

SESSION 1

COURSE INTRODUCTION AND INTENDED LEARNING OUTCOMES (ILOS)

- Introduction of participants
- Introduction of the course
- Introduction of ILOs

ILOs: At the end of the session, the participants will be able to:

- i. Get to know each other and their background
- ii. Know the contents of the training programme
- iii. Identify the overall ILOs of the training programme

Time allocation: 90 mins

Materials: LCD Projector, computer

Teaching/Learning Activities (TLAs):

- i. Opening by Head of Organisation or Invited Guest (20 mins)
- ii. Work in Pair [40 mins]
 - a. Introduce your partner – Ask participants to find a partner that they never met or work with them before. Get to know them – name, organisation, working experience, and his/her expectation attending the training programme.
 - b. Ask each participant to introduce their partners either in smaller groups or bigger group depending on the number of participants.
- iii. Power point presentation [20 mins]
 - a. Introduce the content of the training programme and the ILOs
- iv. Logistics arrangements, breaking up into groups [10 mins]

Tips for Facilitator

- Usually, on the first day of the training programme, there will be opening session and welcoming remarks by the head of the organisation or any invited guests. The training schedule should allow time for this.
- Facilitator when explaining the ILOs must reflect whether or not all the expectations of the participants would be achieved during the training. If any of the expectations are not part of the ILOs, the facilitators must make this clear to the participants to avoid any false expectations.
- When explaining the ILOs, the facilitator must reflect how the participation not only going to gain knowledge but also applied or practised it in their work.
- It is better if the facilitator breaks the group and ensures there is a good mix of people. Keep the group in a reasonable size (5-8 people) to ensure active participation by all. It is fine to have more groups because not all groups need to make a presentation in all sessions. The facilitator can make arrangements in order for all groups to participate throughout the training programme on rotation.
- Rotation of groups for each day of training would allow participants to work with different peers and to learn more from each other.
- If the participants are given any reading materials or bundle of reference materials for the training, please take the time to introduce the materials to ensure participants know the purpose and have the materials with them throughout the training.
- Always remember that time allocations for each TLAs in this module are merely a guide and facilitator have the flexibility to decide on time spent on each activities depending on priority and the emphasis.

SESSION 2

BACKGROUND OF THE HUMAN TRAFFICKING PHENOMENA

- Causes of human trafficking
- Who are the potential victims and situations where they become victims
- Situation human trafficking in Malaysia
- Laws in Malaysia in combating human trafficking

ILOs: At the end of the session, the participants will be able to:

- Explain the complexity of the phenomena of human trafficking including its root causes and to identify different situations where people become a victim of human trafficking both globally and in Malaysia
- Identify national legislations in combating trafficking in Malaysia

Time allocation: 70 mins

Materials: LCD projector, computer, video clips, Trafficking in Person (TIP) Report by US Department of State, Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIP Act 2007) and relevant sections of other legislations.

TLAs:

1. Video clips [20 mins]

- Play two video clips on the situation of human trafficking.
 - Anti Pemerdagangan Manusia*’ Duration: 4 minutes 23 seconds produced by the National Council for Anti-Trafficking and Anti-Smuggling of Migrant; ‘ (in Malay)
 - ‘Human Trafficking in Southeast Asia’. Duration: 4 minutes 17 seconds. (In English)
- After the video ends, ask participants the following questions:
 - Who are the potential victims
 - Causes lead to human trafficking

2. Lecture (power point presentation) [20 mins]

- Introduce TIP Report by US Department of State on Malaysia and discuss the following:
 - Groups of people (who) and sector (where) people become potential victim of trafficking
 - Their country of origin and the possible causes which make them leave the country

- Malaysian ranking in the tier listing
- b. Provide each participant with a worksheet and ask them to fill up the worksheet as they listen to the facilitator. Below is a sample 3W worksheet:

WHO Are the potential victims	WHERE Victims come from; Sectors they are exploited	WHY They become victims

- c. Collect the worksheet at the end of the presentation.

3. Lecture (power point presentation) [30 mins]

- a. The facilitator introduces and discusses legislations in combating human trafficking in Malaysia
- Federal Constitution
 - Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007
 - Immigration Act 1953/63
 - Employment Act 1955
 - Children and Young Persons (Employment) (Amendment) Act 2010
 - Private Employment agencies Act 1981
 - Passport Act 1966
 - Child Act 2001
 - Penal Code (Act 574)
 - Abduction and Criminal Intimidation of Witnesses Act 1947
- b. Provide each participant with a worksheet and ask them to write keywords in how these laws are relevant in tackling human trafficking as they listen to the facilitator. See the sample below on Laws to Fight Trafficking Worksheet:

No	Laws	Keyword
1	Federal Constitution	- Anti-slavery and forced labour
2	ATIP 2007	- Whole act combats trafficking
3		
4		
8	Child Act 2001	- Special care & protection for children
9	Penal Code	- Punishes offences related trafficking & exploitation

- c. Collect the worksheet at the end of the presentation.

Assessment Task:

- Question & Answer like who are the victims, why they are so vulnerable and become victims.
- 3W worksheet
- Laws to Fight Trafficking Worksheet

Tips for Facilitator:

- During the TLA (2), the facilitator may make reference on issues reflected in the video clips. Sharing a few true cases will be extremely useful.
- For the TLA(3), there are a number of legislations have been listed. The facilitator need not to elaborate details of all legislations. Following laws are essential for discussions during the training:
 - (i) Federal Constitution
 - (ii) Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007
 - (iii) Immigration Act 1953/63
 - (iv) Penal Code - Exploiting any person for purposes of prostitution
Section 372(1)

Following laws are optional but worth mentioning about:

- (i) Child Act 2001
 - (ii) Penal Code
 - (iii) Private Employment agencies Act 1981
 - (iv) Passport Act 1966
 - (v) Abduction and Criminal Intimidation of Witnesses Act 1947
- The facilitator may allow a short break between TLA (2) and (3).
 - Take note that legislations and some sections of laws listed in the facilitator's reference are not exhaustive and facilitator is encouraged to review the laws further.
 - Assessment task will reflect whether the participants have achieved the ILO for the session. Please note that most of the assessment tasks are formative where it will be done throughout the training and are already built in as part of training. Facilitators are not required to spend extra time for the assessments.
 - However, the facilitator may make adjustments depending on the feedback by participants like spending a little extra time on a particular topic if necessary. This applies to all the sessions.

Facilitators Reference/Note

Video clips

Anti Perdagangan Manusia

- Video link: <https://www.youtube.com/watch?v=wZoNZ-f-rdM>

Among the content of the video clip:

- According to International Organisation for Migration (IOM), human trafficking is second highest criminal activity after drug trafficking.
- It is a modern day slavery and one of the oldest crime.
- Among the causes is high demand of labour supply, demand for sexual services, debts, less opportunity to support the family by generating income and low level of awareness among the society.
- Human trafficking involves exploitation, degrading and ill-treatments like rape, torture, forced labour, locked up, freedom is curbed and death threats on family members.
- The victims are usually under the tight control of the syndicate and don't have many choices and opportunity to report their sufferings.
- Human trafficking is a global phenomenon and happened in both developing and developed nations. Malaysia is a both destination and transit country (and to a certain extent is a source country).
- Malaysia has introduced ATIP Act 2007 to prosecute the offenders of human trafficking.
- The authorities like police, immigration, maritime, and custom have been enforcing the law, conducting raids and making arrests.
- Human trafficking is a crime because it trades human being and involves degrading treatment.

Human Trafficking in Southeast Asia

- Video link: <https://www.youtube.com/watch?v=kAbSw0F-l4>

Among the content of the video clip:

- One of the biggest problem facing Southeast Asia is human trafficking
- Every year millions of people are affected.
- It is a crime against humanity.
- The combination of poverty, growing economies and increased demand for labour is the driving force behind human trafficking industry.
- The video provides some statistics and situation of human trafficking in Thailand, Cambodia, Laos and also Indonesia. .

Potential Victim

- Children, women, migrant workers, irregular labour, refugees and asylum seekers.

Estimated Trafficked Victims across the World

Region	Number of trafficked victims (millions)
Asia Pacific	11.7
Africa	3.7
Latin America & the Caribbean	1.8
Central & South Eastern Europe & CIS	1.6
Developed Economies & EU	1.5
Middle East	0.6
Total	20.9

Source: International Labour Organisation (2012)

Situations of Human Trafficking

The US Trafficking in Persons Report on Malaysia 2015 has described the situation of human trafficking as follows:

A. Forced Labour

- It was stated that the majority of trafficking victims are among the estimated two million documented and more than two million undocumented foreign workers in Malaysia. The majority of the foreign workers are from Indonesia, Bangladesh, the Philippines, Nepal and Burma (Myanmar).
- Many of them are employed by recruiting or outsourcing companies. It was stated that sometimes, the recruitment and contracting fees are deducted from the workers' wages, which has led to debt bondage. In addition, the Government regulation which requires the foreign workers to pay immigration and employment authorization fees has also burdened them.
- It was stated that some foreign workers whose visa were to work in the agricultural and palm oil plantations were found to be working at construction sites; in the electronics industry; and as domestic workers. It was also stated in such instances these workers are subjected to forced labour and that their movements were restricted; fraud in wages; passport confiscated, and faced significant debts by recruitment agents or employers. Some employers withhold an average of six months' salary from foreign domestic workers to recoup recruitment agency fees and other debts.
- Some victims of forced labour were also found on Malaysian waters, including those from Cambodia and Burma who worked on Thai fishing boats. Some of these victims were reportedly escaped into Malaysian territory.
- The Government of Cambodia continued to ban women's emigration to Malaysia for domestic work, however, some women enter Malaysia to work despite this ban.

B. Sexual Exploitation (Prostitution)

- Young foreign women were recruited as legal workers (legally enter Malaysia) mainly in restaurants, salons and hotels but were later forced into the commercial sex trade.
- There were cases of Vietnamese women and girls who entered into brokered marriages in Malaysia and were subsequently forced into prostitution.
- A small number of Malaysians are subjected to sex trafficking in Australia, France, South Africa, and the United Kingdom.

C. Refugees (mainly Rohingya men, women and children)

- The refugees lacked the ability to obtain work permits under Malaysian law, making them vulnerable to trafficking.
- Many incurred large smuggling debts and traffickers use these debts to bond some refugees.
- An estimated 80,000 Filipino Muslims without legal status, including 10,000 children, resided in Sabah, with some vulnerable to trafficking.
- Children from refugee communities were subjected to force begging.

While the Report of the Special Rapporteur on Trafficking in Persons, especially Women and Children, Maria Grazia Giammarinaro in June 2015 has described another common situation of human trafficking as follows:

D. Trafficking for domestic servitude

- There are over 300,000 migrant domestic workers estimated in Malaysia, the majority of whom are women from Indonesia, the Philippines and Cambodia. While all domestic workers are not victims of trafficking, a large number of these women and girls are trafficked into domestic servitude by employment agencies in their home country and in Malaysia, and employers in Malaysia, at times with the alleged complicity of state officials. Many fall victims to debt bondage when they assume an initial debt as part of the terms of employment. Widely reported abuses and exploitation that further contribute to the trafficking situation include breaches of contract, excessive recruitment fees, non-payment of salary, deductions from low wages, excessive working hours, lack of rest days and withholding of passports.
- Many domestic workers have also experienced unimaginable physical and mental abuse at the hand of their employers from being deprived of food to beatings with electrical wires, scalding with hot water, harassment, psychological abuse and sexual assault.
- Owing to the hidden nature of their work conducted in private homes, fear of arrest and eventually deportation, they are unable to leave their employers and seek redress for human rights violations.

The rare instances where complaints are lodged to police by the victims or NGOs are not acted upon. Instead, it is not uncommon for the victims to be intimidated for leaving their employers and be returned back to them or employment agencies with threats rather than being offered protection and alternative employment.

- Moreover, underage victims whose information and age are incorrectly reflected in their passports/documents by recruitment agencies face additional distress to escape their abusive employers for fear of being caught and reprimanded for having falsified documents.

Country of Origin

Usually, they come from Indonesia, Bangladesh, the Philippines, Nepal, Burma (Myanmar) and Cambodia.

Malaysia Tier Ranking According to US Trafficking in Persons Report

Year	Ranking
2015	Tier 2 watch list
2014	Tier 3
2013	Tier 2 watch list
2012	Tier 2 watch list
2011	Tier 2 watch list
2010	Tier 2 watch list
2009	Tier 3
2008	Tier 2 watch list

Note: Year in the table is the year TIP is released and the ranking ranges from Tier 1, Tier 2, Tier 2 Watch List and Tier 3. (Tier 3 is the worst)

Legislation in Combating Human Trafficking in Malaysia

i. Federal Constitution

Liberty of the person

5. (1) No person shall be deprived of his life or personal liberty save in accordance with law.

Slavery and forced labour prohibited

6. (1) No person shall be held in slavery.

(2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.

ii. Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007

- The Act was gazetted in 2007
- The Anti-Trafficking in Persons Act of 2007 was amended in 2010 and renamed the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act.
- In accordance with the Trafficking in Persons Protocol, the adopted definition of trafficking in persons is comprehensive and criminalizes all aspects of trafficking, including labour trafficking (Section 2 (g)).
- Trafficking in persons for the purpose of exploitation carries a penalty of up to 15 years' imprisonment and a fine (Section 12). The offence of trafficking in persons by means of threat; use of force or other forms of coercion; abduction; fraud; deception; abuse of power; abuse of the position of vulnerability; or payments/benefits to obtain the consent of a person having control over a trafficked person is punishable by between 3 and 20 years' imprisonment and a fine (Section 13).
- Profiting from the exploitation of a trafficked person can lead to up to 15 years' imprisonment, payment of fines and forfeiture of the profits from the offence (Section 15). The offence of bringing in transit a trafficked person through Malaysia or facilitating such act can result in imprisonment of up to 7 years and a fine (Section 15A).
- Trafficking in children is punishable with imprisonment ranging from 3 to 20 years and a fine (Section 14). In accordance with the Trafficking in Persons Protocol, when the trafficking offence involves children, it is irrelevant whether the consent of the trafficked child was obtained (Section 16).

iii. Immigration Act 1953/63

- Section 51(3)(a)(ii) of the Anti-Trafficking in Persons Act 2007 indicates that following a stay in a place of refuge the trafficked person who is a foreign national is to be released to an immigration official for necessary action in accordance with the provisions of the Immigration Act 1953/63.
- The immigration officer is required to take all necessary steps to facilitate the return of the trafficked person to his country of origin without unnecessary delay and with due regard for that person's safety.
- Section 46 of the Immigration Act 1953/63 indicates that any person, who is not a citizen and meets certain qualifiers, may apply to an enforcement officer for the repatriation of himself or herself and/ or his or her family at the cost of the government.

Conveying a person to Malaysia contrary to this Act
Section 55A

(1) Any person involved, directly or indirectly, in conveying to Malaysia in or on any vehicle, vessel or aircraft any person contrary to this Act shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit and to imprisonment for a term of not less than two years but not more than five years and shall also be liable to whipping of not more than six strokes.

Employing a person who is not in possession of a valid Pass
Section 55B

(1) Any person who employs one or more persons, other than a citizen or a holder of an Entry Permit who is not in possession of a valid Pass shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than ten thousand ringgit but not more than fifty thousand ringgit or to imprisonment for a term not exceeding twelve months or to both for each such employee.

Offences
Section 56(1)

(d) harbours any person whom he knows or has reasonable grounds for believing to have acted in contravention of this Act, except section 55E;

4. Employment Act 1955

- Sets out minimum labour protection standards and is applicable to employees whose wages are RM2,000 and below, and all manual labourers irrespective of wages.
- The Act provides for the limitation of working hours, the provision of paid leave and overtime pay. Its scope extends to foreign employees together with, inter alia, the Employment (Restriction) Act 1968 (Act 353) (Revised 1988) which governs employment permits, registration, and restrictions for non-Malaysian citizens and the Immigration Act (1957).
- Domestic workers, labelled as ‘domestic servants’, are covered by the Employment Act. However, they are excluded from protection under key articles of the law, including those on fair termination of contract (Articles 12 and 14), on minimum number of working days per month (Article 16), on maternity provisions (Parts IX), on rest days (Part XII), hours of work, holidays and other conditions of service (including annual leave and sick leave) and on termination, layoff and retirement (Part XIIA). They are also out of the purview of the Domestic Violence Act 1994 (Act 521) which provides legal protection for victims of violence in the home and supplements the Penal Code.

5. Children and Young Persons (Employment) (Amendment) Act 2010

- The Act provides for the conditions of their employment in light work within the family, specific public entertainment, apprenticeships, and work sponsored by the government. It forbids night work and underground work for children and young persons and sets forth hours of work.

6. Private Employment agencies Act 1981

- The Act regulates the recruitment agencies. It requires all recruitment agencies to be licensed and to deposit a security bond and limits the amount of fees chargeable for recruitment services. It also provides the Director General of Labour broad inspection and investigatory powers, including the ability to cancel licenses and to dispose of the recruitment bond for breaches. Listed offences include overcharging for recruitment agency services, and providing false or incorrect information. However, complaint mechanisms are unspecified and worker rights and obligations are not defined.

7. Passport Act 1966

- The Act aims at criminalises the withholding of passports and documents with payment of fine or up to 5 years imprisonment or both (section 12).

Removal of persons unlawfully entering Malaysia Section 5 (1)

Without prejudice to any penalty that may be imposed upon him by this Act, a person entering Malaysia contrary to this Act shall be liable, upon an order in that behalf being made by the Director General, to be removed from Malaysia: Provided that no such order shall apply to a citizen.

Offences Section 12

(d) without lawful authority, has in his possession any passport or internal travel document which has been obtained as a result of making any material statement which was false or misleading, or as a result of the production of false evidence;

(f) without lawful authority, has in his possession any passport or internal travel document issued for the use of some person other than himself;

8. Child Act 2001

- Part VIII of the Act focuses on Trafficking In and Abduction of Children
- The Act establishes standards for treatment of children and provides for the care, protection and rehabilitation of children in need.

- The act prohibits exploitative acts often committed in the process of trafficking, such as the procurement of a child for purposes of prostitution/the purposes of sexual intercourse either within/outside Malaysia. Moreover, the transfer of custody or control of a child for any valuable consideration is considered as an offence under Section 48. It also condemns the bringing in Malaysia of a child by false pretences and the taking out of Malaysia a child without the appropriate consent of his/her legal custodian.

Unlawful transfer of possession, custody or control of child

Section 48

(1) Any person who takes part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child for any valuable consideration commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Any person who without lawful authority or excuse harbours or has in his possession, custody or control a child with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or outside Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Importation of child by false pretences

Section 49

Any person who—

- (a) by or under any false pretence or representation made; or*
- (b) by fraudulent or deceitful means used,*

either within or outside Malaysia, brings or assists in bringing a child into Malaysia commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Offence of taking or sending out a child without appropriate consent of person having lawful custody

Section 52(1)

Any parent or guardian who—

- (a) does not have the lawful custody of a child; and*
- (b) takes or sends out a child, whether within or outside Malaysia,*

without the consent of the person who has the lawful custody of the child commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

v. Penal Code (Act 574)

- The Penal Code punishes offences that may amount to trafficking and other forms of exploitation, such as trafficking for purposes of prostitution and forced labour.
- It criminalizes the habitual dealing in slaves (sections 371). Prostitution is not a criminal offense per se in the Penal Code, but soliciting prostitution leads to up to 1 year of imprisonment and/ fine (section 372 B).
- Exploitation of a person for purposes of prostitution; living on or trading in prostitution of another person; and owning and managing brothels lead to up to 15 years of imprisonment, whipping and payment of fines (Section 372 and 372).

Buying or disposing of any person as a slave

Section 370

Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves

Section 371

Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine

Exploiting any person for purposes of prostitution

Section 372(1)

Whoever—

(a) sells, lets for hire or otherwise disposes of, or procures, buys or hires or otherwise obtains possession of, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;

(b) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out or assists in taking out of, Malaysia, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;

Unlawful compulsory labour

Section 374

Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both

vi. Abduction and Criminal Intimidation of Witnesses Act 1947

- Provision for enhanced punishments for the offences of abduction and criminal intimidation;

Abduction with intent to commit extortion

Section 3

Whoever abducts any person—

(a) with the intent that such person shall be held to ransom or that extortion shall be committed from that person or any other person; or

(b) knowing it to be likely that such person will be held to ransom or that extortion will be committed from that person or any other person, shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Abduction impeding the course of justice

Section 4

Whoever abducts any person so that the course of justice is thereby impeded shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

For further reading:

1. US Department of State. Office to Monitor and Combat Trafficking in Persons: Malaysia 2015 Trafficking in Persons Report
<http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243485.htm>
2. Report of the Special Rapporteur on Trafficking in Persons, especially Women and Children, Maria Grazia Giammarinaro: Mission to Malaysia, 15 June 2015
3. Laws of Malaysia
<http://www.agc.gov.my/>
4. United Nations Office on Drugs and Crime. Global Report on Trafficking in Person 2014. New York: United Nations, 2014.

SESSION 3

DEFINITION AND CHARACTERISTICS OF HUMAN TRAFFICKING AND SMUGGLING OF MIGRANTS

- Definition according to Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 and Palermo Protocol
- Distinguishing between human trafficking and smuggling of migrants

ILOs: At the end of the session, the participants will be able to:

- i. Describe the elements of trafficking – the act (what is done), the means (how it is done) and the purpose (why it is done) and to ascertain whether a particular circumstances constitute trafficking in persons.
- ii. Illustrate key differences between trafficking in persons and smuggling of migrants

Time allocation: 120 mins

Materials: LCD projector, computer, flip chart, marker pen, copies Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3 of Protocol against the Smuggling of Migrants by Land, Sea and Air and case studies.

TLAs:

1. Work in Pair [30 mins]
 - a. Ask participants to work in pairs and provide them with copies of:
 - (i) Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007.
 - (ii) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
 - (iii) The Protocol against the Smuggling of Migrants by Land, Sea and Air.

Ask them to review the definitions of human trafficking provided by documents (i) & (ii) and identify what constitute trafficking in persons:

- the act
- the means and
- the purpose.

- b. Then, continue to read and review the definition of smuggling of migrants stated in Article 3 of Protocol against the Smuggling of Migrants by Land, Sea and Air and discuss it among them.

- c. Invite several pairs to share their findings on TLA 1(a) and (b)s.

2. Case studies on scenarios [50 mins]

- a. Ask participants to work in small groups and give them two different scenarios – one on human trafficking and the other on smuggling of migrants. Ask them to list down what they think might be the differences between trafficking of persons and smuggling of migrants.
- b. Assign several groups to present it at the plenary session.

3. Case Laws (40 mins)

- a. The facilitator then presents several case laws (judgements by courts) which made reference to the definition of human trafficking (and smuggling of migrants).
- b. As a summary, explain the key differences which include *consent*, *transnationality*, *exploitation*, and *source of offender's profit*.

Assessment Task:

- Presentation by participants in pairs during TLA 1(c)
- Presentation by groups during TLA 2(b)
- Discussions during TLA 3 by asking questions like what are the key differences between trafficking in persons and smuggling of migrants

Tips for facilitator:

- Session 3 begins before lunch (immediately after Session 2) and continues after lunch. The facilitator may utilise the first 30 minutes for TLA 1 and continue with TLA 2 & 3 after lunch.
- Session 3 is a long session and allow short breaks in between.

Facilitators Reference/Note

Definition of Human Trafficking

- i. Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007
Clause 2 – Interpretation

“trafficking in persons” means all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, conveying, transferring, harbouring, providing or receiving a person for the purposes of this Act;

“coercion” means—

- (a) threat of serious harm to or physical restraint against any person;*
- (b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or*
- (c) the abuse or threatened abuse of the legal process;*

“conveyance” means any vehicle, vessel, ship, aircraft, or any other mode of transport whether by air, sea or land;

- ii. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Article 3 (a) of Palermo Protocol

- (a) “Trafficking in persons” shall mean 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;*

ELEMENTS OF TRAFFICKING
The act (what is done) Recruitment, transportation, transfer, harbouring or receipt of persons
The means (how it is done) Threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim
The purpose (why it is done) For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.

Source: Toolkit to Combat Trafficking in Persons by UN Office on Drugs and Crime

Definition of Smuggling of Migrants

- i. Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007

Section 2 – Interpretation

Smuggling of migrants means arranging, facilitating or organising, directly or indirectly, a person's unlawful entry into or through, or unlawful exit from, any country of which the person is not a citizen or permanent resident either knowing or having reason to believe that the person's entry or exit is unlawful and recruiting, conveying, transferring, concealing, harbouring or providing any other assistance or service for the purpose of carrying out the acts mentioned above.

- ii. Protocol against the Smuggling of Migrants by Land, Sea and Air

Article 3

(a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;

ELEMENTS OF SMUGGLING
<i>The act (what is done)</i> Procurement of illegal entry into a State
<i>The means (how it is done)</i> Smuggling a person into a State of which the person is not a national or a permanent resident
<i>The purpose (why it is done)</i> To obtain direct financial or other material benefit from the smuggled person

KEY DIFFERENCES BETWEEN TRAFFICKING IN PERSONS AND MIGRANT SMUGGLING
<i>Consent</i> The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.
<i>Exploitation</i> Smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim. From a practical standpoint, victims of trafficking also tend to be affected more severely and to be in greater need of

protection from revictimization and other forms of further abuse than are smuggled migrants.

Transnationality

Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another State or only moved from one place to another within the same State.

Another indicator is the source of the offender's profit

- Smugglers generate profit from fees to move people
- Traffickers acquire additional profits through the exploitation of victims

Source: Toolkit to Combat Trafficking in Persons by UN Office on Drugs and Crime

Case Study on Human Trafficking

Memey was born in Temanggung Central Java, Indonesia. Memey was born into a poor family and had only a minimal rudimentary education. She became widowed at a young age with a small child to take care of. Memey saw no options for raising her child within her current community and sought employment abroad. A neighbour told her that she can work as a waitress in Malaysia with good income. "Since I had worked in Singapore previously, I thought this would be a similar, if not better, opportunity" stated Memey. She decided to work in Malaysia.

When she arrived in Malaysia her passport was taken away. Shortly after that, pimps quickly took advantage of her vulnerable situation and preyed on her illegal status with the promise of work. Memey was met by a contact person and taken shopping for new clothes and make-up. Memey was then held captive for four months and she was forced to work as a sex worker.

"We were watched closely, there was no opportunity to escape. Our passports were taken away, and we did not have access to a phone either."

Memey chose not to try and run away because she saw what happened to the other women who tried - they were beaten and threatened - and she was too afraid. But she decided to tell every client her story, many of whom were unmoved and did not care.

However, she did not give up. Memey was lucky that one day she met a client who was different. "I told him that I was being forced to do this work against my will. He did not touch me. He gave me a cell phone and I called my family in Indonesia." When she returned home, Memey did not tell her family about the work she had been forced to do in Malaysia. "I was ashamed", she adds. After returning home, Memey found out she was HIV positive. "I did not talk about my HIV status for two years afterwards because there is a lot of stigma and discrimination attached to it". Later, as Memey learned more about HIV and how it was managed, she decided to reveal her status to family and friends and to form a support group to assist people living with HIV and AIDS.

Source: <http://webpage.pace.edu/ac02405p/humanTrafficking/traffickingstories.html>

Case Study on Smuggling of Migrants

It all started late last year when I lost my job in Dubai. My work visa had expired, and I had nowhere else to go. I'm Syrian, and returning to Syria wasn't an option -- going back means you either have to kill or be killed.

But Syrians don't need visas to get into Turkey, so Turkey it was. I arrived in the country in December with an old dream in my mind: reaching Europe.

While in Istanbul, I discovered many Facebook pages about illegal smuggling from Turkey to Italy by sea. All of them mentioned that Mersin, a port city on the southern border, was the jump off point, so I made my way there. I met a Syrian guy in a hotel in Mersin who had already paid money to one smuggler and was planning to depart within a few days. He told me his smuggler was a decent man with a great reputation. I met the man. We spoke about terms of payment and agreed on a fee of \$6,500. Some of the money would be deposited into an insurance company, with the usual transaction fees. When I reached Italy the money would be released to the smuggler -- or, if I changed my mind, I'd be able to get some of it back.

"Be ready all day, every day for the next few days, because you might receive the call to go," the smuggler told me. One evening a few days later, I got the call and my journey began.

They gathered 100 men and women in five buses and drove us to the smuggling point. It was far from Mersin. We walked for 30 minutes, through rough terrain and orange farms near the beach, in darkness to avoid detection by police.

The idea was to take us in three small boats to the main ship. I still remember an old lady, barely able to walk, with her two sons, marching along as fast as they could to try to reach the boats. They were told that if they didn't walk faster, the boat would leave without them.

Finally, we reached the boat. It was just as the smuggler described. For three days we waited in the boat for two other parties of 100 people to join us before departing. We were in the middle of the Mediterranean, far enough away from the surrounding countries to be in international waters.

On the fourth day, we started our journey with a mix of excitement and fear. We sailed for eight hours before the boat's engine broke down. There were around 300 of us on board, and as the waves began to push us towards Cyprus the crew sent a distress signal, hoping to alert maybe a U.N. or Red Cross boat, anyone who could help us. Eventually, a Cypriot coast guard ship arrived to rescue us and deport us back to Turkey. Turkish authorities fingerprinted and released us within a few hours.

I'd already lost everything. My family didn't know what I was doing, but I dreamed of being a human being who is treated like one. I wasn't going to stop. So I called the smuggler the same night I was released and said I wanted to get on the next ship out. Two days later I received the call, and again I headed to a smuggling point. This time, they had a bigger boat -- a cargo ship, in fact, maybe 85 meters long or more.

It took five days to get everyone on board the ship -- 391 of us in total, refugees from cities all over Syria. And for the first time, I began to feel like I was in jail, trapped in conditions no human should ever suffer. We lived in the hold. There were no mattresses or sheets, but we found some wooden planks to put our stuff on to keep it from getting wet. For five days we had no food and a little water.

Seven days in, despite the poor conditions, everything was going well and we were nearing the island-dotted seas near Greece. On the eleventh day, 200 miles off the coast of southern Italy our guides began to alert Italian authorities to our presence.

The rescue ship approached us. They took us to Catania, on Sicily, where we finally reached land a day later. When we arrived, the first thing the Italian authorities did was look after the urgent medical cases. There was a man who was poisoned by the drinking water on the boat, a few pregnant women and old people who needed medical attention.

They took us to a refugee camp. Later that night a Moroccan-Italian man told us not to worry. They would simply take us to different camps and we could leave from there.

Twelve days after it began, our journey to Europe was over. I spent two days in Sicily before making my way first to Milan with two Syrian guys who had become friends. We decided to go to Germany and went to Paris first and ended up in a city called Saarbrücken.

I didn't know where my fellow travellers were heading, but I knew one thing: my dream of making it to Europe, no matter the cost and risk involved, had been achieved. It was worth it.

Source: Taken and modified from CNN News: How I was smuggled into Europe -- and why it was worth it. <http://edition.cnn.com/2015/04/23/opinions/smuggled-syrian-migrant/>

Malaysian Case Law

- The following case laws made reference to either of the following - definitions of human trafficking, the definition of smuggling of migrants and situation which amounts to human trafficking.

i. Mohamad Karim Bujang v Public Prosecutor
High Court Sabah & Sarawak, Kuching
Rhodzariah Bujang J
[Criminal Appeal No: SRA-42-5-12-2012]
31 July 2013

CRIMINAL PROCEDURE: Appeal - Appeal against conviction and sentence - Appellant convicted for trafficking in Indonesian nationals - Indonesians convicted for illegal entry by Sessions Court - Grounds of appeal - Non-compliance of s. 51A Criminal Procedure Code – Whether vitiated trial - Whether warrants of commitment and notes of proceedings from Sessions Court trial against Indonesians submitted in present proceedings - Failure to honour promise to charge for lesser offence - Whether conviction and sentence safe - Anti-Trafficking in Person and Anti-Smuggling of Migrants Act 2007, s. 26J - Criminal Procedure Code, s. 51A

ii. Soo Ah Lai & ORS v Public Prosecutor
High Court Malaya, Kuala Lumpur
Amelia Tee Abdullah J
[Criminal Appeal No: 42S(A)-(29-31)-02-2013]
11 April 2014

CRIMINAL LAW: Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 - Section 13 - Ill-treatment and abuse of domestic maid - Whether maid trafficked for purpose of exploitation – Whether recourse should be had under s. 13 - Whether prosecution established case under s. 13 for trafficking by use of force or other forms of coercion - Whether offence one under Penal Code

- iii. Public Prosecutor v Wong Kuoh Ming
High Court Sabah & Sarawak, Kota Kinabalu
Richard Malanjum CJ (Sabah & Sarawak)
[Case No: BKI-42-2-1-2013]
18 March 2014

CRIMINAL LAW: Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 - Section 13 - Elements of offence - Whether prima facie case established - Whether sexual exploitation a requirement under s. 13 - Whether accused cast reasonable doubt on prosecution case

- iv. Public Prosecutor v Boon Fui Yan
High Court Sabah & Sarawak, Miri
Mairin Idang JC
[Criminal Case No: MYY-42S-12-12-2014]
24 June 2015

CRIMINAL LAW: Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 – Section 12 – Accused charged and convicted with trafficking in persons for purpose of exploitation by way of forced labour – Appeal against conviction and sentence – Prima facie case – Whether established – Whether accused involved in movement and conveyance of the trafficked persons into Malaysia – Whether there was need to prove coercion – Whether there was misapplication of s. 16 of Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 – Whether trial judge erred by misdirecting himself on ingredients of offence – Failure to take into account evidence showing victims willingly agreed to work for accused – Whether there was miscarriage of justice – Credibility of witnesses – Whether trial judge had accepted allegations of victims without first evaluating credibility of witnesses – Failure to call co-workers – Presumption under s. 114(g) of the Evidence Act 1950– Whether invoked – Whether trial judge properly exercised maximum evaluation of prosecution's evidence – Whether trial judge failed to appreciate defence

For further reading:

1. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
2. Guidelines for the identification of victims of trafficking in human beings: Especially for Consular Services and Border Guards
3. Chapter 6 of United Nations Office on Drug and Crime: Toolkit to Combat Trafficking in Persons. Global Programme against Trafficking in Human Being: United Nations, New York, 2006.

SESSION 4

IDENTIFICATION OF VICTIM OF HUMAN TRAFFICKING

- Identification as essential element of protection
- Checklist to facilitate the identification of victims

ILOs: At the end of the session, the participants will be able to:

- i. Describe how to identify the trafficked persons
- ii. State the importance of identifying victim of human trafficking

Time allocation: 60 mins

Materials: Flip chart, marker pen and the checklist

TLAs:

1. Question and answer [15 mins]
 - a. Invite all the frontline and enforcement officers in front of the classroom. Ask them to reflect the problems/confusions that they usually face in identifying the victims and list them down in a flip chart.
 - b. Ask them to explain the list to the rest of participants.
2. Group work [35 mins]
 - a. Ask the participants to prepare a checklist in identifying victim of trafficking based on their working experience.
 - b. Ask the participants to present the list in a plenary session and together build a common checklist.
 - c. Then provide the participants a checklist on identification process based on international standards.
 - d. The facilitator together with the participants reflect the two lists and comment on the differences.
 - e. Discuss by providing some situations or cases and stress the importance in identifying the victim of human trafficking.
3. Reflection of Day 1 (10 mins)
 - a. Since this is a last session for the day, assign all groups to prepare a reflection of Day 1. Among others it should include:
 - The gist of all sessions

- What they found most relevant to their work
- Any questions or issues for clarifications
- b. Collect the reflections and review them for the recap activity on Day 2.

Assessment Task:

- List prepared by enforcement officers and their explanation during TLA 1(b)
- Checklist prepared by the participants in TLA 2(a)
- Question & Answer during discussions like if they see any differences in their checklist and the one provided based international standards and why.
- Reflection of Day 1

Tips for facilitator:

- For TLA 1, it is better to inform the frontline and enforcement officers earlier that they will be asked to come forward and share some of the problems in identifying victims.
- The facilitator can also invite someone with experience in identifying victims to share their experiences in identifying victims of human trafficking. This can be done during TLA 2(d).
- For TLA 2, participants are required to work in the small groups (mix group).
- TLA 2 is a long session and allow a short break in between.
- Since this is a last session for the day, ask all groups to prepare for reflection of Day 1. Collect the reflections for the recap on the following day.
- The facilitator should review the reflections and see if there is a need for any adjustments in the programme.

Facilitators Reference/Note

Why it is important to identify victim of human trafficking

- One of the biggest obstacles to providing human trafficking victims with the services and support they need is the lack of an effective tool to identify them.
- The early identification of trafficked persons is a prerequisite for their recognition as victims and, consequently, their access to assistance and protection. Persons who are likely to be in contact with victims (such as the police, staff of health and social services) should receive training in order to enable them to identify victims and to be sensitive to their needs. This is especially significant for those who may come into contact with victims of trafficking who are without the resources of citizenship in the destination State and are thus especially vulnerable.
- It is crucial to enlist the cooperation of all persons and groups that come into contact with victims of trafficking, such as border guards, police and immigration officers, doctors, medical and social workers, housing and agricultural inspectors, and staff of organizations concerned with the rights of immigrants, women and victims, as well as refugee protection and asylum organizations. Proper training can help these various individuals to identify trafficked persons in order to refer them to victim support organizations. A network of professionals and agencies should be involved in the identification of potential victims and should work together in order to protect victims and ensure a referral network without gaps.
- The Guideline 2 under the Recommended Guidelines on Human Rights and Human Trafficking emphasizes the importance of identifying victim of human trafficking. It stressed the need to develop guidelines for the state agencies and officials in order for them to identify the victim rapidly and accurately.
- The Guideline 2 among others states the following reasons for the identification of victim of trafficking:
 - Ensuring that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons.
 - Ensuring that trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody.

Other concerns are:

- The failure to identify the victim of trafficking may result in further denial of their rights.
- Identification will help to avoid re-victimisation where the victims are treated as criminals.
- Early identification is crucial to promptly assist, support and protect victims of trafficking in human beings and enables police and prosecution authorities to better investigate and punish traffickers.

- Victims are kept isolated, no freedom of movement and their contact with outside world is controlled by the trafficker. Normally, language is also a barrier.

Checklist

Victim

1. Demographics (sex, current age, age at departure, education, occupation, nationality).
2. Does the victim possess false documents?
3. Does the victim allege kidnapping or admit travelling voluntarily?
4. Did the victim approach the offender or vice versa?
5. Was payment made to the victim or the victim's family?
6. Was payment made prior to departure or has debt or debt bondage occurred?
7. Did the victim make any payment to the offender?
8. Does the victim allege deception or violence on recruitment?
9. Does the victim allege exploitation or violence at the place of reception?
10. Was the victim involved in illegal activities at the place of reception?
11. Were other victims involved in the same recruitment, transport and exploitation?

Offender

1. Demographics (sex, age, nationality/ethnic background, profession, education).
2. Is the offender integrated into the community of recruitment?
3. Does the offender have a criminal background?
4. Is the offender suspected of or have convictions for trafficking?
5. Is there evidence of involvement in a criminal organization?
6. Is there evidence of contact or involvement with corrupt officials?
7. Were false documents provided to the victim?
8. Was a recognized trafficking transit route used?
9. Were non-standard transport modes used?
10. Were safe houses used?
11. Were documents withheld from the victim?

Other

1. How was contact made?
2. Through whom was recruitment made?
3. If deception is alleged, what was the nature of the deception?
4. If violence is alleged, was the violence actual or threatened?
5. Was the violence against the victim or the victim's family?
6. If false documents were used, what documents were falsified?
7. How long was the victim abroad?
8. Were other suspects involved in recruitment, transport, transit or reception?

Source: Toolkit to Combat Trafficking in Persons by UN Office on Drugs and Crime

There are also other references where questions are framed according to the nature of exploitation. For example:

Labor Trafficking

- Have you ever worked without getting the payment you thought you would get?
- Have you ever worked in a place where the work was different from what you were promised or told it would be?
- Did anyone at your workplace make you feel scared or unsafe?
- Did anyone at your workplace ever harm or threaten to harm you?
- Have you ever felt you could not leave the place where you worked or lived?

Sex Trafficking

- Did anyone you worked for or lived with trick or force you into doing anything you did not want to do?
- Did anyone ever pressure you to touch another person or have any unwanted physical or sexual contact with another person?
- Did you ever have sex for things of value (for example money, housing, food, gifts, or favors)?

Source: Out of the Shadows: A Tool for the Identification of Victims of Human Trafficking

- Training for enforcement agencies and government officials identifying victim of human trafficking is crucial not only for the reasons stated above but also the approaches taken towards the victims. The enforcement officers must understand the sensitiveness of certain issues like sexual exploitation and the trauma undergone by the victim.

For further reading:

1. United Nations Office on Drug and Crime: Toolkit to Combat Trafficking in Persons. Global Programme against Trafficking in Human Being: United Nations, New York, 2006.
2. Laura Simich, Center on Immigration and Justice. Out of the Shadows: A Tool for the Identification of Victims of Human Trafficking. June 2014

SESSION 5

PROTECTION MANDATE UNDER INTERNATIONAL STANDARDS

- The UN International Convention Against Transnational Organised Crime
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)

ILOs: At the end of the session, the participants will be able to:

- i. Analyse the protection mandate under international human rights standards

Time allocation: 90 mins

Materials: LCD projector, computer, flip chart, marker pen, UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.

TLAs:

1. Recap of Day 1 [15 mins]
 - a. Highlight the pertinent issues discussed and learned on Day 1 based on the reflection made by the groups on Day 1. Address some of the questions raised by the groups.
2. Lecture (Power point presentation) [30 mins]
 - a. Make presentation by listing down and discuss the relevant international standards that prohibit trafficking or slavery, degrading treatment and exploitation. This includes:
 - UN Convention Against Transnational Organised Crime
 - The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children
 - Universal Declaration of Human Rights
 - International Covenant on Civil and Political Rights
 - Convention on the Rights of Refugees
 - Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
 - ILO Convention No.29 – Forced Labour Convention 1930
 - b. Invite participants to make quick notes on the protection elements while listening to the facilitator.

3. Group work (4-5 people) [45 mins]

- a. Provide participants with copies of:
 - The UN Convention against Transnational Organised Crime.
 - The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.
- b. Ask participants to review them. Then, in a matrix, list down at least 4 protection elements stipulated under the two documents and explain why the protection mandates stipulated in the documents are important.

No	Protection Mandate	Why Important
1		
2		
3		
4		

- c. Ask the representatives of the selected groups to present their findings in plenary session and follow by discussions.

Assessment Task:

- Recap of Day 1
- Quick notes by the participants
- Matrix prepared by groups and their presentation during TLA 3

Tips for facilitator:

- Please note that the day begins with a recap of Day 1.
- For TLA 2(a), the facilitator should elaborate more on the UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.
- Malaysia is a state party to the UN Convention against Transnational Organised Crime. It signed the convention on 26 Sep 2002 and acceded on 24 Sep 2004. Malaysia became a state party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children since 26 February 2009.
- There can be brief discussions on other instruments that have been listed.

UN Convention against Transnational Organised Crime

- The Convention was adopted by UN General Assembly on 15 November 2000.
- It is also called the **Palermo Convention**, and its three protocols (the **Palermo Protocols**) are:
 - i. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; and
 - ii. Protocol against the Smuggling of Migrants by Land, Sea and Air.
 - iii. Protocol against the Illicit Manufacturing and Trafficking in Firearms
- Most forms of trafficking, including trafficking in persons, are generally committed across borders and cannot be addressed without joint international efforts and international cooperation. It is important that all States wanting to work together to combat human trafficking become parties to the United Nations Convention against Transnational Organized Crime and its supplementary Trafficking in Persons
- Article 37, paragraph 2, of the Organized Crime Convention, provides that, in order to become a party to one of its Protocols, a State must first be a party to the Convention.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is a wide-ranging international agreement to address the crime of trafficking in persons, especially women and children, on a transnational level. It creates a global language and legislation to define trafficking in persons, especially women and children; assist victims of trafficking; and prevent trafficking in persons.
- The Protocol establishes the parameters of judicial cooperation and exchanges of information among countries.
- The Protocol also addresses the human rights dimensions necessary for the protection of victims of trafficking. The Protocol recognizes the need for a combined approach that integrates the protection of human rights and assistance to victims with effective prevention, prosecution and judicial cooperation.

Other relevant instruments

- Universal Declaration of Human Rights especially Article 1, 3, 4 and 5.
- International Covenant on Civil and Political Rights especially Article 7 and 8.
- Convention on the Rights of Refugees
- Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- ILO Convention No.29 – Forced Labour Convention 1930

Protection Elements

- The UN Convention requires State to adopt laws and measures to criminalise offences under organised crimes.
- Article 25 specifically mentioned about assistance and protection for the victims
Article 25
 1. *Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.*
 2. *Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.*
 3. *Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.*
- Part II of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children stipulates the protection of victims of human trafficking as follows:
 - *Article 6. Assistance to and protection of victims of trafficking in persons*
 - *Article 7. Status of victims of trafficking in persons in receiving States*
 - *Article 8. Repatriation of victims of trafficking in persons*

For further reading:

1. The legislative guides are available on the UNODC website (http://www.unodc.org/unodc/organized_crime_convention_legislative_guides.html).
2. The text of the Organized Crime Convention, the Protocols thereto and other relevant information can also be obtained at the UNODC website (http://www.unodc.org/unodc/crime_cicp_convention.html)
3. Janice G. Raymond. Guide to the New UN Trafficking Protocol: Protocol To Prevent, Suppress and Punish Trafficking In Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organized Crime, USA, 2001.
4. United Nations Office on Drugs and Crime. Global Initiative to Fight Human Trafficking: Model Laws against Trafficking in Person. Vienna: United Nations, 2009.

SESSION 6

PROTECTION MANDATE UNDER NATIONAL LEGISLATIONS AND REGIONAL COMMITMENT

- Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIP Act 2007) – Care and Protection of Trafficked Persons
- National Action Plan against Trafficking in Persons (2010 – 2015)
- The Bali Process
- ASEAN Convention Against Trafficking in Persons Particularly Women and Children
- ASEAN Declaration Against Trafficking in Persons Particularly Women and Children

ILOs: At the end of the session, the participants will be able to:

- i. Analyse the protection mandate under national legislations and regional commitments

Time allocation: 70 mins

Materials: LCD projector, computer, Part IV of ATIP 2007 Act and the National Action Plan against TIP.

TLAs:

1. Group work (4-5 people) [60 mins]
 - a. Provide participants with copies of Part IV of ATIP 2007 Act and the National Action Plan against TIP.
 - b. Ask participants to review them. Then, in a matrix, list down at least 3 protection elements stipulated under the two documents and explain why the protection mandates stipulated in the documents are important.

No	Protection Mandate	Why Important
1		
2		
3		

- c. Assign representative of the selected groups to present the matrix in a plenary session
 - d. Discuss and summarise the session
- 2. Lecture (Power point presentation) [20 mins]
 - a. Discuss Malaysian's commitment at the regional level especially based on Bali Process and ASEAN Convention against Trafficking in Persons Particularly Women and Children.
 - b. Question and answer session

Assessment Task:

- Matrix prepared by groups and their presentation during TLA 1
- Question and answer session during TLA 2. Ask questions like if the Bali Process and ASEAN Declaration against Trafficking have any meaningful protection elements and whether they are binding on the states.

Tips for facilitator:

- Please note that TLA 1 is a long session and allow time for a short break.
- It will be useful to invite someone who works at the shelter to share their experiences especially in the treatment and services provided to the victims especially for TLA 1.

Facilitators Reference/Note

Part V of ATIP 2007 Act

Shelter and Protection Order

- Trafficked persons will be provided a place of refuge which is shelters run by the Government
- Currently, there 6 shelters run by the Government - Ministry of Women, Family and Community Development runs 4 for female and 1 for children while the Ministry of Home Affairs run the only shelter for male victims.
- There is plan underway to allow NGOs to run shelter after the amendment to ATIP 2007 Act.
- If a person is believed to a victim, he/she will be placed under Interim Protection Order (issued by a Magistrate) for 14 days in the shelter.
- Once established after investigations that such person is indeed a trafficked person, they will be placed under Protection Order (issued by a Magistrate).

Types of Protection Order	Duration of Protection Order
Interim Protection Order (section 44(2))	<ul style="list-style-type: none">• 14 days for citizen, permanent resident and foreign national
Protection Order (section 51(3)(i) & (ii))	<ul style="list-style-type: none">• Not exceeding 2 years for citizen and permanent resident
	<ul style="list-style-type: none">• Not exceeding 3 months for foreign national• After 3 months foreign nationals will be handed over to Immigration Officer for necessary action in accordance with the provisions of the Immigration Act 1959/63, the most likely process for repatriation to the country of origin.

- The trafficked persons will be placed under the care of Protection Officers who are usually Social Welfare Officers or other public officials. The responsibility of a Protection officer is stated under Section 43.

Medical

- Section 45 allows an enforcement officer to present a person believed to be a victim of human trafficking to a medical officer for treatment before producing him/her before a magistrate.
- Section 47 also allows an enforcement officer to present a child to the medical officer for the purpose of medical care and treatment.
- The enforcement officers are responsible for the security and protection of the persons under medical care

Record of evidence

- If criminal prosecution is instituted against any person under ATIP Act, the Public Prosecutor may apply for recording of evidence from a trafficked person under oath before a Sessions Court
- The trafficked person shall be examined in accordance of provisions under the Evidence Act 1950

Custody under parent, guardian or relative

- Section 53 allows either parent, guardian or relative to make application to commit that person under the custody
- This is only applicable if the trafficked person is a citizen or permanent resident.
- The application must be made before a Magistrate and the Magistrate upon hearing and examining the report of a Protection Officer may grant custody
- The custody is allowed due to the best interest of the trafficked person for a period determined by the Magistrate with several conditions.

Release of the trafficked person

- A trafficked person will be released upon revocation or expiry of the Protection Order according to Section 54 of the Act
- For citizen and permanent resident, they will be released and for foreign national, he/she will be released to Immigration Officer in accordance of Immigration Act 1959/63.

Services and care during Protection Order

- The Act is silent on the services and care provided for trafficked persons during the Protection Order.
- However, there have been several services provided to the trafficked persons in the shelter and there is an outline for protection in the National Action Plan

Among the services are:

- Healthcare
- Basic counselling
- Phone call once in a month
- Recreational activities like aerobics, reading materials, indoor games, and gardening

- Traditional activities like sewing, cooking and handicraft for women and girls
- Religious activities
- Victims of labour trafficking cases who came through legal means to Malaysia are allowed to work upon completion their protection order.

The Bali Process

- The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) is a voluntary and non-binding process with 48 members including the United Nations High Commissioner for Refugees (UNHCR), United Nations Office on Drugs and Crime (UNODC) and the International Organization for Migration (IOM). There are a further 27 observers to the process.
- Since its inception in 2002, the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) has effectively raised regional awareness of the consequences of people smuggling, trafficking in persons and related transnational crime, and developed and implemented strategies and practical cooperation in response.
- The core objectives of the Bali Process are:
 - the development of more effective information and intelligence sharing;
 - improved cooperation among regional law enforcement agencies to deter and combat people smuggling and trafficking networks;
 - enhanced cooperation on border and visa systems to detect and prevent illegal movements;
 - increased public awareness in order to discourage these activities and warn those susceptible;
 - enhanced effectiveness of return as a strategy to deter people smuggling and trafficking through the conclusion of appropriate arrangements;
 - cooperation in verifying the identity and nationality of illegal migrants and trafficking victims;
 - the enactment of national legislation to criminalise people smuggling and trafficking in persons;
 - provision of appropriate protection and assistance to the victims of trafficking, particularly women and children;
 - enhanced focus on tackling the root causes of illegal migration, including by increasing opportunities for legal migration between states;
 - assisting countries to adopt best practices in asylum management, in accordance with the principles of the Refugees Convention; and
 - advancing the implementation of an inclusive non-binding regional cooperation framework under which interested parties can cooperate more effectively to reduce irregular movement through the region

- There two levels of meetings held: Regional Ministerial Meeting and Meeting of Ad Hoc Group Senior Officials.
- During the 4th Regional Meeting Minister Meeting the following statement on protection was made:

Fourth Bali Regional Ministerial Conference On People Smuggling, Trafficking In Persons And Related Transnational Crime

Ministers acknowledged that trafficked persons are victims and encouraged States to enhance efforts to provide appropriate protection and assistance to victims of trafficking, including through rehabilitation, reintegration and victim support. Noting the particular vulnerability of victims of trafficking, especially women and children, Ministers agreed on the importance of promoting a victim-centred approach to law enforcement, in relation to trafficking in persons for identified victims of trafficking, in order to enhance prosecution and prevent re-victimisation.

ASEAN Convention against Trafficking in Persons Particularly Women and Children

- Is a convention adopted by ASEAN on 21 November 2015 in Kuala Lumpur, Malaysia to reaffirm its commitment to the ASEAN Declaration against Trafficking in Persons Particularly Women and Children made in 2004 and other regional commitments and cooperation in combatting human trafficking.
- It is a most comprehensive document at the regional level.

ASEAN Declaration against Trafficking in Persons Particularly Women and Children

- Is a declaration adopted by ASEAN in November 2004 in Vientiane, Laos to reflect the commitment to combat trafficking in the region
- Is a non-binding instrument and the Declaration ends with the following statement:

All Member Countries reaffirm their commitment to accomplish the elements of this Declaration through maximum efforts by such appropriate instruments as may be necessary and consistent with their respective national laws and policies.

For further readings:

1. Lisborg, Anders; The Good, the bad and the ugly – In the name of Protection; Human Trafficking in Asia: Forcing Issues Sallie Yea (Ed); 19-32; Routledge; New York; 2015
2. The Bali Process:
<http://www.baliprocess.net/> (Accessed on 2015-11-02)
3. ASEAN Declaration against Trafficking in Persons Particularly Women and Children

SESSION 7

COMPARISON OF PROTECTION MANDATES UNDER NATIONAL AND INTERNATIONAL STANDARDS

- Gaps in the protection mandate between national legislation and international standards

- | |
|---|
| <ul style="list-style-type: none">i. Relate the gaps in protection mandate between national and international standardsii. Identify the lack or insufficient implementation of international standards at the national level |
|---|

Time allocation: 40 mins

Materials: LCD projector, computer, flip chart

TLA:

1. Question & Answer [40 mins]
 - a. Ask the participants to work in pairs. Based on discussion during Session 5 and 6 and ask them to list down what might be the gaps between national legislations and international human rights standards.
 - b. Ask the participants (randomly) to share their findings.
 - c. Highlight and discuss some of the gaps in the protection mandate between the national legislations and international human rights standards.

Assessment Task:

- List prepared by the participants
- Presentation and during discussions by facilitator

Tips for facilitator:

- Note that Session 7 starts immediately after Session 6. Allow a very short break for the participants
- Before beginning Session 7, the facilitator can quickly recap some of the important lessons/points from Session 5 and 6.

Facilitators Reference/Note

- The following table shows the comparison of protection mandate between national laws and international standards.
- International standards here are referring to the instruments discussed during Session 5

Gaps between the national legislations and international standards

Protection Elements	International Instruments	National Laws
Housing (shelter)	/	/
Medical	/	/
Counselling	/	
Employment	/	
Education	/	
Training	/	
Compensation	/	
Language & Translation Service	/	
Voluntary Repatriation	/	
Compulsory Repatriation		/
Freedom of Movement	/	

- Clearly, some of the important protection elements are lacking at the national level.
- Note that some of the protection elements have not been stipulated under the national law but in practise, there is some progress.
- For example, the counselling services provided in shelters but it may not be provided by professionals.
- Also in January 2012, the Malaysian Government allowed a number of trafficked persons to seek employment after the expiry of the protection order. However, this is only applicable to victims of labour trafficking cases and conditions like they have entered Malaysia legally and their embassy or consular gives approval.
- Women victims are given training on traditional activities like sewing, cooking and handicrafts, which may not correspond with their ambitions and talents, or the needs of the labour market.
- The table below shows the protection elements and others aspects of human trafficking like criminalising under the national legislations between the countries in Southeast Asia (subject to any changes or progress).
- From the table, Myanmar and Thailand are more advanced in providing protection compared to other countries. There are more to be desired for better protection in Malaysia.

	Cambodia	China	Laos	Malaysia	Myanmar	Thailand	Vietnam
Trafficking in Persons Law	✓	✗	✗	✓	✓	✓	✗
Criminalization of Trafficking	✓	+	✓	✓	✓	✓	+
Definition of a Minor	Under 18	Not Defined Between 14-18	Under 18	Under 18	Under 18	Under 18	Under 18
Protection of Privacy & Identity	+	✗	+	✓	✓	✓	✗
Appropriate Housing	✗	✗	+	+	✓	+	✗
Counseling & Legal Rights	✗	✗	+	✗	+	✓	✗
Medical Treatment	✗	✗	+	+	✓	✓	✗
Employment, Education & Training	✗	✗	+	✗	✓	✓	✗
Age, Gender and Special Needs of Victims, Particularly Child Victims	✗	✗	+	✗	+	+	✗
Protection of Physical Safety	✗	✗	+	✗	✓	✓	✗
Compensation	✓	✗	+	✗	✓	✓	✗
Right to Remain Temporarily or Permanently	✗	✗	✗	+	+	✓	✗
Repatriation	✗	✗	+	✓	✓	✓	✗
Protection from Prosecution	✗	✗	+	✓	+	✓	✗

Note: (✓) yes (✗) no (+) yes, but with limitations

Source: United Nations Protocol on Human Trafficking

For further reading:

1. United Nations Inter-Agency Project on Human Trafficking, Human Trafficking Laws: Legal Provision for Victims. Comparing Legal Definitions & Frameworks against the United Nations Protocol on Human Trafficking, Bangkok

SESSION 8

STATE OBLIGATIONS TO CHILD VICTIM

- **Protection for Children as Victim of Trafficking**

ILOs: At end of this session, the participants will be able to:

- i. Describe the trafficking problem among children
- ii. Analyse the protection obligations for child victim

Time allocation: 90 mins

- Materials: LCD projector, computer, flip chart, marker pen, video clip, Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, Child Act 2001, Palermo Protocol, CRC, ILO Convention, 1999 (No. 182) and OSCE Action Plan to Combat Trafficking in Human Beings.

TLAs:

1. Video Clip [10 mins]
 - a. Play a video clip - UNICEF: Billion Dollar Business of Child Trafficking (3.58 mins)
 - b. Ask questions on the situation of child trafficking as shown in the video like how children become a victim, how serious is the problem in Asia and what kind of exploitation faced by the children.
2. Lecture (Power point presentation) [20 mins]
 - a. Make a presentation on the definition of child and emphasise the importance to provide protection to children.
3. Group Activity [60 mins]
 - a. Provide participants with copies of documents as below and ask them to identify state obligations and types of protection for the child victim.
 - b. Assign different groups to work on different documents and ask to explain how the identified obligations would provide protection for the children.
 - ATIP Act 2007
 - Child Act 2001
 - Palermo Protocol
 - CRC
 - ILO Convention, 1999 (No. 182)

- c. Ask group representatives to share their findings.

Assessment task:

- Question & Answer session during TLA 1(b)
- Presentation of participants on their findings during TLA 3(b)

Tips for facilitator:

- Allow short breaks in between/during TLAs
- Malaysia has ratified ILO Convention No. 182

Facilitators Note/Reference

- **Video link:** UNICEF: Billion Dollar Business of Child Trafficking
<https://www.youtube.com/watch?v=elhX3XGaFsE>

Definition of Child

- According to the Convention on the Rights of the Child and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, a child means anyone under 18 years of age.

Definition of Child Trafficking

- According to Palermo Protocol

Article 3(a) defines trafficking in persons 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, or 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”.

Article 3(b) explains that ‘consent’ – for example to take up work in prostitution – is irrelevant where any of the means set forth in 3(a) have been used;

Article 3(c) explains that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation” is considered to be trafficking even if none of the means set forth in 3(a) have been used.

Situation of trafficking involving children

- Children are frequently trafficked into labour exploitation in agriculture, both long-term and on a seasonal basis. They may toil in a variety of manufacturing industries, from large-scale sweatshops to small craft workshops.
- In some parts of the world, children are exploited in mining or in fisheries sectors.
- Girls, in particular, are trafficked into child domestic labour.
- Children are also trafficked into the militia and into armed gangs in conflict zones and, while this may not strictly be ‘labour’, it is nevertheless true that the children are effectively put to work in these situations, not only as soldiers but in a variety of jobs such as cooking, acting as couriers and, for girls especially, providing sexual services to adult combatants.
- Being children, they are unable to understand or realise the level of abuse or its impact on their physical and mental well-being.

- Children themselves feel forced to continue to submit to the abuse not just out of fear, but also for their survival. The methods to coax and convince them to leave their old lives have to be done delicately.

Children Trafficking in Malaysia

Children were more likely to agree to be transported from one place to another for exploitation because of several factors. Some are promised jobs at hotels or spas, or marriage and a happier life. However, there are also others who are sold by their own families or kidnapped by syndicates.

"Currently, baby-selling is very prominent. Those who are childless usually buy babies without knowing their (babies') backgrounds. It is a worrying trend because there are always people willing to pay for the service.

"This will definitely continue for some time, judging by the number of babies being born out of wedlock, to women without identification documents and to women whose nationality is not known -- all of which make it tougher for them to raise their children. So, selling their babies is the easiest option for them," she said.

The situation gets even trickier as, without the relevant documents, there is no way of knowing where the babies come from.

However, the main focus is on children trafficked for prostitution, begging, drug-muggling and other crimes.

Dr. Hartini Zainuddin

Chow Kit Foundation Fundraising and Advocacy Specialist

Source: BERNAMA <http://mapo.bernama.com/news.php?id=582786>

Protection obligations for child victim

i. Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007

Offence of trafficking in children

Section 14

Any person, who traffics in persons being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.

ii. Child Act 2001

PART VIII TRAFFICKING IN AND ABDUCTION OF CHILDREN

- Section 48 - Unlawful transfer of possession, custody or control of child
- Section 49 - Importation of child by false pretences
- Section 50 - Examination of child and person in charge
- Section 51 - Protector may require security
- Section 52 - Offence of taking or sending out a child without appropriate consent of a person having lawful custody
- Section 53 - Recovery order

iii. Convention on the Rights of the Child and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children

PART II. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

- Article 6 - Assistance to and protection of victims of trafficking in persons

iv. Convention on the Rights of the Children

- The overall spirit of the Convention itself is to protect children from any kind of vulnerability and exploitation.
- In relation to trafficking, following articles are directly relevant:
 - Article 1 – Definition of child
 - Article 3 – Best interest of child shall be primary consideration
 - Article 19 - Protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

v. ILO Convention, 1999 (No. 182)

- Ratified by Malaysia on 10 November 2000
- Article 3 – It defines worst form of child labour includes:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 7 – It describes the measure for protection and development of a child:

- (2) *(a) prevent the engagement of children in the worst forms of child labour;*
(b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
(c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
(d) identify and reach out to children at special risk; and
(e) take account of the special situation of girls.

For further reading:

1. Laws of Malaysia
<http://www.agc.gov.my/>
2. International Labour Office. Training Manual To Fight Trafficking In Children For Labour, Sexual And Other Forms Of Exploitation: Textbook 1: Understanding child trafficking. Italy: International Labour Organisation, 2009.

SESSION 9

BEST PRACTICES IN PROVIDING PROTECTIONS FOR TRAFFICKED PERSONS

- Examples of good protection programme around the world

ILOs: At the end of the session, the participants will be able to:

- i. Identify some of the best practices in providing protection for trafficked persons and suggest necessary changes at the national level.

Time allocation: 60 mins

Materials: LCD projector and computer

TLAs:

1. Lecture (Power point presentation) [25 mins]
 - a. Highlight some of the best practices around the world
 - b. Ask the participants (individually) to list down some of the measures that could be adopted in Malaysia.
 - c. Ask some of the participants to share their list and explain why those measures are important to be adopted in Malaysia.
2. Discussions [25 mins]
 - a. Based on the list shared by the participants, discuss and summarise the session.
3. Reflection of Day 2 (10 mins)
 - a. Since this is a last session for the day, assign all groups to prepare a reflection of Day 2. Among others it should include:
 - The gist of all sessions
 - What they found most relevant to their work
 - Any questions or issues for clarifications
 - b. Collect the reflections and review them for the recap activity on Day 3.

Assessment Task:

- List prepared by participants during TLA 1
- Discussions during TLA 2

Tips for facilitators:

- Adopting some of the best protection measures would lead to a question on resources. This could be a valid point where developing nations like Malaysia might not have sufficient resources to emulate practices from developed countries.
- Examples from neighbouring countries or from any other developing countries would be ideal.
- However, since protection of trafficked victims is crucial, lack of resources should not be a setback and effort must be made to address the issue and ways to overcome it like securing funding from donors and collaborations with civil society organisations.
- Since this is the last session for Day 2, please ask groups to do reflection as in Session 4.

Facilitators Reference/Note

1. Best Practices can be divided into following category areas of protection:
 - i. Identification of victims
 - ii. Hotlines services
 - iii. Training of various stakeholders like police officers, immigrations officers, consular officers – training and built-in procedures
 - iv. Shelter
 - v. Reflection Period
 - vi. Legal Assistance
 - vii. Healthcare and Counselling
 - viii. Employment and education
 - ix. Repatriation

The reading materials below contain a range of best practices from Asia, Europe and the United States.

1. **Best Practices For Programming To Protect And Assist Victims Of Trafficking In Europe And Eurasia: Final Report**

http://lastradainternational.org/Isidocs/Best_Practices_for_Programming_to_Protect_and_Assist_Victims_of_Trafficking_in_Europe_and_Eurasia.pdf

Focus

The report is an assessment of trafficking protection programs – programs designed to provide protection and assistance to victims of trafficking in East-Europe and Eurasia. It stems from a review of current literature produced by various USAID anti-Trafficking in Persons (TIP) activities, and publicly accessible and relevant assessments and evaluations from anti-TIP programs funded by other donors (for a complete list, see Annex A, References).

Additionally, the author draws on some of her own experiences in implementing anti-trafficking programs in countries of the region. This report provides an analytical review of interventions aimed at identifying and assisting victims, for donors who are developing and funding such protection programs.

A summary of the analysis of protection programs and the key recommendations is provided and divided into the following categories:

- A. Identification
- B. Direct Assistance
- C. Legal Proceedings as They Relate to Victims
- D. Monitoring and Evaluation of Assistance Programs
- E. Quantifying Trafficking
- F. Trafficking Program Management and Design

2. Exchange of information and best practices on first reception, protection and treatment of unaccompanied minors – Manual of Best Practices and Recommendations

<http://lastradainternational.org/Isidocs/777%20EUAMMANUALFINAIA4FO>

Focus

This Manual is intended for government authorities and public institutions working on children, migration and refugee issues, law enforcement agencies, NGOs and social services, international organisations, expert researchers, policy makers and representatives from the European Commission.

The last chapter of this publication proposes a number of recommendations on the best way to provide unaccompanied minors with adequate treatment, protection and reception.

3. Identification and Protection Schemes for Victims of Trafficking in Persons in Europe. Tools and Best Practices

[http://lastradainternational.org/Isidocs/222%20Identification%20and%20Protection%20\(IOM\).pdf](http://lastradainternational.org/Isidocs/222%20Identification%20and%20Protection%20(IOM).pdf)

Focus

Chapter 2, entitled “Tools and Best Practices to Counter Trafficking in Persons in Europe”, is divided into three parts according to the topics of each of the Training Conferences, namely identification of victims, investigation of trafficking cases and victim protection. This chapter is aimed at enhancing the exchange of best practices and to create tools in order to help those persons who are in direct contact with trafficking victims.

4. Regional Legal Best Practices in Assistance to Victims of Trafficking in Human Beings

http://lastradainternational.org/Isidocs/539%20Regional_Legal_Best_Practices_in_Assistance_to_Victims.pdf

Focus

The handbook is based upon the best practices of the participant countries who attend a regional workshop organized by the Center for Prevention of Trafficking in Women, with the support of the Danish Ministry of Foreign Affairs in November 2006.

The handbook is structured in three chapters, which are presenting the reader general and theoretical aspects regarding the crime of trafficking, as well as a series of best practices.

5. Study of the Office of the UNHCHR on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration

<http://lastradainternational.org/Isidocs/study.pdf>

Focus

This report seeks to set out the specific standards and principles that inform the international framework of protection of the rights of the child in the context of migration. It examines challenges in the practical implementation of this framework and notes some best practices in terms of legislation, jurisprudence and joint efforts at the bilateral, regional and international levels. The report ends with conclusions and recommendations which aim to strengthen the implementation of the international framework and better protect the rights of the child in the context of migration.

6. Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime

<http://lastradainternational.org/lisidocs/Witness-protection-manual-Feb08.pdf>

Focus

This report is produced by The United Nations Office on Drugs and Crime (UNODC) based on series of regional workshops in 2005 to develop a set of internationally recognized good practices in the establishment and operation of witness protection programmes.

The measures in the manual provide for a continuum of protection that starts with the early identification of vulnerable or intimidated witnesses, continues with the management of witnesses by the police and the enactment of measures to protect the witness's identity during courtroom testimony, and culminates with the adoption – in extreme cases – of measures for permanent change of identity and relocation.

7. Good Practices in Ensuring Adequate Assistance to All Categories of Trafficked Persons. Source Book

<http://lastradainternational.org/lisidocs/Good%20Practices.pdf>

Focus

This source book has compiled the materials concerning accumulated positive experience (which were presented during a regional workshop in Chisinau, Republic of Moldova in November 2016) in compliance with the logic of phased approach to rendering assistance to victims of trafficking (VT) – starting from their identification and up to rendering them assistance ensuring their complex reintegration, including such within the frameworks of National Referral System (NRS).

Identification of minor victims of trafficking, identification of victims of trafficking in persons at border crossing points, hotlines, social monitoring, social and legal assistance, rebuilding relations between women (victims of trafficking) and their children, setting up small business as one of the possibilities of successful reintegration of the trafficked persons, are some examples provided.

8. Good Practices on (re)Integration of Victims of Trafficking in Human Beings in Six European Countries

[http://lastradainternational.org/lisidocs/143%20Goodpracticeson\(re\)integration%20\(Blinn\).pdf](http://lastradainternational.org/lisidocs/143%20Goodpracticeson(re)integration%20(Blinn).pdf)

Focus

The report is a product of the project “Good practices in the (re)integration of victims of trafficking in human beings from an empowerment perspective. It focuses on services provided to women who have been victims of trafficking for commercial sexual exploitation. It aims to provide an outline of the activities carried out by Non-Governmental Organizations to facilitate either: a) the integration process in the host countries or b) the reintegration process in the countries of origin.

For further reading:

1. Anti-Slavery International. Human traffic, Human Rights: Redefining Victim Protection. London, 2002.

SESSION 10

DESIGNING VICTIM-CENTRED PROTECTION PROGRAMMES

- Treatment of victims during rescue
- Treatment of victim as witness (legal assistance)
- Treatment and services for victims in place of refuge
- Employment, education and healthcare
- Alternatives to repatriation for victims who may face harm

ILOs: At the end of the session, the participants will be able to:

- i. Evaluate the existing victim protection programmes whether they are effective and in line with human rights standards
- ii. Design right based protection measures for trafficked persons

Time allocation: 1 day

Materials: LCD projector, computer, flip chart, marker pen

TLAs:

1. Recap of Day 2 [15 mins]
Highlight the pertinent issues discussed and learned on Day 2 based on the reflection made by the groups on Day 2. Address some of the questions raised by the groups.
2. Group work (divide the participants according to their roles/agencies) [60 mins]
 - Group 1: Enforcement officers/front line officers who conduct inspection, raids, rescue operation and repatriation
 - Group 2: Legal officers, investigation officers and officers from Attorney General's Chamber who are responsible in the prosecution and witness protection
 - Group 3: Protection officers and officers from relevant ministries who are responsible for treatment in shelters
 - a. In their respective groups, ask them to discuss and list down the protection work/activities/programmes that have been carried out under their mandate and evaluate them by addressing the following questions:

Programme Activities Services	The purpose of the programme	How it has benefitted the trafficked person	Any Weakness/ Setbacks	Any human rights violation	Suggestion for improvements

3. Group Work (same group as above) [75 mins]

- a. Based on the discussion above, ask the participants to design a right based victim centred protection activities/programmes. It could be existing programmes that need improvements or completely new programmes. The discussions may include any of the following areas:
 - Treatment of victims during rescue
 - Treatment of victim as witness (legal assistance)
 - Treatment and services for victims in place of refuge
 - Employment, education, healthcare
 - Alternatives to repatriation for victims who may face harm

- b. Participants may follow the format below:

What? Area requiring improvement	How? Plan for improvement	Who? Stakeholder	When? Time frame for implementation	Any? Financial or Legal implication
Programmes Activities Services	Actions	What is their role	Duration	Budget breakdown Which law/section

4. Mix the group members and ask the participants to discuss outcome based on group work during TLA 2 and TLA 3 in order to obtain views from participants from other agencies. [30 mins]
5. Ask the participants to regroup according to their roles/agencies, share the outcome of group work during TLA 4 and make final adjustments to their proposed plans. [30 mins]
6. Invite the representatives of each group to present their proposed programmes in plenary session. [140 mins]

- a. Each group presentation is followed by additional comments/suggestions by other groups. The facilitator makes final reflections especially in term of the practicability of the suggested programmes and follow-up actions.

7. Conclusion and closing [20 mins]

- a. Evaluation
- b. Closing remarks by facilitator or invited guest
- c. Presentation of certificates

Assessment Task:

- Recap of Day 2
- Preparation of matrix during TLA 2(a)
- The proposed protection programmes as in matrix during TLA 3

Tips for facilitator:

- It is recommended to have more than one facilitator for Session 10. Please note that the facilitators assisting in the session should have been there from Day 1 and understand the dynamics of sessions conducted before Session 10. Thus, they can be among those who have been conducting sessions in this training programme.
- Session 10 is the longest session in order to allow more time for designing activities. The facilitator must allow for several short breaks in during or in between the TLAs.
- During TLA2 (evaluation), the participants will not present their findings. Instead, the facilitator will meet all the groups, oversee the discussions and make a quick reflection with them.
- Begin TLA3 immediately after TLA2 (or after a short break), so there is ample time for the discussing on designing protection programmes.
- TLA4 has been designed in such a manner to allow inputs across the different sectors.
- The facilitator provides feedback and discusses ways in following up and implementing the suggested programmes. Please note that some suggestions might involve financial and/or legal implication.
- As NHRIs is mandated to advise the Government in matters relating to human rights and laws reforms, it is best for the NHRIs to have a projected time-line and follow-up meetings to ensure the implementation of programmes and better protections for trafficked persons.

Facilitators Reference/Note

Conclusion

- The facilitator makes a reflection on the ILOs and discusses whether they were achieved during the training. Also, it is important to emphasise that the real outcome is when the participants exercise and put in practice the knowledge gained during the training in their work and positively provide better protection for the trafficked persons.

Evaluation of the Training

- The facilitator may invite a representative of all groups or volunteers to make a reflection of the training programme as a whole.
- Also, provide an evaluation form to all participants for them to provide feedback of the training programme.

For further reading:

1. United Nations Inter-Agency Project on Human Trafficking: Shelter Self-Improvement Project Toolkit

References

1. Anti Perdagangan Manusia , 2012.
<https://www.youtube.com/watch?v=wZoNZ-f-rdM> (Accessed on 2015-11-02)
2. ASEAN. ASEAN Declaration against Trafficking in Persons Particularly Women and Children
<http://www.asean.org/> (Accessed on 2015-11-2015)
3. Center for Prevention of Trafficking in Women & Ministry of Foreign Affairs, Denmark. Regional Legal Best Practices in Assistance to Victims of Trafficking in Human Beings. Chisinau, 2007
4. Creative Associates International, Inc. & Aguirre Division of JBS International, Inc. Best Practices For Programming To Protect And Assist Victims Of Trafficking In Europe And Eurasia: Final Report. United States: USAID, 2008.
5. Cristina Talens and Cecile Landman. Good Practices on (re)Integration of Victims of Trafficking in Human Beings in Six European Countries: Bonded Labour in the Netherlands (BLinN) – Novib / Humanitas Change – Anti Trafficking Programme . OXFAM, 2003.
6. Council for Trafficking in Persons. National Action Plan against Trafficking in Persons (2010-2015). Kuala Lumpur: Percetakan Nasional Malaysia Berhad, 2010.
7. Council for Trafficking in Persons. Plan of Action to Combat Trafficking in Persons 2012/2013: Progress Report, 2013.
8. European Commission. Guidelines for the identification of victims of trafficking in human beings: Especially for Consular Services and Border Guards. Luxemborg: Publications Office of the European Union, 2013.
9. Human Rights Council. Report of the Special Rapporteur on Trafficking in Persons, especially Women and Children, Maria Grazia Giammarinaro: Mission to Malaysia, A/HRC/29/38/Add.1 June 2015
10. Human Rights Council. Study of the Office of the UNHCHR on Challenges and Best Practices in the Implementation of the International Framework for the Protection of the Rights of the Child in the Context of Migration. A/HRC/15/29, July 2010.
11. Human Trafficking in Southeast Asia, 2015
<https://www.youtube.com/watch?v=kAbSwOF-l4> (Accessed on 2015-11-02)
12. International Labour Office. Training Manual to Fight Trafficking in Children for Labour, Sexual and Other Forms Of Exploitation: Textbook 1: Understanding Child Trafficking. Italy: International Labour Organisation, 2009.

13. International Organisation for Migration & European Commission. Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors – Manual of Best Practices and Recommendations. Brussels: International Organisation for Migration, 2008.
14. International Organisation for Migration Brussels. Identification and Protection Schemes for Victims of Trafficking in Persons in Europe. Tools and Best Practices. Brussels: International Organisation for Migration, 2005.
15. Janice G. Raymond. Guide to the New UN Trafficking Protocol: Protocol To Prevent, Suppress and Punish Trafficking In Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organized Crime, USA, 2001.
16. Laws of Malaysia
<http://www.agc.gov.my/>
17. Lisborg, Anders; The Good, the bad and the ugly – In the name of Protection; Human Trafficking in Asia: Forcing Issues Sallie Yea (Ed); 19-32; Routledge; New York; 2015
18. Simich, Laura, Center on Immigration and Justice. Out of the Shadows: A Tool for the Identification of Victims of Human Trafficking. June 2014
19. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime . Bali Process. <http://www.baliprocess.net/> (Accessed on 2015-11-05)
20. The International Center for Women Rights Protection and Promotion “La Strada”: Good Practices in Ensuring Adequate Assistance to All Categories of Trafficked Persons. Source Book. Chisinau, 2006.
21. The legislative guides are available on the UNODC website
<http://www.unodc.org/> (Accessed on 2015-10-29)
22. The text of the Protocols thereto and other relevant information
<http://www.unodc.org/> (Accessed on 2015-10-30)
23. United Nations Inter-Agency Project on Human Trafficking, Human Trafficking Laws: Legal Provision for Victims. Comparing Legal Definitions & Frameworks against the United Nations Protocol on Human Trafficking, Bangkok
24. United Nations Office on Drugs and Crime. Online Toolkit to Combat Trafficking in Persons: Global Programme Against Trafficking in Human Beings. New York: United Nations, 2006.
25. United Nations Office on Drugs and Crime. Global Initiative to Fight Human Trafficking: Model Laws against Trafficking in Person. Vienna: United Nations, 2009.

26. United Nations Office on Drugs and Crime. Convention against Transnational Organized Crime and the Protocols Thereto., New York: United Nations, 2004.
27. United Nations Office on Drugs and Crime. Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime. New York: United Nations 2008.
28. United Nations Economic and Social Council. Recommended Principles and Guidelines on Human Rights and Human Trafficking, E/2002/68/Add.1, May 2002.
29. UNICEF: Billion Dollar Business of Child Trafficking, 2011
<https://www.youtube.com/watch?v=elhX3XGaFsE> (Accessed on 2015-11-01)
30. US Department of State. OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS: MALAYSIA [2015 Trafficking in Persons Report, 2015](#)
<http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243485.htm> (Accessed on 2015-11-02)
31. Wan Nur Ibtisam Wan Ismail. Human Trafficking Policy Implementation: A Case Study of Malaysia. Kuala Lumpur: Phd Diss., University Of Malaya, 2014.