aid in the investigation/prosecution of their traffickers.
- In addition, the Action Against Trafficking in Human Beings calls for all member states to enact legislation that criminalizes trafficking in persons, the use of the exploited persons services, the forgery, procurement and/or concealment or destruction of another person’s

⁵⁰ Ibid. Section 2

identity documents and/or aiding and abetting the commission of any of the above noted offences.

- The EU approach as laid out in the Action Against Trafficking in Human Beings encourages member states to withhold imposing penalties on victims for their involvement in any illicit acts if they were compelled to commit such acts. It emphasizes the importance of ensuring protection from retaliation or intimidation of not only victims, but also their families and any witnesses that come forward.⁵¹

III. To promote international cooperation and action against trafficking in persons.

⁵² ***“Partnerships”***

- Emphasizes the importance of information sharing and the enhancement/strengthening of training programs.

European Commission Strategy

The European Commission strategy is a collaborative efforts between government, experts in the field, social partners, scholars, international organizations, and trafficking victims.⁵³ The strategy identifies five key areas for improvement for the European Union.

I. Identifying, protecting, and assisting victims of trafficking.

⁵¹ Ibid. Section 3

⁵² Council of Europe Convention on Action Against Trafficking in Human Beings. (2005). Accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf

⁵³ European Commission (n.d.). The EU Strategy Towards the Eradication of Trafficking in Human Beings 2012-2016. Accessed at https://www.lastradainternational.org/wp-content/uploads/2020/10/eu_strategy_towards_the_eradication_of_trafficking_in_human_beings_2012-2016_1.pdf

- Key Points
 - Identify the victims through educating the public on key indicators as many people could come into contact with trafficking victims and not even know it if they aren't equipped with the knowledge.
 - Victim assistance should be needs based but at a minimum should include safe shelter, sustenance, healthcare, counselling, and access to legal services.

II. Enhancing the prevention measures to limit trafficking in human beings.

- Key Points
 - Address core issues that make persons vulnerable to being trafficked, not only for sexual exploitation but also labour exploitation and the removal of organs.
 - Encourage collaboration with the private sector to limit the demand for trafficking in persons, especially in high-risk industries, including adult entertainment (sexual services), construction, agriculture, and tourism.

III. Increasing the prosecution of traffickers.

- Key Points
 - Currently, low number of human trafficking cases have been prosecuted in the EU.
 - Recommend the establishment of cross-border law enforcement units on human trafficking that serve as contact points for other

EU agencies, including Europol, to ensure that information collected is transmitted not only to Europol but its national units as well.⁵⁴

- IV. Enhancing coordination and collaboration amongst key actors and ensuring coherence amongst initiatives.
- Key Points
 - Conduct financial investigations into suspected cases of trafficking in persons (i.e., follow the money trail).
 - Encourage information sharing not only amongst EU member states but at an international level as well.
- V. Knowledge-based approaches that address and proactively identify emerging trends in the trafficking of human beings.
- Key Points
 - Collect reliable and comparable data to inform policy initiatives aimed at addressing trafficking in persons in all forms.
 - Identify gender differences in victims' vulnerability to trafficking.

Section IV. Overview & Analysis – Collaborative Partnerships

Financial Institutions

Financial institutions are in a distinct position compared to their collaborative partners as their financial products are typically used as a conduit to engage in illicit

⁵⁴ Council of Europe Convention on Action Against Trafficking in Human Beings. (2005). Accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236093/8414.pdf

activities. Organized crime operations and individuals often use legitimate financial institutions to launder the proceeds of crime into the financial system. For example, traffickers typically will deposit the illicit proceeds into various accounts at financial institutions. Once the proceeds have been deposited, the traffickers will conduct various transactions in an effort to obscure the source of the illicit funds. Once the proceeds of the illicit act(s) have been effectively obscured through various transactions (i.e., wire transfers, investment in stocks, purchase of high value items) individuals can access these proceeds in a way that appears legitimate. The aim behind the placement, layering and integration of the proceeds of crime is to not only to obscure the initial source but also to make the proceeds seem legitimate.

As such, financial institutions are in a unique position to be able to identify and report suspicious activity or behaviour that could be linked to human trafficking. Nevertheless, as times are changing, it is essential that financial institutions continuously work to enhance their anti-money laundering protocols in order to increase detection of such illicit acts. The Association of Certified Anti-Money Laundering Specialists suggest that financial institutions embrace strategies designed to limit the threat posed by money laundering and to increase detection of such acts as its linked to trafficking in persons by

- I. Ensuring the use of typologies to understand the crime
- II. Seek the assistance of forensic accountants to identify instances of money laundering
- III. Collaborate with non-governmental organizations to collect and share data
- IV. Collaborate and strengthen partnerships with law enforcement

- V. Identify “red flag” indicators
- VI. Take advantage of the ability of criminal databases to screen clients
- VII. Strengthen training across the financial sector so that individuals are aware of existing threats and are equipped with the skills and mindset to identify red flags as they arise. ⁵⁵

Law Enforcement

Law enforcement also have an active part to play in the fight against trafficking in persons as such officials are on the front lines and often a first point of contact for victims. Since law enforcement officers, patrol the streets, respond to various distress calls, and engage with the public, they play a vital role in identifying cases of human trafficking and subsequently ensuring the safety of victims. In addition, law enforcement also have a key role in the prosecution and conviction of traffickers as they are tasked with the collection and preservation of evidence, interrogating suspects and interviewing victims. Law enforcement officials can also offer invaluable information through conducting covert/undercover investigations, following up on leads and surveiling suspects. ⁵⁶

In Canada, the Royal Canadian Mounted Police (RCMP) are an integral part of the anti-human trafficking strategy. The RCMP specifically seek to:

- I. Identify victims through awareness initiatives and investigations

⁵⁵ Association of Certified Anti-Money Laundering Specialists (ACAMS). (2020). Fighting Modern Slavery: What the Banking Sector Can Do to Help. <https://www.acamstoday.org/fighting-modern-slavery-what-the-banking-sector-can-do-to-help/>

⁵⁶ Clawson et al. (2006). “Law Enforcement Response to Human Trafficking and the Implications for Victims: Current Practices and Lessons Learned.” Accessed at <https://www.ojp.gov/pdffiles1/nij/grants/216547.pdf>

- II. Build and implement crime prevention initiatives
- III. Collaborate with police in other jurisdictions as well as government agencies to encourage information sharing and a cohesive team approach to ending trafficking in persons.⁵⁷

In order to investigate cases of human trafficking, various sources of information are assistive to law enforcement agencies, including:

- I. Public reports of suspicious activities, including reports of missing persons or children
- II. Government agencies and non-government organizations, such as immigration, health, and social services
- III. International initiatives
- IV. Victims escaping traffickers and coming forward to authorities⁵⁸

As such, efforts to effectively combat trafficking in persons need to ensure that law enforcement are provided with the necessary training to not only identify victims but also so that they can effectively communicate with victims. Victims of human trafficking are often distrustful of law enforcement and so it is vital for law enforcement to be trained in such a way that their response is sensitive to the needs of victims and so that they create an environment in which they can gain the victims trust.

Government Agencies

⁵⁷ Royal Canadian Mounted Police. (n.d.). Human Trafficking and the Law. Accessed at <https://www.rcmp-grc.gc.ca/en/human-trafficking/human-trafficking-and-the-law>

⁵⁸ Ibid. para 2

The vast array of government agencies and departments are a critical component in the fight to prevent trafficking in persons, protect victims and the public and prosecute offenders. Key actors include but are not limited to those in the education, health, social services, immigration, and justice sectors.

- I. Education – raise awareness and educate young persons on the importance of being safe online, provide them with access to supports and community programs and educate teachers and school administrators to look out for signs of neglect, abuse, or instances in which children may be in a vulnerable situation.
- II. Health – ensure equal access to health care for all and ensure that victims are provided with the requisite medical care to aid in the healing process, which may include referral to trauma/group counselling.
- III. Social services – implement and strengthen initiatives aimed to protect vulnerable populations, educate the public, encourage inclusivity in an effort to reduce social inequality and ensure the development of programs aimed at helping victims heal from the trauma they have experienced.
- IV. Immigration – able to aid in the detection efforts by being cognizant signs that could indicate that an individual is being trafficked or that an individual is engaging in the trafficking of persons (i.e., suspicious activity or persons at ports of entry). Such officials also have the ability to grant temporary residence permits to victims to ensure their protection.
- V. Justice – responsible for the apprehension and prosecution of traffickers and their associates. Individuals who work in the justice sector can also actively

engage in the fight to end human trafficking by ensuring that victims have access to legal services if needed.

Section V. Investigative Forensic Accountant Approaches to the Discovery of Human Trafficking

As we know, the United Nations Trafficking in Persons Protocol is the legal framework for action that has structured and informed North America's and the European Union's strategy to end human trafficking. It is a framework for action that is based on four key action areas:

- I. Prevention
- II. Protection
- III. Prosecution
- IV. Partnerships

It is a thorough but yet non-exhaustive call to action that can only be further strengthened by engaging the skills of investigative forensic accountants. Investigative Forensic Accounts (IFAs) can offer invaluable support in all four action areas of the UN's framework for action.

What is Forensic Accounting?

Forensic accounting entails "identifying, recording, settling, extracting, sorting, reporting and verifying past data or other accounting activities for settling current or

prospective legal disputes or using such past financial data for projecting future financial data to settle legal disputes” (P. 1001).⁵⁹

Skills of an Investigative Forensic Accountant (IFA)

I. Investigative mindset

- Skeptical attitude to the identification and analysis of information acknowledging that such information may be biased, inaccurate or incomplete. Such an attitude enables IFAs to assess the likelihood of inherent assumptions and establish hypothesis for the purpose of addressing the issues being investigated.⁶⁰

II. Professional accounting skills

- Ability to identify, obtain, assess, and evaluate information relevant to the investigation.
- Ability to quantify and analyze the financial significance or actual or anticipated transactions and/or events.
- Ability to interpret, analyze and explain financial data

III. Investigative skills

- Appreciation for and knowledge of the context of the investigation/engagement (i.e., applicable tribunal processes, legislation, contracts etc.).

⁵⁹ Crumbley, Fenton and Smith. (2019). Forensic and Investigative Accounting. CCH Publications. 9th Edition.

⁶⁰ Standard Practices for Investigative and Forensic Accounting Engagements. (2006). Accessed at file:///Users/admin/Downloads/Standard%20Practices%20for%20IFA%20Engagements-English%20(1)-1.pdf

- Ability to analyze information to assist in ascertaining motive, intent, and bias.
- Knowledge and appreciation for the various ways in which information could be falsified and/or concealed.
- Cognizant of the fact that the information/data collected, and any analysis carried out may be subject to disclosure and/or included as evidence.
- Ability to detail and present investigative findings.⁶¹

IFA Approaches to the Discovery of Human Trafficking

Investigative forensic accountants approaches to the discovery of human trafficking will be based on an analysis of the financial data. Forensic accountants with access to the financial records of the perpetrators, whether those be individuals or financial crime networks, possess the skills and knowledge to be able to collect, analyze and interpret the data. Essentially, investigative forensic accountants approach the discovery of human trafficking through the detection of money laundering. As such, in cases of suspected human trafficking forensic investigative accountants will know the financial indicators to look out for, such as:

- I. Accounts that consist primarily of cash deposits and transfers from other persons.

⁶¹ Standard Practices for Investigative and Forensic Accounting Engagements. (2006). Accessed at file:///Users/admin/Downloads/Standard%20Practices%20for%20IFA%20Engagements-English%20(1)-1.pdf

- II. Unusual number of individuals who are not related as joint account holders, including bank accounts and credit cards.
- III. Charges for purchases outside establishments ordinary business hours, including at strip clubs, beauty salons, modelling agencies etc.
- IV. International transfers to countries with a higher risk for human trafficking or other illicit activity.
- V. Frequent purchases in of cryptocurrency in numerous small denominations.⁶²

Note: the above indicators are not an exhaustive list.

TIP Protocol - Assistance of Investigative Forensic Accountants

Currently, there appears to be a disconnect between anti-money laundering efforts as it relates to trafficking in persons and approaches to addressing these two prevalent and interconnected issues. An analysis of existing Northern American as well as European strategies to combat trafficking in persons do not fully address the vital importance of the detection of money laundering schemes and the key financial insights that such investigations can offer in detecting and prosecuting cases of human trafficking. The current frameworks, while extensive do not capture nor emphasize the importance of analyzing the money trail The successful detection and prosecution of traffickers for engaging in human trafficking requires a financial investigation to be undertaken, without such a component, the investigation will be heavily reliant on the testimony of victims and may not capture the true extent of illegal activity in which the

⁶² ACAMS. (2020). Fighting Modern Slavery and Human Trafficking.

trafficker is engaged with respect to trafficking in persons. As such, strategies to the fight against human trafficking need to recognize and incorporate financial investigations, as the key to uncovering and dismantling trafficking networks is by targeting the proceeds of these crimes. In recognizing the importance of financial investigations in cases of money laundering, action plans should also focus on educating key stakeholders on the distinctive set of skills that investigative forensic accountants possess and the ways in which such skills and experience can be employed to aid in financial investigations and the overall fight against trafficking in persons.

It is important to acknowledge that relevant experts, including investigative forensic accountants all have an active role to play throughout all four key action areas of the United Nations Trafficking in Persons Protocol. IFAs in particular can be actively engaged in the following ways:

I. Prevention

- Act as consultants providing insight into key indicators of money laundering schemes
- Advise as to internal control weaknesses within financial institutions in order to address gaps in preventative measures.

II. Protection

- Advise or be a part of training initiatives designed to educate key stakeholders, including but not limited to law enforcement, financial institutions, government agencies, prosecutors, NGO's etc.

III. Prosecution

- Act as a consultant to collect, analyze and interpret financial data in order to support efforts at prosecuting offenders.
- Engaged as an expert witness to provide testimony with regard to matters within their area of expertise (i.e., they can aid the trier of fact in understanding the way in which the proceeds of the trafficking of persons were laundered through the financial system).

IV. Partnerships

- Included as a key stakeholder and partner, IFA's can not only provide insight that can strengthen existing prevention and protection measures but can also aid in the prosecution of traffickers through enhancing detection efforts and acting as a testifying expert at trial.

Consultant v. Expert Witness

A forensic investigative account (IFA) can be engaged to act as either a litigation consultant or a testifying expert witness. The central difference between acting in a consultancy versus testifying role is that (a) consultants will not be asked to testify, and (b) their work is typically protected from disclosure by privilege.

I. Litigation Consultant

- Collect, analyze, and interpret evidence
- Advise of arising issues and strategies as it relates to the legal matter
- Assist in acquiring another forensic investigative accountant to act as a testifying witness and/or help in connecting with additional experts who may be needed for the investigation.

II. Expert Witness

- Acting in their capacity as a testifying expert, investigative forensic accountants will be expected to provide testimony in relation to matters within their area of expertise in a judicial proceeding.
- As a testifying expert, the IFA's duty is to the trier of fact, and as such, is required to provide impartial, non-partisan and fair evidence to aid the trier of fact in reaching a decision.
- Testifying experts do not want to act in any way that would make it appear as though they were advocating for one side.

Admissibility of Expert Testimony

In acting in any capacity as an expert witness, an investigative forensic accountant will first need to satisfy the following criteria in order for their testimony to be deemed admissible.

I. Relevance

- Expert's testimony is to provide insight and apply to the matter before the trier of fact.
- Relevance of the expert's testimony is to be determined by the trier of fact.
- The expert testimony's probative value must outweigh its prejudicial effect.⁶³

II. Necessity in assisting the trier of fact

⁶³ R. v. Mohan, 1994 CanLII 80, [1994] 2 SCR 9

- Expert testimony evidence must be necessary in order for the trier of fact and/or jury to understand and appreciate the nature of the case and its intricate details
- Expert testimony is of specialized knowledge that would likely be outside of the experience or knowledge of the trier of fact. Specialized knowledge should be such that the trier of fact would not likely be able to reach an appropriate judgement in the matter without such testimony.

III. Absence of an exclusionary rule

- Testimony may be deemed inadmissible if the admissibility of the expert's evidence is challenged by an exclusionary rule of evidence.

IV. A properly qualified expert

- The individual engaged to provide expert testimony must be qualified to do so through appropriate experience and knowledge within the specialized area in which they are being retained to testify.

Level of Analysis Necessary for Prosecution

Investigative forensic accountants retained to provide expert testimony are expected to maintain their independence and impartiality as their obligation is to the trier of fact. As such, a high degree of analysis is necessary for prosecution as an investigative forensic

accountant acting in their testifying expert capacity will be expected to not only collect, analyze, and interpret the relevant data (i.e., financial data in the case of laundered illicit proceeds) but also be able to present their findings in a clear and concise manner. As such, investigative forensic accountants will be required to conduct a thorough analysis of the available data as they will be subject to the admissibility criteria as laid out in *R. v. Mohan*.

Anticipated Challenges

- I. The vast majority of key stakeholders are not well acquainted with the skills of investigative forensic accountants and as such it will be challenging to encourage such key stakeholders to engage IFAs in efforts to fight trafficking in persons through enhance detection of laundered proceeds.
- II. Advances in technology have strengthened traffickers' ability to evade detection, by enabling opportunities to connect with legitimate professionals who assist in laundering the proceeds of crime.
- III. In acting as a testifying expert, IFAs are limited to providing testimony which is within the area of their expertise.

Solutions

- I. Educate key stakeholders, including government authorities, non-governmental organizations, international partners and the private sector of the IFA's acquired skills and the various ways in which such experts can be engaged to strengthen the fight to end human trafficking.

- II. By engaging forensic investigative accounts in suspected cases of human trafficking, integrated teams will be able to investigate not only the illicit act of trafficking in persons but also have the financial records and analysis to support the prosecution of these offenders and the detection of self-launderers and well as professional money launderers, organizations, and networks.
- III. Emphasize the importance financial investigations in cases of money laundering as such investigations can aid the prosecution of such crimes and go beyond the limited scope that can be offered without such available data.

Section VI. Case Analysis

R. v. Moazami

In *R. v. Moazami*, the accused, Reza Moazami was indicted on 36 counts, including: ⁶⁴

- I. Living off the Avails of Prostitution – s. 212(1)(j) of the *Code*.
- II. Living off the Avails of Prostitution (under the age of 18) – s.212(2.1) of the *Code*.
- III. Procuring or Attempting to Procure – s.212(10(d) of the *Code*
- IV. Trafficking in Persons – s.279.01(1)(b) and s.279.011(1)(b) of the *Code*
- V. Sexual Interference – s.151(a) of the *Code*
- VI. Sexual Exploitation – s.153(1)(a) of the *Code*
- VII. Sexual Assault – s.2171(1)(a) of the *Code*

Applicable Statutes

Section 212(1)(j) of the Criminal Code states:

⁶⁴ R. v. Moazami, 2014 BCSC 1727 (CanLII). Accessed at [https://www.canlii.org/en/bc/bcsc/doc/2014/2014bcsc1727/2014bcsc1727.html?autocompleteStr=R%20v.%20Moazami%2C%202014%20BCSC%201727%20\(CanLII\)&autocompletePos=1](https://www.canlii.org/en/bc/bcsc/doc/2014/2014bcsc1727/2014bcsc1727.html?autocompleteStr=R%20v.%20Moazami%2C%202014%20BCSC%201727%20(CanLII)&autocompletePos=1)

Everyone who lives wholly or in part on the avails of prostitution of another person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.⁶⁵

Section 212(2.1) of the Criminal Code states:

Every person who lives wholly or in part on the avails of prostitution of another person under the age of eighteen years, and who

Subsection (a) for the purposes of profit, aids, abets, counsels, or compels the person under that age to engage in or carry-on prostitution with any person or generally, and

Subsection (b) uses, threatens to use, or attempts to use violence, intimidation, or coercion in relation to the person under that age

Is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years with no less than five years.⁶⁶

Section 212(1)(d) of the Criminal Code states:

Everyone who procures or attempts to procure a person to become, whether in or out of Canada, a prostitute, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.⁶⁷

⁶⁵ Criminal Code (R.S.C., 1985, c. C-46. Accessed at <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-151.html>

⁶⁶ Ibid. Section 212(2.1)

⁶⁷ Ibid. Section 212(1)(d)

Section 279.01(1)(b) of the Criminal Code states:

Every person who recruits, transports, transfer, receives, holds, conceals, or harbours a person, or exercises control, direction, or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable to imprisonment for a term of no more than fourteen years.

Section 279.011(1)(b) of the Code states:

Every person who recruits, transports, transfer, receives, holds, conceals, or harbours a person under eighteen years of age, or exercises control, direction, or influence over the movement of a person under the age of eighteen years for the purposes of exploiting them or facilitating their exploitation is guilty of an indictable offence and liable to imprisonment for a term of no more than fourteen years and to a minimum punishment of imprisonment for a term of five years.⁶⁸

Section 151 of the Criminal Code states:

“Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of 16 years

Subsection (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than fourteen years and to a minimum punishment of imprisonment for a term of one year; or

⁶⁸ Criminal Code (R.S.C., 1985, c. C-46. Accessed at <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-151.html>

Subsection (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term or not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days.”⁶⁹

Section 153(1)(a) of the Code states:

Sexual exploitation

s. 153(1)

Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom a young person is in a relationship of dependency or who is in a relationship with a young person that is exploitive of the young person, and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels, or incites and the body the body of the young person.⁷⁰

Punishment

(1.1)

Every person who commits an offence under subsection (1)

⁶⁹ Criminal Code (R.S.C., 1985, c. C-46. Accessed at <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-151.html>

⁷⁰ Ibid. Section 153(1)(a)

- (a) is guilty of an indictable offence and is liable to imprisonment for a term of not more than fourteen years and to a minimum punishment of imprisonment for a term of one year; or
- (b) is guilty of an offence punishable on summary conviction and is liable to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of 90 days. ⁷¹

Inference of sexual exploitation

(1.2)

A judge may infer that a person is in a relationship with a young person that is exploitive of the young person from the nature and circumstances of the relationship, including

- (a) the age of the young person
- (b) the age difference between the person and the young person
- (c) the evolution of the relationship; and
- (d) the degree of control or influence by the person over the young person” ⁷²

Analysis

In *R. v. Moazami*, the case centered on the testimony of the victims, which while informative cannot always be depended upon. Relying on the testimony of victims in case of human trafficking cases can be risky for a variety of reasons, including:

- I. The victim may not be able to testify as a result of the psychological trauma and intimidation they faced at the hands of their trafficker(s).

⁷¹ Criminal Code (R.S.C., 1985, c. C-46. Accessed at <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-151.html>

⁷² Ibid. Section (1.2)

- II. Victim may not be effective witnesses; in that they may not be able to recall details or may not be able to withstand cross-examination.
- III. Due to the length of time that could pass between the apprehension of the trafficker(s) and their subsequent trial victims often disappear or decide they are no longer willing to cooperate.

As such, it is vital that such cases also focus on the financial facts of the investigation and look into how traffickers, such as the defendant were concealing the funds generated from such illicit acts.

United States v. Marcus

In *United States v. Marcus*, the Defendant, Glenn Marcus was indicted and convicted of sex trafficking and forced labour under the *Trafficking Victims Protection Act (TVPA)*. In this case, the Defendant, Glenn Marcus recruited young women and girls through various online chatrooms, specifically ones intended for those interested in the BDSM lifestyle. The Defendant, would encourage his prospective victims to confide in him, often sharing intimate details about their lives and experiences. A victim, who identified herself as Jodi, stated at trial that “she shared intimate details about her life experiences, including that she had been physically and emotionally abused by her mother and had struggled with an eating disorder.” (P. 2).⁷³ After gaining the victims trust, the Defendant would use psychological manipulation, violence, or threats of violence against the victim’s family and/or friends to subdue the victim.

⁷³ *United States v. Marcus* 05 CR 456 (APR) (E.D.N.Y. Feb. 6, 2007). Accessed at <file:///Users/admin/Downloads/U.S.%20v.%20Marcus.pdf>

In November 1999, the defendant, “threatened to send photographs and a videotape of the victim engaging in sexually explicit behaviour to her father and to kill her godson if she tried to leave” (P. 5) ⁷⁴ The defendant prohibited victims from wearing clothing, eating and/or drinking and speaking without his permission. The victims were only allowed to sleep for a few hours at a time. The Defendant, Glenn Marcus limited his victims contact with friends and/or family and would severely discipline his victims for minor infractions. The victims were forced to surveil one another in the defendant’s absence.

At times, the defendant also used date rape drugs, such as rohypnol and/or valium or other illicit substances, to inhibit his victims. The defendant forced the victims, including young girls (under the age of 18) to engage in non-consensual sex acts for profit, including with himself and others. The defendant sexually assaulted and tortured his victims for profit, as such acts were recorded and available for viewing for a charge on an online site that the defendant forced his victims to maintain.

Analysis

In *United States v. Marcus*, the defendant, Glenn Marcus operated a website where he uploaded and live streamed sexually explicit content and acts of torture against the victims. He derived profit from the site through a monthly fee that he charged subscribers. In this case, the prosecution of the defendant while successful relied heavily on the testimony of the victims. Now while such testimony was assistive in prosecuting and convicting the defendant alternative evidence could have been

⁷⁴ Ibid. para 5

presented to illustrate that the defendant was trafficking women for the purposes of sexual exploitation. In this case, an investigative forensic accountant could have been engaged to analyze the defendants' financial records. In such a case, the investigative forensic account may not necessarily be looking for signs that the defendant was engaging in money laundering but could focus more so on the suspicious nature of financial transactions (i.e., the profit derived from the website, "Slavespace").

Operation NAIRA

Operation NAIRA was a long-standing investigation into the widespread existence of human trafficking for the purposes of sexual exploitation. It was an initiative led by Portuguese Immigration Services with the intention of dismantling an organized crime network which had been engaging in the sexual exploitation of mostly young Nigeria Women across West Africa, Portugal, France, and Spain.⁷⁵ In July 2014, the organized crime network comprised of West African and Portuguese Nationals was dismantled.

The success of operation NAIRA was a result of the collaborative efforts of Portuguese law enforcement, Portuguese Immigration Services and Europol. The seven suspects were apprehended in Portugal after search and seizures were carried out in the traffickers' homes which resulted in the seizure of the traffickers' mobile phones, computers, and other electronic devices which were of an evidentiary nature.

Analysis

⁷⁵ Europol. (n.d.). Human Trafficking Ring Dismantled in Portugal. Accessed at <https://www.europol.europa.eu/media-press/newsroom/news/human-trafficking-ring-dismantled-in-portugal>

Operation NAIRA was one of many investigations into trafficking in persons for the purposes of sexual exploitation throughout Portugal. However, all investigations share a commonality which is the lack of details capturing the identity of the traffickers, how the victims were trafficked, how the operation was financed (i.e., were the traffickers engaged in money laundering, drug trafficking, or other illicit acts) etc. The issue with the absence of these details is that it limits information sharing and creates challenges for the implementation of effective measures to combat human trafficking. In addition, the absence of such key details illustrates one way in which Portugal's efforts do not align with the Action Against Trafficking in Human Beings, as laid out and disseminated by the Council of Europe and the European Commission for EU member states. Unfortunately, a lack of transparency is not the only issue, the U.S Department of State has also criticized the Portuguese government for their inattentiveness to the needs and rights of victims. Despite recommendations from the European Union and the United Nations to withhold from prosecuting the victims of human trafficking for the illegal acts they were forced to do under duress Portugal has yet to enact any legislation to safeguard victims from such prosecution.⁷⁶ The challenge with the inadequacy of such legislation is that it discourages victims and witnesses from coming forward in fear of prosecution for their involvement. In order to address these inadequacies, Portugal should adjust their anti-trafficking policies and legislation as such:

- I. Enhance training programs to aid in the identification of victims.
- II. Identify traffickers and share identifying characteristics as such characteristics could aid in identifying arising trends and in the prosecution of traffickers.

⁷⁶ U.S. Department of State. (2021). 2021 Trafficking in Persons Report: Portugal. Accessed at <https://www.state.gov/reports/2021-trafficking-in-persons-report/portugal/>

- III. Coordinate and share investigative data across the government, to not only aid in convictions and sentencing but the identification of victims.
- IV. Strengthen legislation to protect victims and witnesses not only from retaliation but from persecution by the justice system and immigration officials.

In addition, the lack of transparency with regard to the profile of traffickers, and the activities they were engaged creates significant gaps not only in terms of arising trends but also in terms of financial intelligence. Operation NAIRA was also a case in which the traffickers has been engaged in money laundering but that is all the information that was provided. It would be useful to know the details of the laundering scheme, whether the traffickers were laundering the proceeds of these illicit acts themselves or through professional money laundering organizations or networks and whether the proceeds were being laundered through legitimate financial institutions or through the dark web, taking advantage of cryptocurrency and the anonymity that the dark web affords criminals.

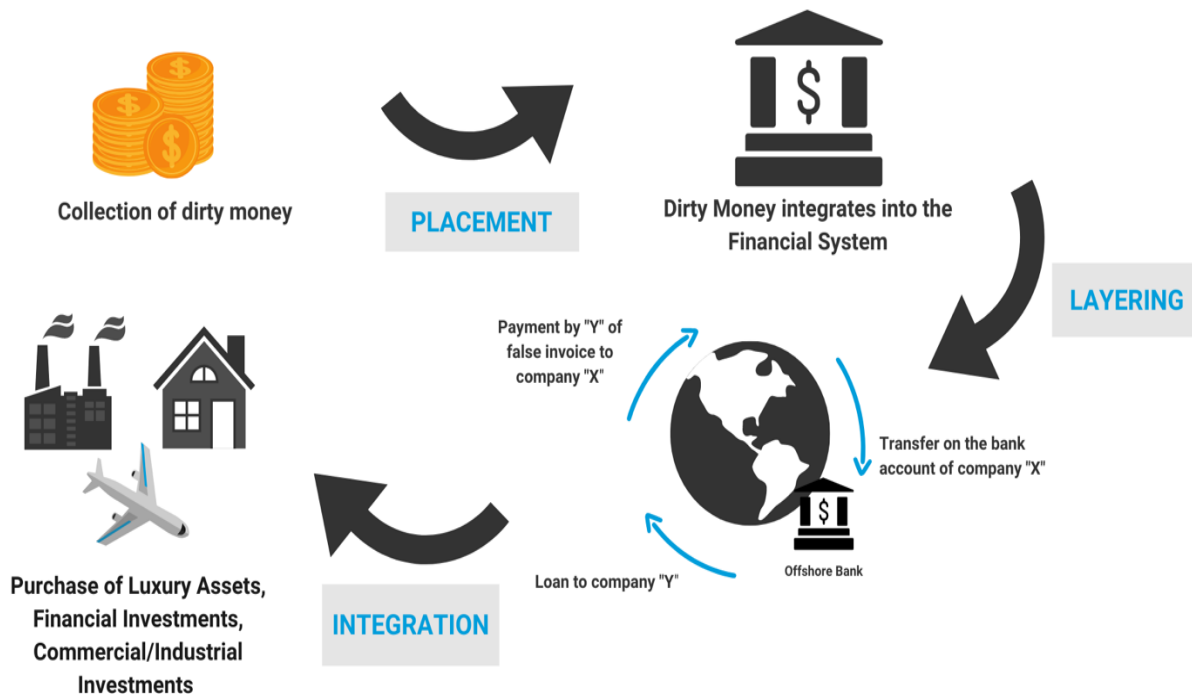
Conclusion

Efforts to combat trafficking in persons, while extensive and detailed in their approach to prevention, protection, prosecution, and partnerships does not grasp the vital nature of the financial investigation that should be at the forefront in not only the prosecuting stage of cases of human trafficking but also when looking at preventive measures. The financial investigation that will follow the illicit proceeds generated from trafficking and the various ways in which perpetrators can launder such proceeds to avoid detection

should be a key component in all efforts to combat human trafficking. In doing so, action plans should recognize and call of the skills and expertise of investigative forensic accountants who can enhance the financial investigation by providing detailed analysis and through their ability to inform key stakeholders of the red flags to look out for the internal controls that are being exploited. As such, it is vital that IFAs be included in these collaborative partnerships as they have key insights to offer in all four key action areas in the fight to end human trafficking.

Appendix A ⁷⁷

Money Laundering Cycle



⁷⁷ United Nations Office on Drugs and Crime. (n.d). Money Laundering. Accessed at <https://www.unodc.org/unodc/en/money-laundering/overview.html>

Appendix B ⁷⁸*General Business Model of Professional Money Laundering Networks***Figure 1. Three stages of professional money laundering**

⁷⁸ Financial Action Task Force. (2018). Professional Money Laundering. Accessed at <https://www.fatf-gafi.org/media/fatf/documents/Professional-Money-Laundering.pdf>

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