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# The role of technology in the fight against human trafficking: Reflections on privacy and data protection concerns

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## ABSTRACT

### Keywords:

Human trafficking  
Technology  
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Drones  
Tracking

Over the past decade, policy makers, academics and activists have looked into solutions within the realm of technology as a means of stepping up the fight against human trafficking while ensuring a high level of protection of the victims. Even though different types of technology might be effective in the context of crime prevention, investigation or prosecution (whether national or transnational) and victim protection, such processes inevitably raise significant concerns particularly in relation to privacy and data protection. This article aims to offer an introduction to these challenges in order to trigger a much-needed dialogue in this regard. After outlining key terms and main provisions concerning privacy and data protection, the present article then explores three ways in which technological developments can contribute to combatting human trafficking – location tracking, data collection and drones –, through these it highlights the respective privacy and data protection concerns and attempts to offer ways forward.

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“We are still in the earliest days of understanding the power of technology for the human rights movement”<sup>1</sup>

## 1. Introduction

By its intrinsic nature, trafficking in human beings (THB) is a hidden crime, where criminal individuals or organisations quickly adapt and advance their *modus operandi* in order to respond to law enforcement strategies often acting under the guise of legitimate operations. In addition, trying to estimate

the number of people it affects or the profit criminals make is a troublesome task given that exploitation can occur in multiple ways. While it is true that stakeholders, including State authorities, do not need 100% accurate statistics to take immediate action against human trafficking, it is widely recognised that improving our knowledge will enhance the prospects of tackling this crime effectively while ensuring full protection of the victims.

Over the past few years, policy makers, academics and activists have increasingly turned their attention into the multiple role of technology in the human trafficking framework. On the one hand, scholars have improved the understanding

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<sup>1</sup> Ian Levine, ‘Will technology transform the human rights movement?’ (Human Rights Watch Blog, March 26, 2014) <<http://www.hrw.org/news/2014/03/26/will-technology-transform-human-rights-movement>> accessed 15 October 2015.

regarding the way perpetrators utilise technological forms as means of recruiting and controlling their victims. It has been correctly pointed out that many aspects of human trafficking have been transformed by the evolution of technology because the latter has changed not only the ways in which links are made between exploiters, purchasers and victims, but also the circulation of information regarding how to engage in criminal activity.<sup>2</sup> On the other hand, there is growing interest in finding ways to ‘exploit technology’ with a view to disrupt human trafficking networks. For example, law enforcement authorities are using technological traces to identify traffickers and companies perform data mining to identify suspicious transactions.<sup>3</sup> Furthermore, technology has facilitated the recording, storage and exchange of victims’ information after being identified as such. Reporting mechanisms for witnesses and victims via telephone or the internet have been established. In cases involving images, metadata may assist in proving the dates when the crimes were committed. The location of an offence may be proved by the content of images and geo tagging. Xif data from devices used to take images may match those devices in the possession of a particular suspect. Besides, in cases when only circumstantial evidence exists, inferences may be drawn from evidence that the suspect used fake caller ID or spyware to rebut suggestions of innocent association and to prove criminal intent. Flight bookings and bank records of cash withdrawals abroad might assist in proving transnational trafficking. The transnational, multi-dimensional and highly adaptive character of human trafficking renders the possibilities for using technology endless.

The application of technology in the human trafficking framework inevitably raises significant concerns as to how this can be effectively done without undermining the fundamental rights of both the victims and other individuals who may collaterally be affected. In particular, privacy and data protection considerations lie at the heart of the analysis. To date, an in depth discussion on privacy and data protection concerns raised by the impact of technology in the sphere of combating human trafficking is missing. The current provisions in human trafficking legislation addressing privacy and data protection considerations relate mostly to the way criminal proceedings must take place and do not include specific guidelines regarding the application of specific technological advances in the fight against human trafficking that would take into

account the special nature of the criminal activity. Furthermore, the impact of the use of different technological tools on individual privacy has been scrutinised, but an analysis emphasised particularly on human trafficking is also necessary. With regard to data collection, the ‘dataACT’ project is committed to ensuring that victims of trafficking are ‘perceived in their autonomy and not as powerless victims whose personal data must be collected and stored.’<sup>4</sup> The project recognises that trafficked persons enjoy an equal level of protection of their right to privacy as any other citizen.

The present article aims at sparking a much-needed dialogue in this regard by examining specific technological forms that can be used in the fight against human trafficking in the light of privacy and data protection considerations. To this end, the next section provides key terminological clarifications in relation to human trafficking, technology, privacy and data protection and outlines the relevant provisions concerning the relationship between human trafficking and privacy as it currently stands. Then the following section explores three ways in which technological development may be used for combating trafficking in human beings; location tracking, data collection and unmanned aircraft vehicles (UAVs), commonly referred to as drones. In relation to each case study, the relevant privacy and data protection concerns are analysed. Finally, a conclusion summarises the main findings of the research.

## 2. Human trafficking, privacy, data protection and their links – key terms and legislation

### 2.1. The (changing) landscape in human trafficking, privacy and data protection

Article 3 of The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime (the UN Trafficking Protocol) defines human trafficking as:

- (a) 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 a position of vulnerability, or 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.
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

<sup>2</sup> M. Latonero, G. Berhane, A. Hernandez, T. Mohebi, L. Movius, ‘Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds’ (*Technology and human trafficking*, 2011) <<https://technologyandtrafficking.usc.edu/report/>> accessed 15 October 2015; M. Latonero, J. Musto, Z. Boyd, E. Boyle, A. Bissel, K. Gibson, and J. Kim, ‘The rise of mobile and the diffusion of technology-facilitated trafficking’ (*USC Annenberg Center on Communication Leadership and Policy*, 2012) <<http://technologyandtrafficking.usc.edu/2012-report/#.VbtgbHt5efQ>> accessed 15 October 2015; J. Musto, ‘The posthuman anti-trafficking turn: Technology, domestic minor sex trafficking, and augmented human-machine alliances’ in K. K. Hoang and R. Salazar Parreñas (eds), *Human trafficking reconsidered: Rethinking the problem, envisioning new solutions* (International Debate Education Association, 2014).

<sup>3</sup> Mitali Thakor and D. Boyd, ‘Networked trafficking: Reflections on technology and the anti-trafficking movement’ *Dialectical Anthropology* (2013) Vol. 37, 277–90.

<sup>4</sup> The aim of dataACT is to promote the rights of trafficked persons to privacy and autonomy and to protect their personal data: ‘dataACT – Data Protection In Anti-Trafficking Action’, dataACT, <<http://www.dataact-project.org/startseite.html>> accessed 15 October 25 2015.

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