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The Transnational Investigation of Organised Modern Slavery: A Critical Review of the use of Joint Investigation Teams to Investigate and Disrupt Transnational Modern Slavery in the United Kingdom

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Abstract: In 2015 the United Kingdom (UK) introduced the Modern Slavery Act to help improve the response to the threat posed by the trafficking of human beings both within the UK and across its borders. Herewith, this paper presents a rapid evidence assessment of the development of joint investigation teams and their role in human trafficking investigations from a UK perspective. There is little publicly available information about the role of joint investigation teams and this paper addresses that knowledge gap by analysing existing policy-oriented data and situating the findings within the context of other international responses to human trafficking.

Keywords: Modern Slavery, Human Trafficking, Joint Investigation Teams, Transnational Investigation, Global Policing.

INTRODUCTION

There is an increasing transnational threat to global insecurity from organised crime groups (OCGs) who, according to Lilley [1], are 'more in tune with globalisation', than those who police them. The Director General of the United Kingdom (UK) National Crime Agency (NCA), Lynn Owens, has commented that organised crime continues to be a national security threat to the UK, with the impact upon communities being greater than terrorism [2]. That threat includes an increase in modern slavery by OCGs [3]. The threat presented by modern slavery is dynamic and intertwined with other threats to communities. Law enforcement agencies (LEA) across the UK are constantly developing their knowledge and adapting their response to these threats [4] although there is little publicly available evidence on which to draw inferences about what best practice might look like. In response to this knowledge gap, this research focuses on the use of Joint Investigation Teams (JITs) in modern slavery investigations where UK police or other UK LEAs work in partnership with other European police and LEAs. JITs are a process by which different police forces within the European Union (EU) gather and exchange evidence and intelligence to investigate a specific crime or pattern of criminal activity usually by one or more organised crime groups (OCGs) operating on a transnational basis. JITs represent one element of

the global response towards preventing, combating and eradicating modern slavery promoted by Article 19 of the United Nations (UN) Organised Crime Convention.

This paper presents a rapid evidence assessment (REA) of the development of JITs and modern slavery investigations from a UK perspective due to the need to assess the implications of a changing law enforcement relationship with the EU¹. Europol and Eurojust promote and facilitate JITs as best practice in transnational investigations in Europe. JITs have often been understood as difficult to establish due to different nation state laws, policies, practices and procedures but the support from Europol and Eurojust means access to collaborative resources and funding. Jesenicnik and Razinger [6] describe JITs as,

'an investigation team set up for a fixed period, based on an agreement between two or more countries or other competent authorities, for the investigation of a specific criminal offence'.

JITs have improved information sharing but, until recently, there has been little UK involvement in JIT partnerships. JITs can be efficient and practical but other well-established bi-lateral agreements such as

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¹The 2016 UK referendum on the future relationship with the EU, now commonly known as Brexit, resulted in a decision to leave the current European structure. At the time of writing it is not clear what any future law-enforcement relationship between the UK and the EU might look like although there has been some discussion of what both partners might want from a new relationship [5].

International Letters of Request (ILORs), which establish real time co-operation and simultaneous targeting of the same crime problem with police operating in their own nation states, also support a bilateral transnational policing policy [7, 8].

There has been much academic debate about understandings, definitions and best responses to modern slavery or, to use the more commonplace international terminology, trafficking in human beings (THBs). The UK government use of 'modern slavery' terminology as an umbrella term to include THB, slavery, servitude and forced labour, rather than the international emphasis on THB has been subject to critique [9]. Nevertheless, the UK continues to understand THB in accordance with the Palermo Protocol elements, which are the act (recruitment, transport, transfer, harbouring and receipt of persons), the means (threat or use of force or other means of coercion) and the purpose (the exploitation). For the purposes of this paper, we will use the term 'modern slavery' when reference is made to the UK context and THB when reference is made to the international context.

There has been relatively little interrogation of policing responses to THB and there is some evidence of poor levels of awareness of the availability of investigatory tools such as JITs. Thus, there is a timely need for further academic research into the use of JITs, particularly in the context of Brexit and the future of UK police relations with European Union (EU) partners and Europol [5]. This paper provides that discussion by introducing the international and UK legal frameworks that underpin the investigation of modern slavery followed by a rapid evidence assessment of identified literature, analysis of the findings and an assessment of the implications for the policing of modern slavery in the UK. Prior to any of this, we will provide some brief commentary on the methodology used for this research.

METHODOLOGY

The main aim of the research is "To provide a REA of JITs, and other similar interventions, in terms of their utility in safeguarding victims and investigating and disrupting transnational organised modern slavery impacting on the UK?" The aim is to establish a baseline understanding of what further research is required to see how effective JITs are in investigating modern slavery, what barriers exist to using JITs and what can be done to overcome any barriers to their

use. REAs synthesise evaluation research to extract evidence to develop evidence-based policy. This REA took place as part of a review of a successful JIT in the East Midlands area of the UK [10] and the following section outlines our research strategy and approach to data management as well as the search terminology, inclusion criteria, and analytical technique that have been used.

In order to fully understand the interventions, evidence of predominantly qualitative rather than quantitative research has been sought for the REA. While quantitative research, such as economic evaluation, can enhance this process, qualitative research identifies the 'who, what, why, where, when and how' of the intervention [11, 12]. Analysis has thus been undertaken of academic and policy-oriented evaluation literature which assesses how JITs are used to investigate modern slavery. A management system based on the principles of the Home Office Large Major Enquiry System (HOLMES) has been used to process the evidence obtained for the REA. Such evidence has been gathered using a time specific inclusion/exclusion search of academic databases and open source data.

Access to the participants in organised modern slavery and those who police it is difficult and limited. This is accepted by academics who specialise in researching organised crime [13] and those who specialise in researching intelligence gathering methods [14-19]. They propose Open Source Intelligence (OSINT) as a solution, where evidence is gathered and analysed from a variety of open sources, including the media, social networks and police and government documents published on the internet.

An online search of JSTOR, ProQuest, Google Scholar and LexisNexis databases was undertaken using search terms such as 'transnational investigation', 'modern slavery' and 'joint investigation teams'. These searches were accompanied by the identification of appropriate grey literature such as official inspections and reviews of transnational investigations. 45 papers were identified for more detailed purposive sampling to ensure a focus on transnational investigation of modern slavery involving UK police and LEAs. This resulted in the identification of nine papers for inclusion in the REA. The papers used in the REA were:

'Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK' [20].

'Regulation and enforcement to tackle forced labour in the UK: A systematic response' [21].

'In the Dock: Examining the UK's Criminal Justice Response to Trafficking' [22].

'North-South Irish Responses to transnational Organised Crime: research Report and findings' [23].

'Combating modern slavery experienced by Vietnamese nationals en route to, and within, the UK' [24].

'A Typology of Modern Slavery Offences in the UK' [25].

'Stolen freedom: the policing response to modern slavery and human trafficking' [26].

'Crown Prosecution Service (Delivering Justice): Modern Slavery Report' [27].

'Before the Harm is Done: Examining the UK's response to the prevention of trafficking' [9].

These nine texts were analysed alongside two other significant reports that were published during the research; the *Second JIT Evaluation Report* [28] and *Modern Slavery Police Transformation: Programme Annual Report to 31 March 2019* [29].

Supplementary questions were also identified to support this process:

- What was the expected theory of change and to what extent has it been achieved?
- What method of evaluation research was used?
- What type of investigative intervention has been researched?
- How has the investigation safeguarded modern slavery victims?
- Which OCGs are involved?
- How has the investigation disrupted the activity of OCGs?
- What other relevant themes, if any, have been drawn out from the research?

The evidence from answering those questions has been synthesised using thematic analysis to produce the findings which demonstrates how the transnational

investigation of modern slavery involving UK police and LEAs and their use of JITs has developed since 2000 when Kelly and Regan [20] introduced the concept of '*contemporary forms of slavery*'. Four broad themes were identified which have been used to structure our findings. These are; the role and function of the JIT, the identification of victims, police investigative strategies, and partnership working. Prior to interrogating the findings, we will introduce the legal frameworks that underpin the policing of modern slavery in the UK as well as JITs in the EU and provide some introductory guidance to the role of JITs.

DEVELOPING THE UK LEGAL FRAMEWORK FOR POLICING MODERN SLAVERY

Modern Slavery is the terminology used by the UK government to capture the broad range of smuggling, trafficking and other coercive activities that facilitate the exploitation of vulnerable people yet the international framework that underpins national and transnational responses continues to refer to trafficking in human beings (THB). The 'Palermo Protocol' [30] is the main international instrument obliging states to criminalise THB, with Article 3 of that protocol defining THB as:

"...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."

The UK Government's Modern Slavery Strategy [31]² supports the investigation of transnational modern slavery using a JIT with partners from the UK and other EU Law Enforcement and Judicial agencies. The strategy makes specific mention of Europol and Eurojust as key partners in improving co-ordination of the investigation of modern slavery offences committed

²The Modern Slavery Strategy [31] discussed in this paper covers England and Wales, but there are similar strategies in Scotland and Northern Ireland [25].

on a transnational basis [31]. It is widely recognised that investigation and prosecution in one country alone can move the criminal activity from one place to another so Europol and Eurojust provide funding, resources, co-ordination and support for transnational operations to support attempts to dismantle organised crime gangs.

There are a multitude of different working definitions of organised crime [32] which reflect the variety of its shape, manifestations and impact. This paper draws specifically on the work of Hobbs [33] to reflect the 'glocal' structure, organisation and impact of transnational organised modern slavery. According to Hobbs, while organised crime may be driven by global markets its impact is felt at the local level. This perspective informs strategic responses to organised crime with the UK prioritising disruption tactics ahead of, for example, the Italian emphasis upon prosecution [34]. The extent of organisation evident in any form of organised crime is variable and this is no different in the context of modern slavery where any activities involving "more than one person working together with others over a period of time to commit crime for personal gain" [35] could be described as organised modern slavery.

Using the Palermo Protocol as a guide, the UK Government implemented the Modern Slavery Act 2015:

"An act to make provision about slavery, servitude, forced or compulsory labour and about human trafficking, including provisions for the protection of victims; to make provision for an Independent Anti-Slavery Commissioner; and for connected purposes."

Sections 1 and 2 of the Modern Slavery Act 2015 specify offences relating to slavery, servitude, forced or compulsory labour and human trafficking. The Modern Slavery Act 2015 is considered an example of Piotrowicz's [36] '*pragmatic solution*' to modern slavery, seeking to identify those subject to slavery and trafficked for exploitation as victims of a crime and to use national and transnational analysis to improve the responses to this problem [36]. In 2016, 51 people were prosecuted under this act in England and Wales and in 2018 this number rose to 239 [27]. It is promoted by the UK Home Office as a '*world-leading*' piece of legislation despite a recent review and expected upcoming revisions [37].

Sereni and Baker [9] examined the criminal justice response to modern slavery and the vulnerabilities that lead to victimisation. They are critical of the lack of effort by the UK Government to reduce the causes of vulnerabilities that lead children and adults to become victims of modern slavery. Austerity measures, a hostile immigration policy and the potential negative consequences of Brexit are all cited as factors which enhance vulnerability. While the full extent of modern slavery is still not known, increased local and transnational investigation has been shown by the research to contribute towards a change in understanding of the subject that can enhance deterrence by increasing the risks for offenders [9].

Bowling and Sheptycki [38], define transnational policing as, '*any form of order maintenance, law enforcement, peace keeping, crime investigation, intelligence sharing, or other form of police work that transcends or traverses national boundaries*'. Such transnational policing has been analysed by Deflem [39] who developed the Weberian concept of '*bureaucratisation*' to establish the existence of '*policeization*'. '*Policeization*' occurs when police officers, with operational independence from their democratic nation state, meet to investigate crime and create transnational policing processes. The police meet at various levels including bilateral meetings between police from two countries to investigate specific criminal activity and international police conferences to discuss options for dealing with trends in global and transnational crimes. Some of the meetings result in policy enactments and international treaties by the respective nation state governments of the police involved.

According to Westmarland [40], increased professional contact by police from different nation states might be perceived by some critics, particularly politicians, as generating a loss of sovereignty. These critics interpret the evolution of transnational and supra-national policing mechanisms as indicative of a shift towards global policing where policing policy and processes are determined beyond the nation state and the elected representatives of individual nation states have less influence over how states are policed [40]. This perception of global policing undermining sovereignty could also be seen to potentially hinder policeization and effective investigations. However, Severns' [35] research on the police transnational firearms intelligence network found that, despite political pressures, policeization persists and continues to create new transnational networks which reflect both

local and global policing needs [38]; the prominent sphere of policeization is thus glocal policing³ rather than the emergence of an unaccountable global policing.

In addition to Government and LEA action to transform the investigation of modern slavery, the University of Nottingham reviewed UK research on modern slavery in 2017 and found that there is a significant evidence base to understand and respond to modern slavery. Evidence exists of the potential number of victims, where modern slavery exists in business supply chains, where modern slavery intersects with society, what makes people vulnerable to slavery and best practice responses to modern slavery. However, further research is required on the role of police and LEAs as well as their links to support services, including victim re-integration [42]. The impact of international law enforcement interventions in trafficking destinations as well as victims' countries of origin remains poorly understood and the interrogation of JITs that follows represents an attempt to improve knowledge and understanding in this area.

INTERROGATING THE ROLE AND FUNCTION OF JOINT INVESTIGATION TEAMS

By establishing an understanding of JITs and the cultures that exist alongside them it should be possible to develop an understanding of transnational policing within the wider theoretical context of global policing [38], which considers transnational police culture. The state police are just one node in a multi-agency nodal network response to THB. These networked models of policing have been recognised as a commonplace aspect of the 21st century policing environment [35, 39, 43] but their existence does not necessarily mean that there is a co-ordinated response to modern slavery. On the contrary, it is widely recognised that there is no nationwide systematic response to modern slavery in the UK [9, 29, 37]. Instead, there are a multitude of nodal networks that often rely upon individuals building partnerships out of their own professional experiences. The willingness of the officers involved to commit to this model of transnational partnership working has been identified by Heeres [41] and Severns [35] as essential to successful transnational investigations.

The '*willing and able*' culture identified by Heeres [41] underpins '*policeization*' [39] and facilitates transnational policing.

Previous studies have identified a knowledge gap in relation to academic literature on the police investigation of modern slavery and the role of global policing networks in facilitating successful partnerships [25]. One aspect of this knowledge gap is a critical assessment of JITs as a response to transnational crime. According to Jesenicnik and Razinger [6]⁴, JITs were introduced to '*assist and facilitate*' the investigation of transnational organised crime as an option for signatories of the Second Additional Protocol to the European Convention on Mutual Legal Assistance (MLA). The investigation should be carried out in one or more of the nation states that are a party to the JIT agreement [45]. There is no specific requirement to set up JITs for transnational investigations involving the UK or other European nation states especially if other informal ways of working can achieve the same objective [46]. However, if a decision is made to set up a JIT, there must be a need to investigate specific transnational criminal activity [6]. For example, a JIT should be established if there are requirements for '*difficult and demanding*' investigations with links with LEAs from different countries and there is a necessity for '*co-ordinated and concerted actions*' in different nation states. In short, a JIT should be established if it would otherwise not be possible to investigate, prosecute and prevent such transnational crime [6].

The formal agreement between the two or more nation states involved in any JIT requires the signatures of all the competent authorities involved. The agreement is likely to include:

- The legal basis for the JIT.
- Parties to the agreement.
- Purpose of the JIT.
- Period covered by the agreement.
- Location(s) in which the JIT will operate.

In addition, based on best practice, the agreement could include:

³The firearms network is a co-operative organisation of transnational organised crime policing anchored within the nation state. It is a development of nation state policing, involving some pluralisation with other public organisations, rather than a top down global reconstruction of policing from the outside facilitated by pluralisation with private providers. It is Heeres' [41] glocal reconstruction of policing.

⁴Jesenicnik and Razinger [6], who provided a guide to West Balkan states on JIT investigation of TNOG (prior to the European Union, Eurojust, Europol and OLAF JIT Experts' guide [44].

- An operational plan.
- Method of communication between the teams.
- JIT leader(s).
- JIT members and their roles and competencies.
- Provision for any second members.
- Evidence acquiring methods.
- Information and evidence exchange and application rules.
- Method of using and disposing of the collected information and evidence.
- Conflict resolution.
- Any special conditions.
- Provisions for internal evaluation as the investigation progresses [6]

The Eurojust, Europol and OLAF [44] practical guide on JITs states that while the crime affects more than one country the criminal investigation need only be carried out in one of the nation states that is a party to the JIT. Even if only one of the parties to the JIT undertakes the investigation and another supplies evidence or shares intelligence as part of that investigation, this still amounts to transnational policing for the purpose of understanding how policing works from a criminological point of view.

While the full extent of modern slavery is still not known, increased local and transnational investigation has been shown by the research to contribute towards a change in understanding of the subject [42]. JITs can also be promoted as a deterrent as they increase the risk to the offender or offenders [9]. The use of JITs increased from 3 in 2005 to the establishment of at least 69 new JITs in 2016 [47]. By 2017, the UK alone was participating in 65 JITs and topped the Eurojust table. At least 20 of those JITs (instigated by UK LEAs) targeted human trafficking and slavery [48]. Thus, available evidence demonstrates that the UK is a prominent contributor to JITs but there remains relatively little evidence about how JITs, or other investigative interventions, address challenges such as the prevention of victimisation.

JITs are championed as a useful tool for the transnational investigation of THB in Annison's [22]

paper. The paper is based on extensive research of the UK Criminal Justice System (CJS) response to THB and provides qualitative evidence of the first THB JIT between the Metropolitan Police Service (MPS) and the Romanian National Police (RNP). Annison [22] introduces the merits of JITs as a useful tool in investigating modern slavery and THB as they speed up information exchange and attract Eurojust funding for interpreters, travel and accommodation. Operation Golf was a proactive transnational investigation by the MPS and RNP into the trafficking of Romanian children for criminal exploitation. It was the first JIT to investigate TNOG involving THB for modern slavery and was successful in dismantling the transnational OCG responsible for the offending. The multi-agency transnational investigation, Operation Reflex, pulled together various police and LEAs working with a network of International Liaison Officers (ILOs) deployed in various countries to investigate organised illegal immigration and its overlaps with THB for modern slavery. Like Heere's [41], Obokata *et al.* [23] note the importance of a positive joint working culture between non-police-agencies, the police and LEA staff from different countries.

The main critical assessment of JITs is provided by the JIT network of experts [47]. The JIT network of experts focuses upon how many JITs have been established, how and where they have been implemented and what is deemed to be best practice. The assessments do not identify why certain criminal offences become the focus of JITs, why the process works or how the trust that facilitates good partnership working is developed. There is a similar knowledge gap in the academic research highlighted in this REA to compare with the JIT experts' assessment. Thus, the expert assessment is the most advanced source on the subject, but the experts do not meet regularly and there needs to be more detailed academic analysis of the use of JITs.

The 2018 JITs assessment found that during the operational phase of a JIT it is important to have a secure single place to facilitate auditable electronic exchange of information and evidence. Jurisdictional issues need to be anticipated and be part of an ongoing discussion reflecting the setup of the OCG under investigation by the JIT. There is flexibility within JIT procedures to respond to any jurisdictional developments. Flexibility of the JIT also allows the use of seconded members to the team to provide additional help with arrest and search phases as well as '*major international incidents*' [28].

Difficulties can arise in respect of sharing information with states which are not part of the JIT and there are difficulties with continued co-operation after the JIT is closed. However, best practice has been identified in other areas such as having a common language agreement, financial support for translation and deployment of officers with knowledge of relevant languages to help overcome difficulties with translation. In addition, the JIT has been used to enable informal exchanges on areas such as jurisdiction and disclosure, has covered profit confiscation after any trial has concluded, has protected victims and has supported dynamic decision-making during live operations.

There has been good cooperation with the private sector in cybercrime investigation and cooperation during the prosecution has ensured victims have been compensated [28]. Eurojust's findings were similar to the findings of the JIT network of experts. Eurojust fully support the use of a 'Model JIT Agreement' but note there is a 'fear of the unknown' and 'an assumption that JITs are only suitable for high profile cases'. They also identify difficulties in setting up JITs caused by different operational priorities, multiple organisations carrying out 'parallel investigations' and different authorisation procedures [28].

HMICFRS [26] found that the larger investigations into modern slavery were the ones that were best managed, especially where they were managed by police units with specialist knowledge and capabilities. The HMICFRS [26] report provides the most critical and far reaching evidence on the police investigation of modern slavery in the UK with an identified need to be more proactive.

"This does not necessarily require specialist officers; these offences occur in every force area, and while some lead to large and difficult investigations, others are far smaller in scale and less complex. Many of the failings ... in investigating modern slavery and human trafficking, and in bringing offenders to justice (reflected) deficiencies in basic policing practice".

There is a possibility that Brexit will cut the UK off from some transnational investigative and intelligence gathering opportunities. Therefore, there is a need, in light of the increased and effective use of JITs highlighted in this REA, to establish if there is anything in the way JITs work that indicates it is possible to keep

them running with or without the EU institutions and agreements.⁵ The next section addresses some of the immediate challenges presented in the findings of the REA.

IDENTIFYING IMMEDIATE CHALLENGES FOR JITS AND MODERN SLAVERY INVESTIGATIONS

Identification of Victims of Modern Slavery

This finding echoes much of the previous academic literature on victimisation but the following section places this failure to identify victims within the specific context of police investigations. The MSPTU [29] advocates support for victims in alignment with the proactive requirements of articles two and three of the European Convention on Human Rights. Similarly, the consensus opinion from the REA and the wider academic literature is that the immediate priority should be the recovery and protection of victims. Thereafter, the aim of any investigation should be to secure evidence to bring all offenders to justice and dismantle any OCG to prevent harm to others in the future.

More training and awareness-raising on JITs continues to be advocated by the JIT network of experts and Eurojust to identify and respond to victimisation [28]. Front line police officers often lack training in recognising the signs of THB and modern slavery and this can impact upon immediate actions. The 'golden hour' principle applies to THB investigations just as much as other investigations [22]. Therefore, it is important for front line police officers and other first responders to recognise the signs of trafficking so that early action can be taken to secure forensic and other evidence and locate suspects. The successful investigations are where police officers have good knowledge of modern slavery and are willing to support the victims [22]. Investigators also need the expertise to manage local and transnational investigations [28].

⁵⁴The EU and the UK have a mutual interest in maintaining strong cooperation in the fields of security (police) and criminal justice. However, as of Brexit day... the UK will become a third country vis-à-vis the EU. To ensure strong criminal justice and police cooperation after Brexit, the EU and the UK need to develop a legal framework that meets the reciprocal demands of maintaining an effective relationship to fight cross-border crime, which at the same time is principled (value-based) and compliant with rule of law and fundamental rights standards" [48]. Subject to when and if a deal is made, "Eurojust seems well equipped to assist Member States and third countries, including in the future the UK, in the choice of the appropriate legal basis/bases for JITs. At least with regard to JITs, Brexit should not have any dramatic consequence, as there are already other legal instruments facilitating the establishment of JITs between the UK and EU Member States, or at least the majority of them. Nonetheless, the UK could lose its leading role in the field and this may have negative repercussions for common security in Europe" [48]. If there is no deal, "The UK will no longer be able to initiate or participate in JITs set up in support of cross-border police investigations under EU instruments after exit day" [49].

Victims continue to be criminalised despite the defence provision within section 45 of the Modern Slavery Act 2015 with child victims being arrested for drug cultivation and supply [9]. Silverstone and Brickell [24] found victims of trafficking to cannabis farms in the UK often failed to avoid conviction with many prosecuted or held on remand for long periods and others held in detention centres or deported [50, 51]. Nevertheless, 370 Vietnamese victims received positive NRM referrals between 2009 and 2016. Cooper *et al.* [25] also evidence the rescue of victims and return to their home country when it is a European country.

As Sereni and Baker [9] note, Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP) found,

'victims are (currently) being let down at every stage. Identification, information flows, victim focus, and investigative practice all need to be improved considerably, so that victims receive the full range of protections and safeguards to which they are entitled, and more offenders are brought to justice.'

HMICFRS [26] echoed the HMCPSP finding cited by Sereni and Baker [9]. The HMICFRS [26] overall finding was *"that many victims of modern slavery and human trafficking receive a wholly inadequate service from the police"*. Where there was good support for victims it involved allocating an officer to maintain regular contact with victims from rescue through the CJS process to safe resettlement back home or elsewhere [26]. Despite the HMCPSP finding, the more up to date review by the CPS [27] claims they are supporting victims who give evidence at trial; although they do recognise there are issues raised by the 2017 HMCPSP report on the CPS response to the Modern Slavery Act 2015, and in response they have appointed a Chief Prosecutor to lead on modern slavery across all areas of CPS work.

In response to the gap in victim protection, there needs to be clear national leadership on prioritising crimes for investigation and that needs to be reflected in police officer training, especially within the curriculum of the new policing degrees. Joint training has taken place between the CPS and the MPS on JITs supported by Europol, Eurojust and Romanian and Hungarian police and prosecutors. The CPS have pushed transnational investigation through its ILOs and by bringing representatives from various countries

together with Europol, NCA and police leads to a conference on Modern Slavery in February 2018 [27].

Moving from Disrupt to Dismantle with OCGs

The ultimate aim of any police investigation should be to dismantle the OCG without displacing the crime; otherwise the criminals adapt and remain one step ahead of the police [52]. The REA has analysed available evidence on disruption of the identified OCGs to see how far that disruption goes toward dismantling OCGs without displacement. Kelly and Regan [20] identify some disruption of OCGs by bringing offenders to justice. However, there is little evidence of transnational disruption or dismantling of OCGs. This is due to low levels of understanding of THB at this time with little intelligence available on the crime or OCG involvement. The data and intelligence that is available to agencies now is much more reliable although there remain challenges in sharing this data across partner agencies [26]. Annison [22] evidences a focus on investigating and disrupting the UK end of any operation ahead of strategic attempts to dismantle transnational OCGs including all participants, financiers and facilitators. A notable exception to this was the dismantling of the Romania OCG targeted by Operation Golf utilising the auspices of a JIT between the MPS and the RNP.

There is some support for JITs having an impact on dismantling transnational OCGs [25, 27]. However, overall, evidence of disruption of modern slavery OCGs appears to be sporadic. The CPS [27] looks to profits confiscation which undoubtedly disrupts the OCG. They also highlight the use of Slavery and Trafficking Prevention Orders and Risk Orders, but such orders need to be the subject of future research to assess their impact. With regards to the CPS and the police, Sereni and Baker [9] were concerned at the lack of resources to deal with digital disclosure (echoed in the MSPTU 2019 report [29]) and support for victims at each stage of the CJS, including at the investigation stage by the police and the prosecution stage by the CPS. They also made the point of highlighting a lack of use of Slavery and Trafficking Prevention Orders on conviction and Risk Orders during investigations. However, they did note an increase in investigations and prosecutions. Sereni and Baker [9] cite a civil servant as saying:

"Risk orders are underused; police officers and police forces are not aware of them, and they are also challenged by court

clerks who often do not understand them. There could be a lot more innovative use of risk orders – but they are not being applied. When an investigation can only go so far, a risk order can be used to monitor a suspect.”

Obokata *et al.* [23] question the value of using the disruption of an OCG as a measure for the impact of a modern slavery investigation. Like Campana and Varese [53], they state that any evaluation of disruption should draw quantitative and qualitative evidence of the wider cultural, social and economic impact of police activity. Silverstone and Brickell [24] suggest disruption of the exploitation of Vietnamese victims for criminal work tending cannabis grows does not go far enough. As we have noted in this paper, there is a tendency to criminalise the victims and not follow up the investigation further as cannabis is a class B controlled drug and not a priority for investigation by the police.

Sereni and Baker [9], finish on a positive note by citing the 2017 Co-operative Group (The Co-op) Brighter Future Programme as good practice. The Co-op, working in partnership with an NGO (City Hearts), provided work placements for 29 victims of modern slavery each year, to provide them with the dignity, stability and security of regular employment with legitimate employers. Overall the response to safeguarding victims is mixed and more needs to be done to support victims. As highlighted by the MSPTU [29], *‘Balancing the risk of harm to victims with the need to collect evidence about continuing exploitation is a frequent dilemma for investigators.’* This needs careful planning to ensure constant support for victims. Without such support cases could be jeopardized [29].

Making JIT Partnerships Work

The challenges presented when investigating THB cases are replicated worldwide. Farrell and Pfeffer [54] identified problems in the identification of THB in their study of 20 counties in the United States as well as a conflation of prostitution with sex trafficking and little awareness of labour trafficking. International studies frequently call for better partnership working but it is often unclear what this might mean in practical terms and how effectiveness might be measured. There are clear tensions between the multitude of different organisational aims and functions that come together in the partnership response to modern slavery. These tensions have the potential be exacerbated by introducing transnational partners with cultural and

language differences between nation states [7]. The importance of language and culture means that consideration should be given to the inclusion of translators on the JIT at an early stage as well as other collaborative work that can strengthen the partnership.

Translators are costly but essential elements of partnerships. Annison [22] identifies the importance of using professional interpreters with relevant experience of different dialects who are psychologically and emotionally able to cope with gathering evidence from victims, gaining their confidence and supporting them throughout the whole CJS process. Other support should be given to victims throughout the CJS process whether it is for drink or drug addiction or enabling therapy to take place to deal with trauma. Such interventions have been singled out as matters which could undermine the prosecution. However, victims need consistent support and this should be recognised and managed in consultation with all those involved in the CJS process. Similar support and management is required to facilitate victims to give video link evidence from their home country, for special measures and wider witness/victim protection.

There is limited evidence available on what makes partnerships work other than building mutual trust between agents and agencies and a commitment to work together towards a shared goal [35]. Of particular importance to how the subculture and policeization works is the people and how they interact with each other, identify similar goals, gather evidence and bring offenders to justice. That teamwork, underpinned by regular contact, leads to the efficient exchange of knowledge and *“the extent of team culture found in police investigation”* [55]. All teams need leaders and JITs require clear leadership. In some nation states the lead tends to be a public prosecutor. In some cases, as well as an overall leader, there are team leaders in each of the nation states involved. Whatever the case, the leadership and team set up should be agreed before defining the JIT agreement [45].

JITs also have the potential to support the development of pools of expertise as well as individual investigations. There is some evidence of this process in England and Wales already with the formation of force level modern slavery units but their reach to the frontline still remains limited without significant investment in training. HMICFRS [26] identify a need for increased use of JITs supported by increased training. However, there is little detail in the report about how JITs function apart from a College of

Policing reference to a 2011 manual and an apparent misrepresentation of JITs as joint intelligence teams.

FINAL SUMMARY: TOWARDS A BEST PRACTICE MODEL OF TRANSNATIONAL POLICE INVESTIGATION

The findings presented in this article suggest JITs have been introduced into the investigation of modern slavery in more recent years following a promotion of their use by the network of national experts. This development is in alignment with the increased use of JITs in other transnational investigations which indicates a wider cultural acceptance of this approach. However, there is little evidence of what impact investigations as a whole or individually have on THB. As with all organised crime investigations, there needs to be an in depth economic, social and cultural impact assessment completed to fully understand the impact of any investigation upon individual OCGs, crime and organised crime in general [56]. The research alludes to the fact that the operational culture of those involved in the investigations is important. There is evidence of a high degree of commitment in the specialist teams as aspects of Heeres's [41] '*willing and able*' culture but, according to some investigators, there can be a lack of commitment at the strategic level when complex modern slavery investigations require a commitment of resources that leaves other investigations stretched [26]. Many investigations that do not involve JITs have been poorly managed. Failings included, closing cases too early without speaking to victims and witnesses or following up lines of enquiry, delayed investigations, lack of supervision, lack of focus on safeguarding victims, lack of co-ordination between forces and difficulties in maintaining contact with victims relocated through the NRM. Victims continue to be referred for immigration investigation and other enforcement without consideration for their victim status.

There is little academic research that critically assesses what makes a JIT work well. The main critical source of information about JITs is that carried out by the JIT network of experts [28], hence further research is required. Even though the capacity and capability for acquiring information and analysing it has improved and expanded [11] intelligence on THB remains limited. It can be seen from the REA that the investigation of modern slavery has developed between 2000 and 2019 and there has been an increased use of JITs. However, there are some shortcomings especially with the initial police response and the level of expertise and experience on the use of JITs. A range of individual

and structural factors increase a person's vulnerability to becoming a victim of THB. The vulnerability is caused by systemic problems including insufficient protection from laws, policy and practice relating to employment, migration and social and international affairs. The vulnerability is compounded by poverty, human rights abuses, a lack of social and economic opportunities, dangers from conflict or general instability as result of political and civil unrest, armed conflict and natural disasters. There is a need to promote research into causes of THB and modern slavery in order to better inform preventative strategies both before and as part of transnational investigations.

REFERENCES

- [1] Lilley P. *Dirty Dealing: The untold truth about global money laundering, international crime and terrorism*. London: Kogan Page; 2009: 137.
- [2] National Crime Agency. *National Strategic Assessment of Serious and Organised Crime Launch*. 2019 [cited 25 January 2020] Available from: https://www.youtube.com/watch?v=7GG_FGFU51Q&feature=youtu.be.
- [3] National Crime Agency. *NCA: What we do – Modern Slavery and Human Trafficking*. 2019a [cited 5 August 2019] Available from: <https://nationalcrimeagency.gov.uk/what-we-do/crime-threats/modern-slavery-and-human-trafficking>.
- [4] National Crime Agency. *National Referral Mechanism Annual Summary 2017*. 2018. [cited 21 May 2018] Available from: <http://www.nationalcrimeagency.gov.uk/news/1315-national-referral-mechanism-annual-summary-2017>.
- [5] Home Office. *Security, law enforcement and criminal justice: A Future Partnership Paper*. 2018. [cited 21 May 2018] Available from: <https://www.gov.uk/government/publications/security-law-enforcement-and-criminal-justice-a-future-partnership-paper>.
- [6] Jesenicnick J, and Razinger A. *Fight Against Organised Crime and Corruption, Strengthening the Prosecution Network: Handbook on Joint Investigation Teams*. 2014: 9. [cited 25 January 2020] Available from: <http://wb-iisg.com/wp-content/uploads/bp-attachments/4808/Joint-investigation-teams.pdf>.
- [7] Horvatits L, and De Buck B. *The Europol and Eurojust Project on Joint Investigation Teams*. *Academy of European Law*. 2007; 8: 239-243. <https://doi.org/10.1007/s12027-007-0016-5>
- [8] Block L. *EU Joint Investigation Teams: political ambitions and police practice*. In: Hufnagal S, Harfield C, and Bronitt S, editors. *Cross-Border Enforcement: Regional Law Enforcement Co-operation - European, Australian and Asia-Pacific Perspectives*. London: Routledge. 2012; p. 87-108.
- [9] Sereni A, and Baker C. *Before the Harm is Done: Examining the UK's response to the prevention of trafficking*. 2018. [cited 5 April 2019] Available from: <http://www.antislavery.org/wp-content/uploads/2018/09/Before-the-Harm-is-Done-report.pdf>
- [10] Paterson C, Severns R, and Brogan S. *Transnational Investigation of Organised Modern Slavery: What Works?* 2019. [cited 3 November 2019] Available at: <https://elements.shu.ac.uk/viewobject.html?cid=1&id=131979>
- [11] Harfield C. *Blackstone's Police Operational Handbook*. Oxford: Oxford University Press; 2009.
- [12] Losel F. *Doing evaluation research in criminology: balancing scientific and practical demands*. In: King R, and Wincup E,

- editors. *Doing Research on Crime and Justice*. Oxford: Oxford University Press. 2008; p. 141-170.
- [13] Cornish D, and Clarke R. Analyzing Organised Crime. In: Piquero A, and Tibbets S, editors. *Rational Choice and Criminal Behaviour: Recent Research and Future Challenges*. London: Routledge; 2002.
- [14] Best R, and Cumming A. *Open Source Intelligence (OSINT): Issues for Congress*. Washington: Congressional Research Service; 2007.
- [15] Robert D. The Open Source Programme: Missing in Action. *International Journal of Intelligence and Counterintelligence*. 2008; 21(3): 609-619. <https://doi.org/10.1080/08850600802050279>
- [16] Bean H. The DNI's Open Source Centre: An Organizational Communication Perspective. *International Journal of Intelligence and Counter Intelligence*. 2007; 20(2): 240-257. <https://doi.org/10.1080/08850600600889100>
- [17] Bean H. *No More Secrets: Open Source Information and the Reshaping of US Intelligence*. Oxford: Praeger Security International; 2011.
- [18] Tekir S. *Open Source Intelligence Analysis: A Methodological Approach*. Verlag: Saarbrücken; 2009.
- [19] Rollins, J. International Terrorism and transnational Crime: Security Threats, U.S. Policy, and Considerations for Congress. 2010. [cited 25 January 2020] Available from: <https://fas.org/sgp/crs/terror/R41004-2010.pdf>.
- [20] Kelly L and Regan L. *Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK*. 2000. [cited 5 April 2019] Available from: <http://andreonetwork.pbworks.com/f/trafficking.pdf>.
- [21] Balch A. *Regulation and enforcement to tackle forced labour in the UK: A systematic response*. University of Liverpool–Joseph Roundtree Foundation: Liverpool. 2012. [cited April 5 2019] Available from: <file:///C:/Users/Severns/Downloads/forced-labour-regulation-full.pdf>.
- [22] Anison R. *In the Dock: Examining the UK's Criminal Justice Response to Trafficking*. 2013. [cited April 15 2020] Available from: https://www.antislavery.org/wp-content/uploads/2017/01/in_the_dock_final.pdf.
- [23] Obokata T, Payne B, and Jackson J. *North-South Irish Responses to transnational Organised Crime: Research Report and Findings*. 2014. [cited 8 April 2019] Available at: http://eprints.glos.ac.uk/3777/1/AHRC_Project_North-South_Irish_Responses.pdf.
- [24] Silverstone D, and Brickell C. *Combating modern slavery experienced by Vietnamese nationals en route to, and within, the UK*. Independent Anti-slavery Commissioner. 2017. [cited 5 April 2019] Available from: <https://www.antislavery-commissioner.co.uk/media/1159/iasc-report-combating-modern-slavery-experience-by-vietname-nationals-en-route-to-and-within-the-uk.pdf>.
- [25] Cooper C, Hesketh O, Ellis N and Fair A. *A Typology of Modern Slavery Offences in the UK*. 2017. [cited 5 January 2020] Available from: <https://www.antislaverycommissioner.co.uk/media/1190/a-typology-of-modern-slavery-offences.pdf>.
- [26] Her Majesty's Inspectorate of Constabulary and Fire Service. *Stolen Freedom: the policing response to modern slavery and human trafficking*. 2017. [cited 25 January 2020] Available from: <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf>.
- [27] Crown Prosecution Service. *Delivering Justice: Modern Slavery Report*. 2018. [cited 10 March 2019] Available from: https://www.cps.gov.uk/sites/default/files/documents/publications/Modern_slavery_report_201718.pdf.
- [28] Eurojust. *Second JIT Evaluation Report*. 2018. [cited 22 August 2018] Available from: [http://www.eurojust.europa.eu/doclibrary/JITs/JITsevaluation/Second%20JIT%20Evaluation%20Report%20\(Febbruary%202018\)/2018-02_2nd-Report-JIT-Evaluation_EN.pdf](http://www.eurojust.europa.eu/doclibrary/JITs/JITsevaluation/Second%20JIT%20Evaluation%20Report%20(Febbruary%202018)/2018-02_2nd-Report-JIT-Evaluation_EN.pdf).
- [29] Modern Slavery Police Transformation Unit. *Programme Annual Report to 31 March 2019*. 2019. [cited 6 June 2019] Available from: https://www.policingslavery.co.uk/media/2506/ms_annual_report_master_2019_lr_17-05.pdf.
- [30] United Nations Office for Drugs and Crime. *Annex II: The definition of trafficking in persons and the mandate for the global report*. 2020: 1. [cited 1 May 2020] Available from: https://www.unodc.org/documents/data-and-analysis/glotip/Annex_II_-_Definition_and_mandate.pdf.
- [31] Home Office. *Modern Slavery Strategy*. 2014. [cited 20 August 2018] Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC_2015.pdf.
- [32] Antonopoulos G, and Papanicolaou, G. *Organized Crime: A Very Short Introduction*. Oxford: Oxford University Press; 2018. <https://doi.org/10.1093/acrade/9780198795544.001.0001>
- [33] Hobbs D. *Going down the glocal: the local context of organised crime*. *Howard Journal of Criminal Justice*. 1998; 37(4): 407-422. <https://doi.org/10.1111/1468-2311.00109>
- [34] Sergi A. *Structure versus activity: Policing organised crime in Italy and in the UK, distance and convergence*. *Policing*. 2013; 8(1): 69-78. <https://doi.org/10.1093/police/pat033>
- [35] Severns R. *One Step Ahead: The Police Transnational Firearms Intelligence Network*. 2015 [cited 25 January 2020] Available from: <http://shura.shu.ac.uk/11142/>.
- [36] Piotrowicz R. *The Legal Nature of Trafficking in Human Beings*. *International Migration Law*. 2009; 275: 278-281.
- [37] Home Office. *Independent Review of the Modern Slavery Act 2015: Final Report*. 2019. [cited 6 June 2019] Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf.
- [38] Bowling B, and Sheptycki J. *Global Policing*. London: Sage; 2012. <https://doi.org/10.4135/9781446251775>
- [39] Deffem M. *Policing World Society*. Oxford: Clarendon; 2002.
- [40] Westmarland L. *Transnational policing and security*. In: Drake D, Muncie J, and Westmarland L, editors. *Criminal Justice: Local and Global*. Cullompton: Willan. 2010; p. 177-212.
- [41] Heeres F. *Glocal policing*. In: Hufnagal S, Harfield C, and Bronitt S, editors. *Cross-Border Enforcement: Regional Law Enforcement Co-operation - European, Australian and Asia-Pacific Perspectives*. London: Routledge. 2012; p. 109-123.
- [42] Bales K, Hedwards B, and Silverman B. *Modern Slavery Research: The UK Picture*. 2018. [cited January 18 2020] Available from: <http://iascresearch.nottingham.ac.uk/ResearchingModernSlaveryintheUK.pdf>.
- [43] Shearing C. and Johnston L. (2010) *Nodal Wars and Network Fallacies: a genealogical analysis of global insecurities*. *Theoretical Criminology*. 2010; 14(4): 495-514. <https://doi.org/10.1177/1362480610378828>
- [44] European Union, Eurojust, Europol and OLAF. *Joint Investigation Teams: Practical Guide*. 2017 [cited 20 August 2018] Available at: <http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20framework/JITs%20Practical%20Guide/JIT-GUIDE-2017-EN.pdf>.
- [45] European Union. *Resolutions, recommendations and opinions: Council Resolution on a Model Agreement for Setting up a Joint Investigation Team*. *Official Journal of the European Union*. 2017. [cited 21 August 2018] Available from: <http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20framework/JITs%20Practical%20Guide/JIT-GUIDE-2017-EN.pdf>.

- 20framework/Model%20Agreement%20for%20setting%20up%20a%20Joint%20Investigation%20Team/JIT-2017-MODEL-EN.pdf.
- [46] Association of Chief Police Officers. Practice Advice on European Cross-Border Investigations. 2012. [cited 2020 May 1] Available from: <http://library.college.police.uk/docs/appref/european-cross-border-investigations.pdf>.
- [47] Joint Investigation Teams Network. Conclusions of the Thirteenth Annual Meeting of National Experts on Joint Investigation Teams. Eurojust: The Hague. 2017. [cited 23 August 2019] Available from: http://www.eurojust.europa.eu/doclibrary/JITs/JITs%20meetings/Conclusions%20of%20the%2013th%20Meeting%20of%20National%20Experts%20on%20Joint%20Investigation%20Teams/2017_Conclusions-13th-JITS-Meeting_EN.pdf.
- [48] Centre for European Policy Studies & Queen Mary University of London. Criminal Justice and Police Co-operation between the EU and UK after Brexit: Towards a principled and trust-based partnership. London: The Centre for European Policy Studies and The School of Law at Queen Mary University of London. 2018. [cited 6 May 2019] Available from: https://www.ceps.eu/system/files/TFR_EU-UK_Cooperation_Brexit_0.pdf.
- [49] The Law Society. No-deal Brexit guidance: Criminal justice and security co-operation. 2019. [6 August 2019] Available from: <https://www.lawsociety.org.uk/support-services/advice/articles/no-deal-brexit-criminal-justice-co-operation/>.
- [50] Detention Action. Trafficked into Detention. 2017. [cited 7 August 2019] Available from: <https://detentionaction.org.uk/publications/trafficked-into-detention/>.
- [51] Hill A. Home Office lied to EU states so it could deport slavery victims. *The Guardian*. 2019. [cited 7 August 2020] Available from <https://www.theguardian.com/politics/2019/jul/15/home-office-eu-countries-deport-slavery-victims-whistleblowers>.
- [52] Kenny M. *From Pablo to Osama: Trafficking and Terrorist Networks, Government Bureaucracies, and Competitive Adaptation*. Pennsylvania: Pennsylvania State University Press; 2008.
- [53] Campana P, and Varese, F. Organized Crime in the United Kingdom: Illegal governance of markets and communities. *British Journal of Criminology*. 2019; 58(6): 1381-1400. <https://doi.org/10.1093/bjc/azx078>
- [54] Farrell A, and Pfeffer R. Human Trafficking: Cultural Blinders and Organizational Barriers. *American Academy of Political and Social Science*. 2014; 653: 46-64. <https://doi.org/10.1177/0002716213515835>
- [55] Glomseth R, Gottschalk P, and Soli-Saether, H. Occupational Culture as determinant of knowledge sharing and performance in police investigations. *International Journal of the Sociology of Law*. 2007; 35(2): 96-107. <https://doi.org/10.1016/j.ijls.2007.03.003>
- [56] Westmarland L, and Conway S. Crime at the Car Wash? Serious Organised Crime and a View from inside the NCA: A report on a lively discussion about the nature of modern slavery. *The British Society of Criminology Blog*. 2019. [cited 3 June 2019] Available from: <https://thebscblog.wordpress.com/tag/policing/>.

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