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Abstract

In 2014, the Walk Free Foundation released the second edition of the Global Slavery Index (the Index). The annual report estimated the number of people in modern slavery in 167 countries, assessed government responses to this issue, and examined the factors that contribute to risk of enslavement. This paper will provide an overview of the evolution of the government response component for the 2014 edition of the Index, explore the challenges involved in quantifying a government response to modern slavery through an examination of the situation in Vietnam, and highlight how the conceptual framework attempts to capture the various social, political and cultural intricacies involved in responding to modern slavery. Finally, the paper will discuss some of the limitations of applying a comprehensive framework to varied socio-political contexts, and identify potential ways forward as the Walk Free Foundation strives to address the gaps in research on responses to modern slavery.

In the decades following the 1926 Slavery Convention, the fourth major anti-slavery movement¹ has made progress in estimating the prevalence of modern forms of slavery across the world² and in developing an understanding of effective responses. Despite this progress, fragmented empirical data and non-comparable international, regional and national monitoring and evaluation frameworks continue to plague eradication efforts for all forms of modern slavery, including human trafficking. Insufficient data is widely claimed as the fundamental barrier, as a result of different operational definitions, inconsistent data collection methods, and overall poor victim identification and prosecution efforts, particularly in

¹ Kevin Bales “Unlocking the science of Slavery” *Slavery Today Journal* [online]. (2014) 1 (1), available from: http://www.kevinbales.net/uploads/1/1/4/2/1142278/unlocking_the_science_of_slavery.pdf

² Recent efforts include the prevalence estimation work of the Global Slavery Index, the International Labour Organization, and the United Kingdom Government

regions of the world with suspected high prevalence of modern slavery.³ Further to this, critics argue that current frameworks for assessing national and international responses to human trafficking are ‘based on presumptions about the processes and key players that do not reflect the reality of the situation’.⁴ Despite our constantly evolving understanding of the nature and extent of modern slavery,⁵ limited opportunities to share good or promising practices at the national, regional or global level have stymied efforts to learn from and disseminate key lessons on how to respond effectively. The need to improve our understanding of the impact of current efforts to respond is, however, well recognised.⁶

While definitional issues are not central to this article, it would be remiss to ignore the central role definitions play in much of the contemporary debate⁷ and the complexities this creates in any assessment of responses to modern slavery. Human trafficking and modern slavery could be considered two faces of the same coin, in that as activities they are often used interchangeably, or as distinct crime types. The issue with this definitional inconsistency, particularly in relation to developing effective policy and programme responses, is that the response is either

³ For example, the UNODC Global Report on Trafficking is based on a total of 40,177 reported victims, while current estimates of modern slavery range from 20.9 million forced labour victims (ILO) and 35.8 million (Walk Free Foundation). UNODC, “Global Report on Trafficking in Persons” (2014): https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf. See also Liberty Asia, “From Experience: How to Combat Modern Slavery In Our Generation”, (2014) *Anti-Slavery Think Tank*: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf

⁴ Sanja Miliojevic and Marie Segrave, “Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms”, in *Human Trafficking: Exploring the International Nature, Concerns and Complexities*, ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group; Katharine Bryant, “Identifying what works: a meta-analysis of modern slavery evaluations”, *Walk Free Foundation* (2015), <http://www.globallslaveryindex.org/category/publications/reports/>, p. 6.

⁵ Monti Narayan Datta and Kevin Bales, “Slavery in Europe: Part 1, Estimating the Dark Figure”, *Human Rights Quarterly*, 35 (2013) 817 – 829; Kevin Bales “Unlocking the science of Slavery” *Slavery Today Journal* [online]. (2014) 1 (1), available from: http://www.kevinbales.net/uploads/1/1/4/2/1142278/unlocking_the_science_of_slavery.pdf;

⁶ Various initiatives have been established to increase this understanding- the establishment of UN.GIFT in 2007, the Freedom Collaborative established by Chab Dai (<http://www.freedomcollaborative.org/>) as well as recent discussions at Inter-Agency Coordination Group against Trafficking in Persons. See also ICAT, “The International Legal Frameworks concerning Trafficking in Persons” (2012) Issue Paper 1: http://www.ungift.org/doc/knowledgehub/resource-centre/ICAT/ICAT_Policy_Paper_1_The_International_Legal_Instruments.pdf; Liberty Asia, “From Experience: How to Combat Modern Slavery In Our Generation”, (2014) *Anti-Slavery Think Tank*: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf; Katharine Bryant, “Identifying what works: a meta-analysis of modern slavery evaluations”, *Walk Free Foundation* (2015), <http://www.globallslaveryindex.org/category/publications/reports/>, p. 1; Monti Narayan Datta and Kevin Bales, “Slavery in Europe: Part 1, Estimating the Dark Figure”, *Human Rights Quarterly*, 35 (2013), p. 205; Kevin Bales “Unlocking the science of Slavery” *Slavery Today Journal* [online]. (2014) 1 (1), available from:

⁷ Fiona David, “When it Comes to Modern Slavery, do Definitions Matter?” *Anti-Trafficking Review* 5 (2015), pp. 150-152

too narrow to capture all related forms of exploitation, or too broad, leaving responses at risk of being ambiguous and poorly understood and applied. In the context of assessing government responses in this article, however, the term *modern slavery* is a catch-all term for different exploitative practices such as forced marriage, debt bondage, forced labour and human trafficking. It provides the scope to capture all components of a comprehensive response, including the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol), the ‘three P’ approach,⁸ and the criminal justice framework that underpins it.

This article provides insight into one of the first efforts to quantify and measure responses to modern slavery country-by-country. In 2013, the Walk Free Foundation released the first edition of the Global Slavery Index under the premise that in order to eradicate something, it must first be measured. In 2014, the Index included an expanded government response component to provide an analysis and country level rating of 167 governments.⁹ Governments were assessed against five dimensions: their efforts to support victims of modern slavery; the existence of criminal justice mechanisms to prosecute offenders and protect victims; efforts to coordinate the response and demonstrate accountability of responsible parties; actions to address various risk factors such as social systems and institutions that enable slavery to exist; and the existence of legislation and policies to regulate public procurement and business supply chains.¹⁰ The Index forms one part of the Walk Free Foundation’s overall strategy to eradicate slavery, which includes a global activist movement and raising unprecedented levels of capital to drive change in countries bearing the greatest responsibility for modern slavery today.¹¹

It is not the aim of this article to significantly engage with, or challenge the continually expanding body of literature that examines key international, regional

⁸ The “Three P” approach is outlined in the UN Trafficking Protocol: “(a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives.” See United Nations Office on Drugs and Crime, “International Framework to Implement the Trafficking in Persons Protocol” (2009) New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf. The United States Victims of Trafficking and Violence Prevention Act (TVPA) 2000 also sets out the “Three P” approach that underpins the strategy the US Government takes to address human trafficking both domestically and internationally. This approach traditionally outlines three key elements; prosecution, protection and prevention, with the recent addition of a fourth ‘P’- partnerships.

⁹ The Index currently focuses on the responses of the government as the key stakeholder with responsibility for responding to modern slavery. There is potential to expand this component to look at other stakeholders such as business and civil society

¹⁰ See Appendix of the Global Slavery Index for a more detailed breakdown of the conceptual framework. Available at www.globalslaveryindex.org

¹¹ See www.walkfreefoundation.org

and local responses to modern slavery (in all its forms),¹² rather it is to present a previously un-tested methodology in an effort to progress our understanding of the actions governments can take to respond to this issue and to engage with the idea of a globally applicable monitoring framework. Therefore, this article will focus specifically on the measurement methodology underpinning the 2014 Index's government response component,¹³ including the conceptual framework and the quantification method adopted to measure changes in government efforts. The Vietnamese Government response to slavery is examined to illustrate how this methodology was applied, and explores the utility of a global conceptual framework in measuring responses to complex crime types and the methodological challenges this presents. While there has been criticism of the Index¹⁴ and authors of the Index recognise the challenges in measuring modern slavery,¹⁵ this article demonstrates how the government response component of the 2014 Index offers a solid baseline to begin to understand government actions and gaps, as well as providing the beginning of a roadmap to eradication.

Government responses to modern slavery - current frameworks, limitations and information gaps

The government plays a critical role in developing and implementing the laws, policies and programmes that are required to respond to complex crime types, such as modern slavery. While they will not necessarily do this in isolation, as the primary body responsible for the protection of their citizens, the Index is based on the assumption that responding to modern slavery falls under the remit of the national government.

¹²ICAT, "The International Legal Frameworks concerning Trafficking in Persons" (2012) Issue Paper 1: http://www.ungift.org/doc/knowledgehub/resource-centre/ICAT/ICAT_Policy_Paper_1_The_International_Legal_Instruments.pdf; Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", (2014) *Anti-Slavery Think Tank*: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation-Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf; Jacqueline Berman & Phil Marshall, "Evaluation of the International Organisation for Migration and its Efforts to Combat Human Trafficking", (2011) *Norwegian Agency for Development Cooperation*

¹³ The next edition of the Global Slavery Index is due for release in the second quarter of 2016. This includes updates to the methodology addressing some of the limitations presented here.

¹⁴ J.A Chaung "Giving as Governance? Philantropiccapitalism and Modern-Day Slavery Abolitionism" *UCLA Law Review*, (2015) 1516; Anne Gallagher, "The global slavery index is based on flawed data – why does no one say so?", *The Guardian*, 29 November 2014, Available from: <http://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher>

¹⁵ Fiona David "Global Slavery Index researchers welcome constructive criticism" *The Guardian*, 16 January 2015, available from: <http://www.theguardian.com/global-development-professionals-network/2014/jan/15/letters-slavery-index-welcomes-criticism>

While individual governments and regional bodies may have internal monitoring and evaluation frameworks underpinning their response to modern slavery, understanding the effectiveness or the impact of these responses is fragmented at best. As the causes or facilitating factors of modern slavery become increasingly interconnected and visible,¹⁶ the need to understand the impact of these responses is indisputable. While there are a range of tools, guidelines and frameworks to support the implementation of broader international responses,¹⁷ critics argue that the principles which the UN Trafficking Protocol and other response mechanisms are based on are too heavily focused on criminal justice policies.¹⁸ This has arguably resulted in performance indicators that lack the scope to determine the impact of interventions and policies outside the criminal justice system, and, more specifically, the impact on human rights, victims, and potential victims.¹⁹ As our understanding of the nature of slavery, and its impact on society improves, there is an emerging consensus that the criminal justice approach is not enough.²⁰ In light of this, there has been a call to government to view slavery as not only a human rights abuse deserving prosecution, but an issue of human security, which requires a far wider approach. Despite the improved understanding, almost ten years after the United States Department of State's Inspector General called for "performance indicators to compare progress in combating trafficking from year to year",²¹ there is still a significant gap in our understanding of effective anti-slavery (or anti-trafficking) interventions at the international, regional and local scale. Further, there are few mechanisms that move beyond the traditional

¹⁶ Kevin Bales, "New Slavery: a reference handbook" (2004), Santa Barbara, California; Kevin Bales, "Winning the Fight: Eradicating Slavery in the Modern Age", *Harvard International Review*, 31(1) (2009): 14-17;

¹⁷ See the United Nations Office on Drugs and Crime, "International Framework for Action to Implement the Trafficking in Persons Protocol", (2009), New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

¹⁸ Alex Kreidenweis and Natalie F. Hudson, "More Than a Crime: Human Trafficking as Human (In)Security", *International Studies Perspectives*, 16 (2015): 67 – 85; Sanja Miliojevic and Marie Segrave, "Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms", in *Human Trafficking: Exploring the International Nature, Concerns and Complexities*, ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

¹⁹ Ibid; Anne T Gallagher and Rebecca Surtees, "Measuring the Success of Counter-Trafficking Interventions in the Criminal Justice Sector: Who decides – and how?", *Anti-Trafficking Review*, 1 (2012): <http://www.antitraffickingreview.org/index.php/atjournal/article/view/17/19>

²⁰ Alex Kreidenweis and Natalie F. Hudson, "More Than a Crime: Human Trafficking as Human (In)Security", *International Studies Perspectives*, 16 (2015): 67 – 85; Kevin Bales, "The Social Psychology of Modern Slavery" (2002), *Scientific American*, April 23: <http://www.kevinbales.net/the-social-psychology-of-modern-slavery.html>

²¹ United States Government Accountability Office (USGAO), "Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad", USGAO, Washington, DC, 2006, p. 25.

anti-trafficking criminal justice approaches to inform a comparative global assessment of responses.

This is not to say there are no global or regional mechanisms or guidance on the actions governments should be taking to respond to modern slavery. In 2000, the United States Department of State released the first edition of its annual *Trafficking in Persons (TIP) Report*, which now documents the efforts of 187 governments to meet the standards outlined in the Victims of Trafficking and Violence Prevention Act, 2000 (TVPA Act). Efforts to meet these standards are assessed against the ‘three P approach’, and are tied to aid and non-trade related relationships with the United States.²² Non-compliance is managed through diplomatic networks and threats of economic sanctions.²³ In an effort to provide technical assistance to member states of the UN Trafficking Protocol, a collaboration of UN agencies released the *International Framework for Action to Implement the Trafficking in Persons Protocol*.²⁴ The framework outlined the key objectives, with a narrative on related interventions and an overview of the key challenges that member states may face in doing so.²⁵

Closely aligned to the arguments supporting international frameworks to shape anti-slavery interventions and policies, is the call for ‘impact evaluations’ and more rigorous monitoring and evaluation efforts.²⁶ Since 2009, the United Nations Office on Drugs and Crime (UNODC) has released the Global Report on Trafficking in Persons as part of the United Nations Global Plan of Action on Trafficking in Persons. The report provides an overview of the patterns and trends in trafficking in persons at the global, regional and country level, with the aim of supporting the development of evidence based responses.²⁷ Similarly, the United States Bureau of International Labor Affairs, under the direction of the Department of Labor, releases an annual report on the worst forms for child labor, which

²² Alese Wooditch, “The Efficacy of the Trafficking in Persons Report: A review of the evidence” (2011), *Criminal Justice Policy Review*, 22(4), pp. 471 – 491.

²³ United States Government Accountability Office (USGAO), “Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad”, USGAO, Washington, DC, 2006, p. 25.

²⁴ United Nations Office on Drugs and Crime, “International Framework for Action to Implement the Trafficking in Persons Protocol”, (2009), New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

²⁵ Ibid.

²⁶ Anne T Gallagher and Rebecca Surtees, “Measuring the Success of Counter-Trafficking Interventions in the Criminal Justice Sector: Who decides – and how?”, *Anti-Trafficking Review*, 1 (2012): <http://www.antitraffickingreview.org/index.php/atrjournal/article/view/17/19>

²⁷ United Nations Office on Drugs and Crime, “Global Report on Trafficking in Persons: 2014” *United Nations Publication*, available from: http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

“presents the status of the efforts of the 143 countries that benefit from US trade preferences to eliminate the worst forms of child labor”.²⁸ Outside global reports, there are also several regional organisations and programmes that monitor trends and responses to modern slavery on a regional and country level. These include, but are not limited to, the South East Asian specific UN programme – the United Nations Action for Cooperation against Trafficking in Persons²⁹ and the Council of Europe’s Group of Experts on Action against Trafficking in Human Beings (GRETA). While many of these regional frameworks and responses do not differ greatly from the international mechanisms, some differ in their position on key issues and the role of different stakeholders, further demonstrating inconsistencies in the sector.³⁰

While these reports represent invaluable contributions to the understanding and measurement of government responses to modern slavery, they do have limitations. The US Trafficking in Persons Report includes a measure of progress based on a tiered rating system that is linked to aid and non-trade flows and relationships. It has been criticised for being politicised, with an unclear or inconsistent application of the methodology behind the tier ratings.³¹ The report has also been criticised for not adequately taking into account risk factors.³² While the UNODC Global Report on Trafficking in Persons provides an overview of the reported cases, vulnerabilities and a basic overview of government responses, the measure of progress that each country and region is making on this issue is largely limited to changes in the number of prosecutions and number of victims identified and supported.³³ These reports provide valuable insight into the phenomena of modern slavery and the nature of responses; however limited and inconsistently collected data, and the lack of a comparative reporting framework that accounts for the modern slavery in all its forms, leaves gaps in our understanding of change.

²⁸ United States Bureau of International Labor Affairs, “Findings on the Worst Forms of Child Labor”, *United States Department of Labor*, 2014: p. vi: <http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/2014TDA.pdf>

²⁹ UN-ACT, formerly United Nations Interagency Project on Human Trafficking. See un-act.org

³⁰ Sanja Miliojevic and Marie Segrave, “Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms”, in *Human Trafficking: Exploring the International Nature, Concerns and Complexities*, ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

³¹ J. Szep and M Spetalnick, “Special Report: State Department watered down human trafficking report”, *Reuters*, 4 August 2015, available from: <http://www.reuters.com/article/2015/08/04/us-usa-humantrafficking-disputes-special-idUSKCN0Q821Y20150804>

³² A Horning, A Thomas, A Henninger and A Marcus, “The Trafficking in Persons Report: a game of risk” *International Journal of Comparative and Applied Criminal Justice*, 38(3), 2014: 257–28

³³ United Nations Office on Drugs and Crime, “Global Report on Trafficking in Persons: 2014” *United Nations Publication*, available from: http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

While the Index does not claim to address all of the issues identified throughout the sector (and is not without its own limitations), it offers a baseline to begin to measure the changes and impact of responses globally.

Vietnam case study

Vietnam offers an interesting insight into applying the global conceptual framework to a specific context. The following case study is largely based on research conducted in Vietnam with both government and non-government organisations working in the anti-slavery space. Vietnam has a range of socio-economic disparities that influence both the nature and strength of their response to modern slavery. As one of the middle-economies in South East Asia, Vietnam also provides a point of comparison for other countries in the region.

Modern slavery in Vietnam

Modern slavery is a complex crime type, and responding to it is fraught with challenges. The socio-economic and cultural disparity in Vietnam³⁴ means that the ways in which modern slavery manifest are broad and complex, creating a breadth of structural issues to respond to in order to eradicate slavery.

The 2014 Index estimated that there are 322,200³⁵ Vietnamese men, women and children subject to different forms of modern slavery.³⁶ Vietnam is typically recognised as a source country, with Vietnamese citizens enslaved in the United Kingdom, Eastern Europe, Australia and the Middle East.³⁷ Research into human trafficking for sexual exploitation of Vietnamese woman and children identified four main routes; Vietnam to China, Vietnam to Cambodia, Vietnam to Lao PDR en route to Thailand, and Vietnam to beyond the Mekong subregion.³⁸ Further

³⁴ World Bank: Vietnam: <http://www.worldbank.org/en/country/vietnam>; Charles Tucker, Kari Kammel, Heather Lehman & Elisabeth Ward, “An Analysis of Human Trafficking for Sexual Exploitation in Vietnam and a Comprehensive Approach to Combating the Problem” (2010), *Journal of international Law and Policy*, 16(2), pp. 437-481

³⁵ Prior to the publication of this article, the 2016 Global Slavery Index was released, which included updated estimates of the number of people in slavery in every country. The reviewed estimate for Vietnam is 139,300.

³⁶ Walk Free Foundation, “Global Slavery Index: Vietnam” (2014): <http://www.globalslaveryindex.org/country/vietnam/>

³⁷ Office to Monitor and Combat Trafficking in Persons, “Trafficking in Persons Report: Vietnam Country Narrative” *United States Department of State*, (2014): p. 408, available from: <http://www.state.gov/documents/organization/226849.pdf>

³⁸ United Nations Inter-agency Project on Human Trafficking, “Strategic information response network – human trafficking data sheet” (2008), available from: <http://www.no-trafficking.org/reports-docs/vietnam/vietnamdatasheeteng.pdf>

afield, there have been cases in the United Kingdom involving Vietnamese nationals trafficked for forced labour in cannabis production.³⁹ The 2014 United States Trafficking in Persons Report highlighted the role of labour brokers in facilitating the passage of Vietnamese workers abroad, however it notes that as a result of the exorbitant fees required to arrange the employment, Vietnamese workers are highly vulnerable to debt bondage.⁴⁰ China is a common trafficking destination for Vietnamese child victims, with reports of families selling their male children to Chinese families to work on their land.⁴¹

There is also evidence of modern slavery existing within Vietnam. In 2012, Human Rights Watch released a report accusing the Vietnamese Government of state-sanctioned forced labour, with reports of drug offenders forced to undertake manufacturing style work in rehabilitation centres, with many of the products made sold on for international export.⁴² In one worker's account, they explained that "if you refused to work they slapped you. If you refused to work, then they sent you to the punishment room. Everyone worked".⁴³

Cases of forced marriage also occur in Vietnam. Young girls among the ethnic mountain *Hmong* communities throughout rural areas are vulnerable to the practice of *hai pu*, or bride kidnapping, where a boy kidnaps a girl on the premise that she will then become his wife. On arrival at the boy's home, his parents are required to contact the girl's family to arrange the marriage.⁴⁴ Trafficking for the purposes of forced marriage into China is also of concern. In 2011 the Child Exploitation and Online Protection Centre (CEOP) suggested that forced marriage of Vietnamese women and girls was one of the most common forms of exploitation when trafficked to China.⁴⁵

³⁹ K Nguyen, "Abused, imprisoned Vietnamese slave away in UK's cannabis farms", *Thompson Reuters*, 25 February 2015, available from: <http://www.reuters.com/article/2015/02/26/us-britain-slavery-cannabis-idUSKBN0LU00P20150226>

⁴⁰Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State*, (2014): p. 408, available from: <http://www.state.gov/documents/organization/226849.pdf>

⁴¹ Child Exploitation and Online Protection Centre "The Trafficking of Women and Children from Vietnam" *British Embassy*, (2011): p. 31, Hanoi, available from: http://ceop.police.uk/Documents/ceopdocs/NPM_CEOP_FCO_report_-_trafficking_of_Vietnamese_women_and_children.pdf

⁴² Ibid.

⁴³ Human Rights Watch, "Ending Forced Labour in Vietnam's Drug Detention Centres", 6 November 2011, <https://www.hrw.org/news/2011/11/16/ending-forced-labor-vietnams-drug-detention-centers>

⁴⁴ Brendan Rigby, "The burden of being a child bride in Vietnam", *Plan International*, 28 May 2013, available from: <http://www.girlsnotbrides.org/girls-voices/the-burden-of-being-a-child-bride-in-vietnam/>

⁴⁵ Child Exploitation and Online Protection Centre "The Trafficking of Women and Children from Vietnam" *British Embassy*, (2011): p. 21, Hanoi, available from: http://ceop.police.uk/Documents/ceopdocs/NPM_CEOP_FCO_report_-_trafficking_of_Vietnamese_women_and_children.pdf

Assessing government responses to modern slavery

Theoretical framework:

Historically, the anti-trafficking framework has focused on the importance of the criminal justice system and ‘rescue focused interventions’.⁴⁶ Given this significance as part of a broader spectrum of practices, the 2014 response component of the Index is primarily, however not entirely, based on a situational crime prevention framework. This framework draws largely on routine activity theory, crime pattern analysis and rational choice theory; approaches which interpret crime and criminal behaviour as a function of the presence of opportunity to commit a crime. Reducing opportunities to commit the crime thereby reduces its incidence. The routine activity theory is of particular relevance given it seeks to explain the impact of societal changes on opportunity. Within this theory, crime is seen as the result of the convergence of three key factors: a motivated offender, a suitable target and the absence of a capable guardian.⁴⁷ These different theoretical components allow the framework used in the Index to evolve from criminal justice focused approaches, and incorporate responses to the vulnerabilities that stem from the socio-economic, political and cultural practices within a country.

In responding to modern slavery within this framework, it is assumed that a government response should: increase the risk and effort to commit the crime; reduce the reward and access to necessary resources for enslaving people; reduce the vulnerability of potential victims; and strengthen the guardians or crime preventers. This also needs to address what Clarke refers to as the ‘social facilitators’ or the factors or persons that “stimulate crime or disorder by enhancing rewards from crime, legitimating excuses to offend, or by encouraging offending”.⁴⁸ Finally, this approach requires actions that induce guilt or shame, or strengthen the moral condemnation associated with modern slavery

⁴⁶ J.A Chuang, “Giving as Governance? Philantrocipalism and Modern-Day Slavery Abolitionism”, *UCLA Law Review*, (2015): 1544

⁴⁷ K Von Lampe, “The Application of the Framework of Situational Crime Prevention to Organised Crime”, *Criminology and Criminal Justice*, 11 (2), (2011): p. 145 – 163; R.V. Clarke and J.E Eck, “Crime Analysis for Problem Solvers: In 60 Small Steps”, (2005) Washington DC: U.S. Department of Justice

⁴⁸ R.V. Clarke and J.E Eck, “Crime Analysis for Problem Solvers: In 60 Small Steps”, (2005) Washington DC: U.S. Department of Justice

Combating modern slavery requires a deviation from this framework to account for the factors outside more traditional forms of criminal activity.⁴⁹ In applying a situational crime prevention framework, it is assumed that modern slavery involves a series of criminal activities occurring at distinct points in time. Therefore, the theoretical approach needs to identify the nature of interventions at each stage of enslavement, and account for the criminal associations that facilitate the enslavement of another person. The target, or in this context, the victim, will generally be harder to identify when the crime spans international borders. Therefore, it can be assumed, that once a victim has been removed from their community or country, there are less likely to be ‘capable guardians’ to protect them. Further, where modern slavery is an organised crime, it can often involve criminals who are better resourced and organised than other types of offenders. This means they may pro-actively seek out opportunities, and take steps to minimise risk. For example, where a situational crime prevention approach would suggest targeting offenders by enhancing the capabilities of the ‘guardians’, interventions for modern slavery need to consider the possibility that the ‘guardian’ may be involved in the offending. The theory of what constitutes ‘prevention’ needs to take into account that offenders will not only take opportunities, they will also create them.⁵⁰ Finally, given the complexity of required referral networks and the role that non-government and international organisations play in responding to modern slavery, a key challenge is being able to account for each of these actors in a conceptual framework.

By using situational crime prevention theory as its basis, the government response component of the Index presents an evolution of the ‘Three P’ framework established by the UN Trafficking Protocol and TVPA Act, and utilised by the Trafficking in Persons report, as it begins to incorporate government responses to specific risk factors. As the government response component continues to evolve, it will incorporate an assessment of these broader ‘prevention’ measures, such as the importance of strengthening social and moral condemnation of slavery, and the development of social norms that seek to strengthen legal controls.⁵¹

⁴⁹ K Von Lampe, “The Application of the Framework of Situational Crime Prevention to Organised Crime”, *Criminology and Criminal Justice*, 11 (2), (2011): p. 145 – 163.

⁵⁰ Edward Kleemans, Melvin Soudijn & Anton Weenink, “Organized crime, situational crime prevention and routine activity theory”, *Trends in Organized Crime*, 15 (2) K Von Lampe, “The Application of the Framework of Situational Crime Prevention to Organised Crime”, *Criminology and Criminal Justice*, 11 (2), (2011): p. 145 – 163

⁵¹ Gerry Mackie, “Effective Rule of Law Requires Construction of A Social Norm of Legal Obedience” (2012) *University of Chicago Political Theory Workshop*: http://www.sas.upenn.edu/ppe/Events/uniconf_2013/documents/Mackie.G_EffectiveRuleofLawRequiresConstructionofASocialNormofLegalObedience.pdf

This theoretical framework informed the conceptual framework and underpinning performance indicators which determine the strength of the government response. All information was collected via desk-based research, interviews or questionnaires against the conceptual framework, which was broken into five milestones, including:

1. Survivors are identified, and supported to exit and remain out of slavery;
2. Criminal justice mechanisms that address modern slavery are in place in every jurisdiction;
3. Coordination and accountability measures are in place;
4. Risk factors that enable modern slavery, such as attitudes, social systems and institutions, are addressed; and
5. Governments have policies in place to prevent slavery in public supply chains and in the supply chains of businesses operating in their territory.

Each milestone was underpinned by activities, which were broken further into key performance indicators, that if met would indicate the government was implementing a response. Each activity was rated on a 0 - 2 scale, where 0 denoted there was no activity or no information, 1 that governments were taking some action to conduct the activity, and 2 that governments were meeting over 50 percent of the indicators. These were aggregated to give a total score out of a possible 64 points. The 0 - 2 scale was adopted to remove any major biases and, given it was the first attempt at rating governments based on their responses, this scale also allowed for a level of leniency to account for the fact that there may be missing information.

Negative indicators were included in the framework to identify and track poor practice or government action that facilitated slavery. These included actions such as criminalisation of victims for crimes committed while enslaved, or the detaining or deportation of foreign victims. These were rated on a 0 to - 1 scale, and then subtracted from the total score. Based on the final aggregate score, governments were awarded a credit-style rating, as denoted by an alphabetical grade ranging from AAA, AA, A, BBB etc through to D. This was applied by assigning countries to equally distributed bands based on their aggregate score. The country ratings were moderated against other countries to test the data collection and scoring. Governments that received any negative points were not able to receive a rating higher than BBB regardless of their aggregate score. Each 'credit rating', or alphabetic grading, was assigned a description to assist in understanding key elements of the response and to provide a relatable ranking system. It is important to note here that the descriptions for each grading were not finite and there were generally exceptions for each grade depending on the nature and

prevalence of modern slavery in a particular country, and the government's capacity to respond.⁵² Ultimately, the grading descriptions were used to provide a generalized insight into the strength of a response as per an individual country's alphabetical grading.

Rating the Vietnam response to modern slavery: the methodology

Research into the Vietnamese response to modern slavery for the Index was informed by two different sources. First, interviews were undertaken with key government and non-government stakeholders between January 2014 and June 2014⁵³ in both Hanoi and Ho Chi Minh City. The inclusion of primary interview data allowed a more in-depth assessment of the government response. The second was through desk-based or secondary research on both the nature and response to modern slavery in Vietnam. On a broader methodological note, information was also sought through an online survey. In April 2014, surveys were sent to 167 governments requesting information about their response to modern slavery; 38 surveys were completed and incorporated in the overall assessment for the entire Index. While the Vietnam Government did not submit a response to the survey, the inclusion for other governments demonstrates the effort to triangulate data for each government.

Compared to other South East Asian nations, the Vietnamese response to modern slavery is relatively comprehensive. As Table 1 below shows, in 2014 Vietnam was given a CCC rating indicating that there are limited victim support services and the criminal justice framework criminalises some forms of modern slavery. Coordination and collaboration were considered strong components of the overall response, with evidence of a national action plan and associated coordination body, as well as an operational presence in key regional bodies working in this area. While there are efforts that seek to protect those vulnerable to modern slavery, there is little evidence to suggest that the government is regulating their own, or business supply chains currently operating in Vietnam as a way to address the issue. Table 1 outlines the score the Government received for its efforts against each milestone, including both the raw score, and the total percentage.

⁵² Please see www.globalslaveryindex.org for grading descriptions.

⁵³ Note: information was considered up to date at the date of the release of the 2014 Index.

Objective	Score (/64)	Score (%)
<i>Survivors are identified, & supported to exit & remain out of slavery</i>	7/18	38%
<i>Criminal justice mechanisms that address modern slavery are in place in every jurisdiction</i>	6/14	42%
<i>Coordination & accountability measures are in place</i>	7/12	58%
<i>Risk factors that enable modern slavery, such as attitudes, social systems and institutions, are addressed</i>	7/16	43%
<i>Governments have policies in place to prevent slavery in public supply chains and in the supply chains of businesses operating in their territory</i>	0/4	0%
TOTAL (-2 negative indicators)	25	39%
	Rating	CCC

Table 1: Vietnam Government response ratings

As Table 1 illustrates, the strongest components of the Vietnamese Government's response are coordination and accountability efforts, receiving 58 per cent. The Government has an up to date national action plan (NAP), to which they have allocated 80 billion Vietnamese Dong (VND), or approximately \$15 million USD.⁵⁴ Supporting this is the National Steering Committee that was established in 2004 to implement the first NAP. The steering committee was later moved under the Steering Board for Crime Prevention and Control in 2013, which is chaired by the Deputy Prime Minister.⁵⁵ The Vietnam Women's Association was also granted a mandate to monitor, provide advice and publicly report on the implementation and progress of the NAP. There is a comparatively high level of strategic coordination among NGOs operating in the anti-trafficking space, and the Government has an active presence in regional bodies and coordination groups

⁵⁴ Office to Monitor and Combat Trafficking in Persons "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State*, (2014): p. 410, available from: <http://www.state.gov/documents/organization/226849.pdf>

⁵⁵ Ibid

including the Association of South East Asian States (ASEAN), the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), and the Bali Process including the trafficking specific Ad Hoc group.

Compared to other countries in the region, the Government has invested a significant amount of effort in coordinating the overall response to modern slavery. However, field sources indicated that despite promising actions on paper, there is limited implementation, particularly due to the allocation of funding. Sources indicate that of the 80 billion VND allocated to the implementation of the national action plan over a five-year period, only one billion VND had actually been distributed. Non-government service providers implied that it was highly unlikely the entire amount would be distributed. While the allocation of the funding demonstrates a level of commitment to the issue, a lack of resources could also explain why Vietnam scored lower on key performance indicators related to victim assistance or addressing risk.

Outside direct victim support, the Government scored poorly on victim assistance, particularly regarding efforts to identify victims. While there are three trafficking hotlines in Vietnam, NGOs reported that not all were operational, or effective. Further, training for police on identifying victims was limited, and there was no evidence that it was systematic. Researchers could also not identify if there were standard operating procedures to support police in identifying and supporting victims. It is also important to note that the Government received significant criticism for detaining sex workers and drug users in rehabilitation centres, a practice that was recorded against negative indicators and detracted from the overall rating.⁵⁶

Interestingly, despite this relatively low score for victim support, there are some elements of the victim support services in Vietnam that can be held as good practice in the region. Vietnam is one of few countries which offers long-term support and reintegration services. Women in shelters are offered short-term emergency care, and can remain in the shelter to undertake counselling or training until they are able to re-enter the community and employment. Outside the shelter system, the Government supports trafficking self-help groups based on a peer-to-peer support model.⁵⁷ The community based victim support groups receive funding to hold the ‘help sessions’ in North and Central Vietnam. After the initial training conducted by international organisations, the model supports the group to become self-sufficient, and a forum for sharing experiences and information. It was noted

⁵⁶ Human Rights Watch, “Ending Forced Labour in Vietnam’s Drug Detention Centres”, 6 November 2011, <https://www.hrw.org/news/2011/11/16/ending-forced-labor-vietnams-drug-detention-centers>

⁵⁷ UNIAP, “Vietnam National Practitioners Forums on (Re)integration of victims of human trafficking in the Greater Mekong Subregion”, *Vietnam National Practitioners Forum*, Ho Chi Minh City, 20-22 October 2010, available from: <http://un-act.org/publication/view/viet-nam-practitioner-forum-reintegration-victims-human-trafficking/>

that the initial implementation was slow, as many victims did not want to come forward, largely due to the fear and shame associated with experiencing trafficking and exploitation in communities⁵⁸. Field sources suggested, however, that the ‘self-help’ group model has proven effective in reintegrating victims into the community, with around 20 groups operating in 2014. At the time interviews were conducted, the Government was developing a long-term work plan for expanding the group model and a good-practice manual on how to implement the groups at the provincial level.

The Government received the lowest score for efforts to ensure that public and business supply chains are free from forced labour. There were no public procurement policies that prohibit the use of slavery, as well as evidence of government sanctioned forced labour in rehabilitation centres. This resulted in a negative point for the overall score. In addition to government sanctioned forced labour, there was evidence of police corruption and complicity in trafficking among local authorities, including officials at border crossings and checkpoints.⁵⁹

Limitations:

Quantifying government responses to modern slavery and applying a rating across different contexts is complex, and as a result there remain limitations associated with the approach employed in the Index. Accounting for missing data was one such limitation. Data could be missing for a number of reasons, including activities not conducted, data not available in researcher languages,⁶⁰ or not publicly available. Collecting data for some milestones, such as milestone five, was also more challenging than others. Although a statistical extrapolation method was considered to account for missing data, it was decided that since information is largely limited in this field, recognition of the gaps in the data is justified. Highlighting gaps in information also provided an opportunity to engage with governments, enabling them to address the identified gaps and improve their rating. However, missing data remains a challenge in the assessment of government responses, where countries that provided information online tended to score better on the conceptual framework than those countries where information was more difficult to obtain.

⁵⁸ Field sources

⁵⁹ Office to Monitor and Combat Trafficking in Persons “Trafficking in Persons Report: Vietnam Country Narrative” *United States Department of State*, (2014): p. 410, available from: <http://www.state.gov/documents/organization/226849.pdf>

⁶⁰ Research was conducted in French, Spanish, Italian, Russian, and Arabic.

Further, in its first edition, the government response component of the Index tended to focus on the existence of policies or legislation, rather than their implementation, in order to respond to modern slavery. For example, data was collected on counter trafficking legislation, or the existence of a national action plan, but did not include the quality of the legislation, or whether the national action plan was being implemented. Field research in Vietnam, however, revealed that while there was a national action plan, there were serious barriers to effective implementation. This was not adequately captured in 2014 as, despite the limitations to implementation, Vietnam still scored highly on the coordination and accountability milestone.

The conceptual framework also attempted to measure 167 governments, including the variances in legal and policy frameworks required if a country is a source, transit or destination country for victims of modern slavery. While Vietnam is considered a comparatively small labour sending nation⁶¹ its contribution to the international labour force continues to grow, with more than 100,000 Vietnamese labourers travelling to Taiwan, Malaysia, South Korea and countries in the Middle East in 2014, and over 500,000 contract labourers currently working overseas.⁶² In light of this, the conceptual framework seeks to identify what a government is doing to protect workers who go abroad. Given the interest in foreign employment, the Ministry of Labour, Invalids and Social Affairs (MOLISA) sought to protect work standards through bilateral agreements with destination countries.⁶³ Further to this, the Government also regulates private recruitment agencies that recruit within Vietnam for a commission.⁶⁴

These performance indicators are therefore relevant to source countries such as Vietnam; however, their applicability to destination countries could be questioned, highlighting the challenges in applying a comprehensive framework to differing contexts. For example, in Malaysia, which is predominantly a labour-receiving country, the Government would not necessarily need to place the same emphasis on protections for Malaysian migrant labourers. As a result, Malaysia – by default – would not meet these the indicators relating to protecting workers abroad, and would receive a lower score on milestone four.

⁶¹ D Bèlanger, “Labor Migration and Trafficking among Vietnamese Migrants in Asia” *The ANNALS of the American Academy of Political and Social Science*, Vol. 653(1)

⁶² Karl Miller, “From Humanitarian to Economic: The Changing Face of Vietnamese Migration” *Migration Policy Institute*, 29 April 2015, available from: <http://www.migrationpolicy.org/article/humanitarian-economic-changing-face-vietnamese-migration>.

⁶³ Ibid.

⁶⁴ Ibid.

The government response methodology has received critique⁶⁵ focused on the specific indicators used to determine the strength of a government response.⁶⁶ Chuang argued that the indicators used to determine the strength of a government response are “ultimately, dressed up variants of the standard penalization and rescue strategies that have dominated the anti-trafficking field for fifteen years.”⁶⁷ While the government response component has primarily drawn on the learnings of the anti-trafficking field, it is important to note that the framework aims to go further than penalization and rescue strategies and will continue to build on this in the coming years. The conceptual framework was developed in collaboration with anti-trafficking experts and practitioners, social scientists, and individuals from the public health and harmful traditional practices fields. This is reflected in the inclusion of addressing risk factors as a standalone dimension, as well as the inclusion of negative indicators, or government actions which allow modern slavery to occur. The conceptual framework will continue to evolve and incorporate other approaches to measure government responses as these develop in the anti-trafficking and anti-slavery fields.

Next steps in measuring government responses to modern slavery

Understanding the nature of government responses to modern slavery requires a multi-dimensional and multi-disciplinary approach that can account for the inherent complexities and constant evolution of a global phenomenon. The first step involves developing a working consensus about what is already happening, and where we as a movement need to improve. In 2014, the Anti-Slavery Think Tank released a review of the anti-slavery movement since the 2000 United Nations Trafficking Protocol;⁶⁸ one of the key recommendations was an annual review of a global strategic framework that can be used as a basic template for the anti-slavery and trafficking community. While such frameworks do exist, such as the United Nations Global Action Plan on trafficking, annual reviews are limited to

⁶⁵ J.A. Chaung “Giving as Governance? Philantrocipitalism and Modern-Day Slavery Abolitionism” *UCLA Law Review*, (2015) 1516; Anne Gallagher, “The global slavery index is based on flawed data – why does no one say so?”, *The Guardian*, 29 November 2014, Available from: <http://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher>

⁶⁶ J.A. Chaung “Giving as Governance? Philantrocipitalism and Modern-Day Slavery Abolitionism” *UCLA Law Review*, (2015) 1516

⁶⁷ Ibid.

⁶⁸ Liberty Asia, “From Experience: How to Combat Modern Slavery In Our Generation”, (2014) *Anti-Slavery Think Tank*: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf

changes in the number of prosecutions and number of victims identified.⁶⁹ Alternatively, the government response component of the Index attempts to capture and quantify a holistic response, including victim support mechanisms, the criminal justice framework, and responses to risk factors. Social systems and institutions are vital in preventing all vulnerable groups from being enslaved; so too are the programmes that prevent those who have been assisted from being re-enslaved.

With the government response component of the Index, there is a now a baseline assessment of government responses which aims to take into account the ‘three P’ framework, as well as broader risk factors. The Vietnam case study illustrates some of the limitations of applying this framework to varied contexts, some of which were addressed in the third edition of the Index, released in May 2016. For example, the conceptual framework was updated post release of the 2014 report to include indicators that assess implementation of responses. Indicators on the existence of shelters have been supplemented with indicators on whether these are available for men, women and children, if victims reside in the facilities, and if victims reside there voluntarily. This is the first step in the Index’s continual improvement; eventually, the framework could also measure effectiveness of government actions - whether there has been an increase of referrals to victim support services due to better coordination, for example.

The next steps for assessing responses to modern slavery must include addressing insufficient and unstandardised data, and allocating the required resources to analyse it. There are available data that can be used to inform monitoring and evaluation efforts, however there needs to be increased focus – as a movement – to improve and standardise data collection methods and tools, and to seek innovative types of data and means in which it is gathered. New and emerging technologies exist, and each one presents an opportunity to better understand the issue. The work of Labour Voices, an international organization focused on responding to forced labour for example, provides an avenue for those experiencing labour exploitation, including forced labour and labour trafficking, to provide feedback as part of an early warning systems for businesses.⁷⁰

Finally, this information has to be transparent and disseminated in a way that makes it easily digestible and applicable for those working on the ground. In May 2016, the Walk Free Foundation made government response data publicly available in a searchable database, which may assist academics, policy makers and

⁶⁹ Sanja Miliojevic and Marie Segrave, “Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms”, in *Human Trafficking: Exploring the International Nature, Concerns and Complexities*, ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

⁷⁰ See Labor Voices, “About”, last modified 2014, available from: <http://www.laborvoices.com>

practitioners in their research and responses to modern slavery.⁷¹ This platform will eventually become an interactive forum, whereby these groups can add their data and provide feedback on individual indicators or government responses.

In 2014, it was argued that the primary reason for the ‘failure’ to have more impact on ending modern slavery is the lack of measurement.⁷² It states that this failure can be attributed to the “lack of initial baseline data... and the tools with which to assess progress.”⁷³ The government response component of the Index provides the beginnings of a baseline against which progress can be measured. The methodology will be continually strengthened as more primary data becomes available, and governments contribute to the findings in an effort to improve their responses to modern slavery.

⁷¹ Available at <http://www.globalslaveryindex.org/data/>

⁷² Liberty Asia, “From Experience: How to Combat Modern Slavery In Our Generation”, *Anti-Slavery Think Tank* (2014): p. 59: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf

⁷³ Ibid.