

# Crime vs. Ethics

## Changing corporate culture to reduce modern slavery

By Richard Dailly and Duncan Jepson



**FOR MANY YEARS, KROLL HAS PROVIDED INTELLIGENCE ON SUPPLY CHAINS FOR CLIENTS TO ASSIST THEM IN BETTER UNDERSTANDING AND SHEDDING LIGHT ON POTENTIALLY ILLEGAL AND UNETHICAL BUSINESS PRACTICES FOCUSED ON THE EXPLOITATION OF WORKERS, PARTICULARLY IN OPAQUE JURISDICTIONS WHERE POVERTY IS RIFE.**

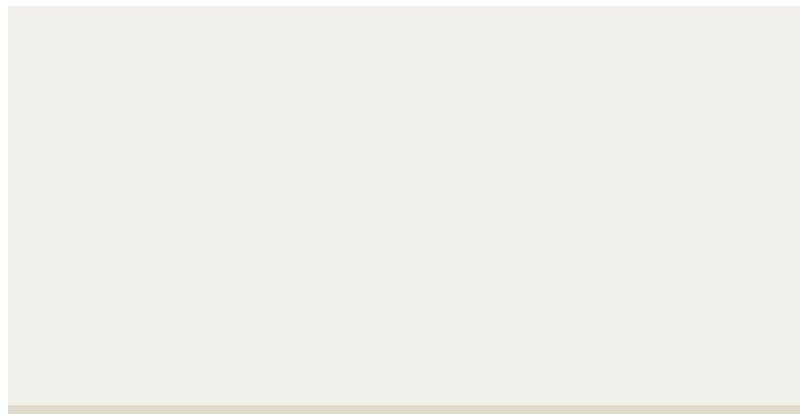
Take for example a person who is paid nothing, physically injured, threatened, intimidated, constrained, or subjected to unsafe working conditions in order to produce for his “employers”. It does not matter whether the person is in India<sup>1</sup>, Uzbekistan<sup>2</sup>, Malaysia<sup>3</sup>, Thailand<sup>4</sup>, Brazil<sup>5</sup>, or even Kent in the UK<sup>6</sup>. The product, whether it be cotton, fish, ore, or fruit, is then sold and moved up the supply chain into the distribution chain and then finally makes its way to the consumer. With each transaction of materials and goods, money is banked and transferred, letters of credit written, credit lines extended, and trade finance provided. Hundreds of transactions of goods and money may stem from that single act of exploitation.

The movement of the *money* associated with the exploitation of persons is currently treated differently — under the law, by industry regulators, and by society — than the movement of the *product* that results from that exploitation. Receiving, storing, and moving the money is a question of crime<sup>7</sup>, namely money laundering. But moving the products or goods is “only” one of ethics and social responsibility. It is a difference that positions banks and financial institutions caught by global and local anti-money laundering requirements and know-your-client regulations

in the difficult and burdensome role of the world’s policeman. Conversely, the thousands of parties in the various supply and distribution chains are comparatively less than fully accountable for the person’s plight.

However, for financial and non-financial industries involved with or who benefit from the exploitation of persons, the disparity between the burden of responsibility to act and the penalties for failing to do so is narrowing. New legislation, such as the recent UK Criminal Finances Act 2017 which was introduced on 12th July, the legislation and regulation explored in the first paper in this series, is also being supported by other collaborations, efforts, and resources such as the U.S. State Department’s MOU with Freedom Fund, USAID’s funding program in South East Asia, the launch of International Labour Organisation’s Alliance 8.7<sup>8</sup>, the UK government’s GBP33.5million fund to tackle modern slavery<sup>9</sup>, and the increasing applications and product offerings using data (big and small) and most recently blockchain applications to identify how corporates are exposed to supply chain risk or potentially involved in human rights abuses such as slavery, trafficking, and exploitation.

In response to these improvements and developments in the legal and regulatory framework — as well as the range of information products and services and the direction of resources in favor of transparency, accountability, and recourse to combat human rights abuses such as slavery — there has to be a corresponding change in the culture of organizations. This requires a behavioral change at the operational and governance levels within organizations allowing them to make more informed business decisions that benefit the organization and also society.



The financial crash in 2008 has forced the financial industry to look hard at its risk controls and governance. While specific questions regarding modern slavery may not yet be a key item on the agenda at the higher levels in an organization, existing anti-money laundering laws and the increasing availability of information and data is improving the financial industry's potential to address these issues. An example of such deeper reflection occurred in November 2015 when the Federal Reserve Bank of New York hosted a "Reforming Culture and Behavior in the Financial Services" workshop<sup>10</sup>. Its attendees included the most senior people from most of the Western Hemisphere's global financial institutions.

The release of ISO 37001<sup>11</sup> in October 2016, a more prosaic example of new initiatives, will introduce and urge the organizational cultural changes necessary to bring human rights abuses such as exploitation and slavery into organizational decision-making and governance processes. Combating corruption combats exploitation, and ISO's anti-corruption management system, while not binding, proposes that companies include processes and procedures similar to those required by legislation like the Foreign Corrupt Practices Act. A framework that leads companies to factor human rights into their governance processes now has a little more structure thanks to standards like ISO 37001. Pushing organizations to improve their culture, supported by more data and intelligence, may significantly improve decision-making to the benefit of the business risk management, profitability, the local community, and society in general.

Kroll is able to help corporates and investors manage these risks by illuminating the evolving environment. Using our unparalleled experience and resources in global discreet investigations and intelligence-gathering, we help clients better understand their supply chains and the environments in which they operate in order to give greater comfort to investors and corporates that they are not complicit in potentially illegal or unethical behavior. Kroll considers intelligence-gathering of this kind to be as crucial ahead of an investment as undertaking investigative due diligence on prospective partners, particularly in regions where poverty is a significant issue and information is hard to acquire.

## REFERENCES

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## About Kroll

Kroll is the leading global provider of risk solutions. For more than 40 years, Kroll has helped clients make confident risk management decisions about people, assets, operations and security through a wide range of investigations, cyber security, due diligence and compliance, physical and operational security and data and information management services. Headquartered in New York with more than 35 offices in 20 countries, Kroll has a multidisciplinary team of nearly 1,000 employees and serves a global clientele of law firms, financial institutions, corporations, non-profit institutions, government agencies and individuals.

## About Liberty Asia

Liberty Asia aims to prevent human trafficking through legal advocacy, technological interventions, and strategic collaborations with NGOs, corporations, and financial institutions in Southeast Asia.

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