

2014 SUMMIT



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(AAPTIP)

PRESENTATION TRANSCRIPT

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Yeah. Good afternoon ladies and gentlemen. Thank you for this opportunity to share some of the law enforcement responses to trafficking persons in Southeast Asia. I've been fortunate enough to be based in Bangkok for the last ten years and to be working with practitioners from the ten ASEAN member states on the issue of trafficking persons. That was made possible through the Australian government that now funded three projects already, focusing on strengthening criminal justice response to trafficking persons in the ASEAN region. And they've invested a significant amount of money around \$18 million US over these ten years.

The first project started in 2003 and ended in 2006. And it was only, it was early days. You know, it was shortly after the trafficking protocol came into force. And countries just started to criminalize trafficking persons in the ASEAN region. The second project started in 2006, and I was the project leader of that one, and it ended basically last year. And it eventually had grown to include seven of the ten ASEAN member states. So it included Cambodia, Laos PDR, Myanmar, Indonesia, Thailand, Vietnam, and the Philippines. But at the regional level, we also worked with the ASEAN bodies, and in particular with the [Inaudible] the Senior Officials Meeting on Transnational Crimes was doing good work at the regional level to set standards of policies on investigation and prosecution of trafficking person cases. And when we work at the regional level, we also engaged with the other three countries, Singapore, Malaysia and Brunei that is also part of the ASEAN member states.

Those three countries are rich enough, and they do not qualify for development assistance. So at the regional level, they participate, but it's all on a self-funded basis. But it was, and it's of course important that countries like Malaysia and Singapore do participate at the regional level and engage with these law enforcement, capacity building activities because they're also major destination countries. So in my

presentation, I will just cover today the key elements of an effective criminal justice response. Look at the challenges, additional challenges that are faced in that country's law enforcement agencies are faced with in Southeast Asia. The recent developments. And then towards the future. Now, we as law enforcement officers, investigators, would know that trafficking is a difficult crime to investigate. There are other challenges that you don't have necessarily so much in other crimes. One of it is for example is that the victim of trafficking do not know that he or she will end up in a situation of exploitation. To give you an example, if I in Bangkok recruit a beautiful young Thai woman there, tell her I'm a hotel owner and throw a few dollars around, and tell her I can give her a job in my hotel in Johannesburg, South Africa. She would probably believe me. I will organize the travel and everything. And during that recruitment process, during the movement process to South Africa, she would still think she was going to get this civilianized job. And only when we get to Johannesburg I'm going to sell her at an auction with a brothel owners will buy her. And it's only then that she realizes that she's actually being exploited and a victim of trafficking. So, during that recruitment, movement phase, it's not so easy to detect it. It's only when the victim arrives in the destination country that he or she might know that they will end up being victims of trafficking.

Also, investigators are faced with multiple crime scenes, and sometimes these crime scenes are in multiple countries. Victims can be recruited in Vietnam, transported through Cambodia, Thailand, and end up being exploited in Malaysia. So the evidence of the crime is basically four countries. Some of the evidence we got in the recruitment, the movement in that other countries and in another country the evidence with regard to the exploitation. There's also multiple suspects, and these suspects usually have multiple roles. You talk about recruiters and some of them are the transporters, and some of them are the exploiters. And even they might be in different countries.

And then also, it's been mentioned here in the first address this morning with the opening speech that some of the victims are exploited over long periods of time.

Some of the victims in Thailand for example that are recruited and are being exploited into situations of forced labor on fishing boats that only stays in the deep sea and have been there for 10, 15 years, or even longer. So, if you investigate the crime, you need to investigate a crime right from the recruitment up to the exploitation phase. It's a lot of years to cover. So, these things might get fairly difficult to investigate.

Another thing is victims, there might be multiple victims involved in the crime. In some of the raids on seafood factories in Thailand, they had 100 or 200 victims of trafficking trapped in that seafood factory compound. They were housed there, and they worked 18 hours a day, and they couldn't leave, etcetera. And once they've done the raid, they actually realized how many victims are there. And then also in between those are workers that are not being exploited. So they need to separate between those people, etcetera. So it becomes much more complex some of these bigger investigations on trafficking.

What we have done fairly early after the first project, we worked with the practitioners in the ASEAN member states to look at what are the key elements of an effective criminal justice response to trafficking persons. And to do that we looked at international law, policies, guidelines, lessons learned from other parts of the world, the Ukraine, the US, etcetera, and we came up with this list of key elements of an effective criminal justice response. First of all, there needs to be strong comprehensive legal framework to support investigation of prosecution adjudication of trafficking cases.

There needs to be a specialist law enforcement capacity to investigate these cases as some of the speakers have already mentioned. You deal with the victims, which is in many instances the prime person that can give you the testimony that you need, the evidence you need to prosecute the crimes successfully. So you need skilled investigators to interview those people in a sensitive way that they are not further traumatized. The other thing, is you need the frontline law enforcement capacity

that would respond effectively to trafficking persons. Then after that, you need a strong prosecutorial and judicial response where they actually know the laws and they know how to apply. I think where you come from in the states and the UK and these countries, you think that, you know, it's logical that prosecutors and judges should know their laws and should know how to apply it. Where we work, it's not logic. Most people don't know the laws. And as of today we still teach them their own laws. Victim identification protection and support. It's important that victims are quickly and accurately identified and that they are provided with immediate protection and support.

And there needs to be special support to victims as witnesses. As they go through the judicial process, they need to be supported and protected. They need to feel safe. In some of these countries, it takes three and a half to five years for the case to work through the judicial process, to be finalized. Many of the victims are during that process approached by the traffickers, threatened by them, or the traffickers get their lawyers to pay off the victims and withdraw the case or disappear. Or go to the families. So what are we doing as law enforcement to ensure that we support victims as witnesses throughout the judicial process?

Another important factor is effective international cooperation. And this is a major issue when it comes to the investigation of transnational crimes, and I'll talk about that later. In my presentation today, I just want to focus on the law enforcement components. So on those three colored ones that are [inaudible]. Now besides the challenges that I've already mentioned in Southeast Asia, there are even more challenges that law enforcement officers face when they investigate the crime of trafficking persons. There's the lack of capacity and commitment to deal with trafficking persons. There's a lack of awareness among law enforcement officers what is human trafficking? What are the key elements of the crime that need to be proven? How to identify victims of trafficking. And because of this, because of the fact that victims are not identified correctly, they do not get access to justice. And the ones that benefit from it are the traffickers. They rule with impunity. They are

not investigative, and they are not prosecuted. The vast majority of frontline law enforcement officials in the region, if I talk about law enforcement officials I include station police officers.

I include border army, border guards, border patrol, immigration officials. Anyone that might come into contact with victims as first responders to the crime. Then there's also a lack of genuine commitment from senior law enforcement commanders to dedicate resource and competent personnel to investigate trafficking persons cases. One can see it by the relative small budgets that are allocated to these specialist units to investigate trafficking person's cases. And then also there's also very little incentive for law enforcement officers to investigate human trafficking cases. It's much more high profile to be a drug trafficking investigator. And there's even incentives. They get paid incentives if they arrest any drug traffickers while in human trafficking specialist response units. They don't have that incentives.

And it means that there's also a high turnover of staff. Sometimes you would invest in good investigators. You start with the training, the capacity building. And they grow and they start to do really solid investigations. But once they do that, they are then identified by other specialist units and recruited into those units. So that remains a challenge in terms of law enforcement and retaining specialist investigators that are well-trained in these specialist units. Now, there's also really not enough resources to investigate the cases in most of these countries. Now if you talk to law enforcement officers, they will always complain they don't have enough resources to do their job. But I can promise you in Southeast Asia, in most of the countries, they don't have. In some of the countries, they are actually expected to take a bribe in order to have money to investigate cases or to take offenders to court. So, there are really have much more challenges than we can think of. Now, another big problem is the failure to use a range of investigative options.

Now in Southeast Asia predominantly they do reactive investigations. Now that means they sit at the police station and they wait until someone comes to the police station and say I want to file a complaint. Now you all know in trafficking cases, it hardly ever works that way. Victims of trafficking do not necessarily want to cooperate with the police. And Andy mentioned some of it, and Dave mentioned some of those issues already. And sometimes victims are traumatized. They need support. They need long-term counseling and assistance before they would be ready and opening up to even talk to the police. So it means that if the victims do not cooperate, then there's no investigation that's going to happen. And the bad cycle just continues. Victims are rescued. Victims are returned safely repatriated back to their country of origin. But the traffickers in the destination countries just bring in other victims that can be exploited. Because the real exploiters are never investigated because the victims do not cooperate, and therefore the police say they can't do anything.

Now I also have to say it's not only that, but I think that NGOs, we talk about partnerships, but I think that NGOs, international organizations, UN agencies that works on the rescue more of victims, you can also do more. You can support law enforcement more in the things that where you do trust the police to take care of the victim in a good way, you can see whether you can convince or work with the victim and give them the detail they need so that they can decide for themselves whether they want to cooperate with the law enforcement or not. And even if they don't want to cooperate, they tell you their story. Because you need to identify them as a victim of trafficking. So they tell you their story. Listen to their stories. And gather those stories and pass that information to the police. Because if they are proactive, they can take that information that they receive, and they can analyze that and they can develop targets and be more proactive in their investigations. So definitely law enforcement should have the capacity to do proactive investigations.

Now what happens in most of these Southeast Asian nations, they don't do proactive investigations. They don't use specialist's investigative techniques. It means like

they've got a toolbox, and there are tools in it, but they don't have all the tools that they can apply to do the job. So it's so important that in these countries law enforcement, and especially the specialist units should be trained in how to use proactive investigation, and they should also be given the resources to do proactive investigations. Because besides, even when a victim do cooperate, they might need to find more corroborative evidence and intelligence-led investigations can help them to get that information. Also a lack of proper planning and execution of rights, rescue, search and seizure operations, we see that a lot. You know, cops they want to go and do the job. And they want to rescues the victims. So they go and they kick down the door. And then oops, 100, 200 victims. Oops, women, men, children, and they can't deal with the situation there. So it's not a problem if it is a small thing that they're dealing with, but if it is a huge raid on a seafood factory and you are faced with that complex crime scene, then you need to proper planning beforehand and proper breaching of everyone that will be involved in it. And they simply don't do it. They don't do it for any kind of crimes, so they don't do it for human trafficking. Now then this is a significant problem because what it means is they don't deal with that seafood factory that they've raided as a crime scene. So they don't locate all of the evidence they need, and they don't secure the evidence that it can be introduced to court as evidence later on.

So, it's all these things that they don't do then that makes them losing these cases. No tradition of cross-border cooperation on trafficking person's cases. Now that has changed a lot over the years because in our program we've worked with them. But, still the countries are not cooperating on these transnational cases. And even where they know one another, they don't trust one another necessarily to cooperate. Then also, no financial investigations to the proceeds of crime of trafficking in persons. So, there's literally I would say a handful over the ten years, a handful of cases that I've seen where they actually went after the money, where they did a parallel financial investigation in the human trafficking cases to go after the money, to seize the assets and the proceeds of the crime. So, this is something that they still need to work on. And then the other issues is corruption in the criminal justice system.

Now I mean, in Southeast Asia, this is a huge problem. And I can say it's not only law enforcement. Prosecutors and judges are corrupt in many of the countries. It's a sad thing to say. But unless these countries and the governments in these countries really decide to be committed to eradicate corruption, they are not going to win this battle against trafficking persons. Now, that's a lot of the bad news. I can share with you also a little bit of good news, things that did happen. Most of the countries have now enacted specialist trafficking person's laws. There are some destination countries that are late to the party like Singapore.

They are only now drafting their specialist trafficking person's law. But most of the other countries have their laws. But there's also countries that over the last four years enacted laws, Cambodia, Indonesia, Malaysia, Thailand and Vietnam. Vietnam only I think a couple of years ago enacted new law. So these countries still have to socialize those laws to law enforcement and also prosecutors and judges to make sure that they understand the law, they can apply the law in investigation, prosecution and adjudication. So, and that will take time. And these laws need to be tested in court. That's another issue. And it's also the implementation of these laws that will see whether they'll be successful or not. Specialist investigative units. Most of the ASEAN states have not established specialist law enforcement investigation units.

We have worked over the years with those units to build their capacity, deliver training, provide resources, etcetera, so that they can do these investigations. And some of these investigators have done really great cases involving transnational trafficking of victims, exploitation in destination countries, even in Japan and Taiwan and countries like those. Then in terms of frontline enforcement capacity, a lot has been done to train frontline enforcement officers to identify victims of trafficking, how to remove them from harm, and how to refer them immediately for assistance and support. And then also how to collect and preserve evidence until the specialist investigators can take over the case. So a lot of work's been done there.

But still a lot needs to be done. Then also, there's frontline officers also have the potential to gather intelligence on trafficking person's cases. They are the frontline. They work, they station areas, or areas of responsibility. They know what happens. Like the way they know, they can see. It's not the norm. So they should then pass on that information to the specialist response unit to investigate those cases. And to maybe gather more intelligence and develop that into a target that they can proactively investigate successfully.

With regard to investigator skills training, a lot has been done. I've told you we've worked at the regional level also with the [inaudible], the ASEAN members states. So usually we work at the practitioner level in these ten countries. But at the regional level with the ASEAN bodies. So sometimes the need to identify and push upwards and other times the policy issues and needs were identified at the top level and then taken to the countries for implementation. So what happened is we've received through this [inaudible], usually the mandate to develop law enforcement training programs. So we develop generic ASEAN-wide law enforcement investigation training programs for different levels. For frontline, for specialist investigators, for reactive and proactive investigation, and for specialists investigate the unit commanders as well. So these training programs will then distributed to the ASEAN member states, but then we also work with the law enforcement agencies in each of those countries to tailor those genetic training programs to their context, their situation, include their laws and practices, and then we took it further to the training institutions and both capacity in those training institutions to deliver those trainings themselves.

Now, a lot of work has been done in terms of operational police, the police cooperation. And here we had the heads of specialist unit process. So the first project worked with four countries, Cambodia, Laos PDR, Myanmar and Thailand. And to put it in context, Thailand is the main destination country for these other countries, Cambodia, Lao and Myanmar. So people are trafficked from those countries and then exploited in Thailand. In sexual exploitation or situations of

forced labor, domestic servitude, etcetera. And all these other countries want to talk of course to Thailand, because their victims end up there. Thailand was at first very resistant as the destination country. But through the [inaudible] of specialist unit processes, we brought them together on a quarterly basis. They at first just became friends. You know, for the first year, the first three or four meetings, they were just talking and, you know, boasting how good they are in their countries and all of these kind of things. But they had to overcome that process to trust one another. And then we started working on them to develop procedures on cooperation with one another. Now this process, it was established in March, 2004. It has grown over the years.

Around 2008 it expanded to include more of the ASEAN member states. And then in 2011 it was basically inaugurated under the [inaudible] ASEAN body. So at the regional level, the heads of the specialist anti-trafficking unit of the ten ASEAN member states now meet twice a year, and we don't fund them anymore. They fund their own meetings, etcetera, to share intelligence in human trafficking cases. But also shared lessons learned, etcetera. And I have to say, at the regional level, this really worked well. It is this constructive competition, peer pressure, you name it what you want.

You know a country like Myanmar would come in 2005 say there, this is our copy. We followed the trafficking protocol. We rectified it. There's our new law. Our definition is the same as in the trafficking protocol. And they boasted that regional meetings about it. And then these other countries sit there and couldn't say anything. But next year you come there or two years later you hear, now Cambodia have their law, etcetera, etcetera. So at the regional level there's peer pressure that work really well to get the other countries to also start assisting. Now but still I have to say at the regional level they do share a lot. A lot of this police cooperation is on the rescuing of victims. And safely repatriating them back to their source countries. But then it stops. They do not pass on the information to the destination country to actually investigate the exploiters and successfully prosecute them. I've talked to

investigators in some of these source countries, and they say, this is your case. This victim returned. He or she is safe. There are other victims still in the situation of exploitation. Have you passed this information to Malaysia? No, no I haven't done it. I think the prosecutor has. Talk to the prosecutor. Have you passed on this information? No, no it's still the work of the police.

So that's the kind of thing that's happening. And in the process, victims are not identified. They are still being exploited, but then also the exploiters is making the huge amounts of money through the exploitation not arrested and prosecuted. Now towards the future, there's still a lot of work that needs to happen in terms of promoting regional acceptance of common standards. Now through the [inaudible] they've developed regional standards, standard operating procedures on the investigation of trafficking persons and these kind of things that are taken into the countries.

A very recent development that actually succeeded is that they are in the process of developing an ASEAN convention on trafficking persons. Now of course, five years ago, the source countries have been pushing for this to happen. But the destination countries have been resisting it, Malaysia, Singapore, Brunei, have been resisting it because it's easy to have MOUs, because no legal obligations in memorandums of understandings. But once you have an ASEAN convention, there are legal obligations that you have to fulfill. And countries are not keen on doing that, especially the destination countries. So, now the problem is at the ASEAN they work on consensus. So if one country do not approve it, it means there is no agreement.

And nothing happens. So for five years, the other countries struggle to convince the others to get the ASEAN convention. But they have it now, and oh, they are working on it and they hope to have it next year done. Securing high-level political commitment, you know, there's still a lot of talking. And if you talk to any of these governments, they will tell you all the good stories. But if you look at the US [inaudible] report then you see a different story. You know Thailand and Malaysia

are both tier three countries. And there's a good reason why they're tier three countries. And you can also see the commitment of the government on real changes that they implement. Or real resources that they put to the issue. And that's not happening. In truth police to police cooperation, it's still a huge problem, and in this project we are still working with the countries on bilateral cooperation on investigation and prosecution of trafficking cases and see whether we can get them to actually at least do parallel investigations or some form of joint investigations to go after the recruiters in the one country, the transporters, but also after the exploiters in the destination countries.

More intelligence, proactive investigations of trafficking, so we say they don't have an excuse. If the victims do not want to cooperation, then they need to go and look for intelligence. Find intelligence. And then build a case from that. And that's where I say, you know, international organizations, rescuing victims, NGOs, working with victims, you have valuable information. If you pass that on to willing and committed law enforcement officers, they can find evidence needed to prosecute the traffickers and especially the exploiters. And they can also take away their money and their proceeds of the crime. And that's the way to stop them.

Well the conclusion there it is. So, we've done a lot. Worked really hard with the countries over the past ten years. And we will still do so. This project will end in 2018. And we are working hard with these countries to fix these other issues. So there's still a lot of remaining challenges. But I have to say that the achievements make it all worthwhile. Since 2003 when I started working with these countries and where they are now is a totally different playing field. And law enforcement has grown over this. There's really some good investigations that are happening. Not enough though. You know, so there's so many more that needs to be done. And everyone has a role to play to fix that. So thank you very much for the opportunity. Enjoy the function.

