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THE SURPRISING WAYS YOUR COMPANY CAN BE LIABLE FOR HUMAN TRAFFICKING – AND 4 STEPS TO MINIMIZE DANGERS

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The phrase alone – *human trafficking* – is enough to stir outrage, discomfort, or disbelief. What many employers may not realize, however, is that you do not have to be a “trafficker” to be held liable for trafficking. Companies across industries, from hospitality to agriculture to technology, are facing civil lawsuits and criminal investigations related to sex trafficking activities. If you think this can’t happen to your business, think again. Here is what you need to know to protect your organization, and four steps you can take to minimize danger in your workplace.

What is Human Trafficking?

Public understanding of human trafficking is often clouded by misleading images: migrants packed into shipping containers, smuggled across borders, or hidden in trucks. In reality, human trafficking does not require smuggling, movement, or transportation. Instead, it is a crime of exploitation committed against an individual, with no movement necessary. Human trafficking is generally divided into two categories: sex trafficking and labor trafficking.

- **Sex Trafficking:** This happens when someone is forced, tricked, or pressured into commercial sex acts. If the person is under 18, it’s considered trafficking even if no force or coercion is involved.
- **Labor Trafficking:** This involves forcing or pressuring someone to work or provide services against their will – often through lies, threats, or manipulation. Victims may

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feel trapped because of debt, immigration status, or fear of harm.

The Main Federal Law Protecting Victims

The Trafficking Victim Protection and Reauthorization Act (TVPRA) is the key federal law addressing human trafficking. Two provisions are especially important for employers:

- There are **two criminal offenses** related to sex trafficking: when adults are victims, prosecutors must show proof of force, fraud, or coercion; no such proof is required if minors are victims. Both require the prosecution to prove that the defendant knowingly “recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits a person – or benefits financially or by receiving anything of value, from participating in such a venture.”
- There is also **a civil cause of action** where victims can sue not only the traffickers themselves but also anyone who knowingly benefits from participation in the venture that the person knew or should have known was trafficking.

Corporations Can Face Criminal Liability

One of the most striking developments in the anti-trafficking enforcement is the growing use of corporate criminal liability to hold businesses accountable. In *United States v. Bhimani*, federal prosecutors did not just go after individual wrongdoers, they charged the corporation that owned and operated a Pennsylvania motel where sex trafficking occurred over several years.

The evidence at trial established that employees and managers, including the general manager and a part owner, knowingly rented rooms to traffickers, provided them with favorable terms, and took steps to shield these activities from public view.

As the court explained, “a company may be vicariously liable for criminal conduct if the Government proves beyond a reasonable doubt that the criminal act was done by a corporate agent or employee acting within the scope of his authority and with the intent to benefit the corporation.”

How Can Your Corporation Be Held Liable in a Civil Lawsuit

Critically, a corporation does not need to have committed the underlying criminal trafficking offense to be held liable for damages and attorneys' fees in a civil matter. Under the benefits theory, most courts note that a trafficking victim must prove three things:

- The defendant **knowingly received money** or something of value
- From **participating** in a venture
- That it **knew of should have known** was engaged in trafficking

Knowingly Benefit

Generally, courts have interpreted "knowingly benefit" broadly. Victims are not required to prove a direct link between a defendant's affirmative conduct and the act of trafficking. It is enough to show that the defendant knowingly received a financial benefit from participating in a venture – even without actual knowledge of trafficking activities.

Participation in a Venture

Participation does not necessarily require actual knowledge of trafficking crimes, but it does require some connection – typically a continuous business relationship with the trafficker that shows a pattern of conduct or at least a tacit agreement. A pattern of turning a blind eye or failing to intervene when red flags emerge can meet this standard.

For example, courts have found that a global hotel franchisor may be said to have participated in a venture under the TVPRA when:

- It profited from rooms rented by trafficker while failing to implement trafficking prevention training programs;
- Collected payments, identification, and data from traffickers using hotel Wi-Fi; and
- Exercised board control over franchisee operations but failed to intervene to stop trafficking.

However, in analyzing similar facts, the 11th Circuit Court of Appeals held that a hotel franchisor did not participate in a *sex trafficking venture* when plaintiffs framed the "venture"

too narrowly – as participation in a sex trafficking enterprise rather than the franchising business relationship itself.

Knew or Should Have Known

Finally, victims must show that the defendant knew or should have known about the venture they benefited from was engaged in sex trafficking. The focus here is often on what a defendant should have known based on red flags that a reasonable person would have recognized as evidence of something suspicious. In hotel cases, common indicators include:

- Paying for stays in cash;
- Renting rooms day-to-day for extended periods;
- Frequent requests for linen changes;
- Large quantities of condoms found in trash bins; and
- Unusually large numbers of male visitors coming in and out of rooms.

Several courts have concluded that given the widespread nature of sex trafficking at hotels, a franchisor's failure to implement training or preventative measures can meet the "should have known" standard. However, one federal court in New York drew a critical distinction between hotel operators and franchisors, rejecting the proposition that franchisors could be liable for "abstract awareness" of sex trafficking at their branded properties.

Here Are Four Steps Employers Can Take to Minimize Liability

Now that you have a better understanding of the ways in which your organization can get caught up in a trafficking situation, here are some steps you can take to minimize liability and reduce dangers in your workplace.

1. Implement Comprehensive Policies and Training

Develop clear anti-trafficking policies and require training for employees on how to spot and report trafficking activities. Some states, in fact, mandate that certain industries provide human trafficking training to their workforce (such as [California](#), Florida, Illinois, New York, and others). **Your policies** should:

- Define what trafficking is and clarify zero tolerance
- Identify industry-specific red flags and indicators
- Detail reporting procedures and non-retaliation protections
- Be incorporated into your broader Code of Conduct

Training should be tailored by role. For example, front-desk workers may need different guidance than warehouse supervisors or procurement officers. Use real-world scenarios, update training annually, and document attendance.

2. Establish Robust Reporting Mechanisms

Create accessible reporting channels for employees and their parties to report suspected trafficking and act promptly when concerns are raised. Merely posting a hotline isn't enough. To be effective, your reporting process should:

- Offer **anonymous** and **confidential** reporting options (e.g., third-party hotline, app, or web portal)
- Be accessible in **multiple languages**
- Be accompanied by **whistleblower protections** to encourage use
- Include a defined **triage and escalation process** to ensure reports are evaluated and addressed

Train managers and HR to know how to respond sensitively and appropriately to trafficking-related concerns.

3. Monitor Business Practices and Third-Party Relationships

Risk doesn't end at your front door. Companies are increasingly held responsible for trafficking that occurs in their **supply chains or vendor relationships**. Key practices include:

- Conduct **due diligence** when selecting contractors, suppliers, and business partners
- Include **anti-trafficking clauses** in contracts that require compliance, training, and audits

- Regularly audit for **indicators of forced labor**, such as withholding of passports, excessive recruitment fees, or poor living conditions
- Designate a **compliance officer or team responsible** for overseeing anti-trafficking efforts, empowered to investigate and enforce corrective measures when necessary.

4. Conduct a Risk Assessment and Document Your Efforts

While not required by law, conducting a trafficking risk assessment can significantly reduce liability. Steps include:

- Mapping out where your operations and workforce are most vulnerable (e.g., use of temp labor, franchising, overseas sourcing)
- Identifying past complaints, lawsuits, or audit failures
- Documenting all training, investigations, and remedial actions – paper trails matter in litigation and agency investigations

Showing a **good faith effort** to prevent trafficking is often a company's strongest defense.

Conclusion

While the risks associated with sex trafficking liability are serious, they are manageable for employers who act thoroughly and decisively. If you have any questions, contact your Fisher Phillips attorney, the author of this Insight, or any attorneys in our [Hospitality Team](#), [Agriculture Team](#), or [Technology Industry Team](#).