Manual on Combating Trafficking in Persons in Saint Lucia

Technical Assistance Intervention TA/040/2016
Author: Ofelia Ferreira da Silva
Date: April 2018

Publisher: Regional Office for the EEA, the EU and NATO
International Organization for Migration, Brussels, Belgium
(ACP-EU Migration Action)

Tel: +32 (0)2 894 92 30
acpeumigrationaction@iom.int
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ACKNOWLEDGEMENTS

The author acknowledges the following parties who have contributed for the development of the this manual and the outcomes of the intervention:

The European Commission, which provided key support through the funds for the intervention.

The ACP-EU Migration Action team, which provided expertise and guidance in terms of setting objectives, reviewing progress milestones and reviewing the content of the final report. The team also provided essential administrative support for the intervention.

The Ministry of Home Affairs and National Security, the main national leader and supporter of the intervention in Saint Lucia, without whom this work would not have been possible to be fulfilled successfully. In that regard, I would like to express my special gratitude to Mr. Agosta Degazon, Permanent Secretary of the Ministry of Home Affairs, and Ms. Elda Michel, Deputy Permanent Secretary of Ministry of Home Affairs. Their commitment to support the best development of the intervention is an indicator of the path to set a positive institutional culture on combating human trafficking in the Ministry.

All the national entities from the areas of immigration, customs, law enforcement, labor, external affairs, prosecution, family court, fire service, gender, health, education and social protection, that engaged their key and senior experts in all the activities the ACP EU Migration Action developed in order to increase their capacities on human trafficking and how to combat it.

All the civil society organizations who also have answered positively to the invitation in participating as strategic partners bringing in the necessary expertise and experience to reach the most vulnerable population in Saint Lucia.

All of the abovementioned actively contributed through consultations and dialogues in connection with the intervention. They openly shared their perspectives and inputs, which were essential to strengthen capacities and partnerships to combat human trafficking in Saint Lucia.

Gratitude is also extended to Luc Patzelt and Dr. Stephen Boyce from the Delegation of the European Union to Barbados, who have been supportive of the intervention.

I would especially like to thank Jermaine Grant, Regional Programme Officer for the Caribbean for the ACP-EU Migration Action, and Claudia Mon Louis, from the Ministry of Home Affairs and National Security in Saint Lucia, for their collective impeccable arrangements for the field visits, unstinting support to my requests and questions, with good humour and commitment to offer the best of a collaborative work.
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ACRONYMS

CRC      United Nations Convention on the Rights of the Child
HIV      Human Immunodeficiency Virus
ICMPD   International Center for Migration Policy Development
ILO      Labour International Organization
IOM      International Organization for Migration
LGBT     Lesbian, Gay, Bisexual and Transgender
3P       Protection, Prevention and Prosecution
STD      Sexually Transmitted Disease
NGO      Non-governmental Organization
NRM      National Referral Mechanism
OHCHR    United Nations Human Rights Office of the High Commissioner
OSCE     Organization for Security and Cooperation in Europe
OVCTTAC  Office for Victims of Crime Training and Technical Assistance Center
UNODC    United Nations Office on Drugs and Crime
UNTOC    United Nations Convention Against Transnational Organized Crime
VoT      Victim of trafficking; victim of human trafficking
INTRODUCTION

The present manual is part of the technical assistance (TA) provided by the International Organization for Migration (IOM) in the framework of the ACP-EU Migration Action\(^1\), responding a supporting request made by the Ministry of Home Affairs, Justice and National Security of Saint Lucia.

The objective of the technical assistance request focuses on the prevention of human trafficking by training law and border authorities on effective counter-trafficking measures and dissemination of information on trafficking in human beings, thus sensitizing the public and creating awareness of the ills of human trafficking.

Saint Lucia has been taking actions to combat human trafficking. In 2010, the government of St. Lucia enacted the national Counter-Trafficking Act. And in 2013, it ratified the Palermo Protocol - the supplemental protocol to the United Nations Convention Against Transnational Organized Crime (UNTOC).

The Saint Lucia Counter-Trafficking Taskforce developed by the National Framework for Combating Trafficking in Persons is also part of the government’s effort. The Task Force coordinates the action plan, the collection and sharing of data among government agencies, engages in cooperation with foreign countries and civil society organizations, and provides training for law enforcement agents.

Acknowledging the key role of law enforcement officers, the Saint Lucia Counter-Trafficking Act states that law enforcement officials are expected to provide “protection for the safety of victims of human trafficking, including identification of victims” with the “investigation and prosecution of offences relating to trafficking in persons.” And thus, in consistency with the Palermo Protocol, it identifies the need for “training for law enforcement, immigration and other relevant officials in addressing trafficking in persons”.

Thus, previous to the technical assistance, a baseline assessment (BA) was carried out revealing aspects of the national context to guide the development of the technical assistance. Accordingly, to the BA, the magnitude of human trafficking in St. Lucia is unknown and potential cases are possibly unidentified and unaddressed by law enforcement agencies. It is noticed the need of new initiatives to strength law enforcement capabilities to effectively detect, investigate and prosecute human trafficking criminal activity in the country.

To support the Saint Lucia efforts, in 2017, the ACP-EU Migration Action run a workshop to 40 police officers, immigration officers, state prosecutors, civil society representatives and other national stakeholders on how to combat human trafficking, to which this present manual is a

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\(^1\) For more on the ACP-EU Migration Action: www.acpeumigrationaction.org.int
complementary tool. A database mechanism and a public awareness campaign are also outputs of the ACP-EU Migration Action technical assistance to Saint Lucia.

In combination, the workshop, the manual, the data base mechanism and the public awareness campaign are part of an integrated approach to help Saint Lucia government increases its capacities to tackle human trafficking cases and conditions.

This manual aims to be used as a guidance to better understand what human trafficking is and how to recognize and deal with it, by agents working in the areas of law enforcement, immigration, prosecution, family court, education, social protection, health, external affairs, and from those non-governmental organizations working with poor communities, schools and vulnerable groups or neighbourhoods in the country.

To define the workshop and the manual content, a rapid qualitative assessment was made during the preparation of the workshop, through interviews with key stakeholders from government agencies and civil society leaders. They provided the inputs on knowledge and practices they feel more important to be inserted in a publication tool. With the demands and suggestions made, an extensive desk research was conducted in the global knowledge on human trafficking systematized and maintained by the most specialized organizations on the subject. And then narrowed within what the stakeholders had suggested. The content of the present manual corroborates the content addressed during the workshop.

Case studies, researches, conceptual and practice guides, statistics, campaigns and policy documentation in which the manual content is based are offered at the end of the publication to make easier finding the resourceful materials virtually available.

We suggest keeping this manual at hand and use it as a constant reference source when questions or doubts arise. We hope it will add value in building the level of competency Saint Lucia is achieving to combat human trafficking.
1. WHAT IS HUMAN TRAFFICKING

Human trafficking is the buying and selling of men, women and children within a country and/or across its borders with the purpose of exploiting them to obtain money or other type of benefits.

Also known as trafficking in persons or modern slavery, human trafficking is a perverse crime that impacts countries and communities throughout the world. Along with drug trafficking and illegal arms trade, human trafficking is a global phenomenon. It may exist anywhere.

According to the international definition of trafficking in persons, when a person is recruited, transported, harboured or received, under the use of a threat, force, coercion, or fraud, for the purpose of being sexually exploited, or for forced labour, or practices similar to slavery, servitude or the removal of organs, that person is a victim of human trafficking.

2. THE PALERMO PROTOCOL


It was signed in December 2000 in Palermo, Italy, and came into force in 2003. Saint Lucia ratified it in 2013. The Palermo Protocol was the first global agreement on human trafficking to produce a consensus on the definition of that crime.

It became a key tool to offer a parameter to national legal frameworks and to the design of counter-trafficking public policies.

Article 3 of the Palermo Protocol is fundamental to understand what human trafficking means. It says:

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

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

As per Article 3 of the Protocol, for a crime to be identified as human trafficking, three (3) elements must be present: (1) the activity + (2) the means + (3) the purpose.

The activity must be realized by one of the means, and both must be aimed at achieving the exploitative purpose. If any one of those three (3) components is missing, depending on the national legal framework, it can be another type of crime but not a human trafficking crime.

In the case of children (those under 18 years), only the Activity and Purpose must be present for human trafficking to have occurred. In its article 3, the Palermo Protocol explains that, to prove a human trafficking against a child, the “Means” is dispensable. With that, when developing the international legal framework to describe and punish the crime, the experts acknowledged that a child victim of trafficking is always submitted to harmful means. Thus, any situation of recruiting, transportation, transferal, harbouring or reception of someone under 18, with the purpose of exploitation is human trafficking, being dispensable any proof that there was threat, or use of force, or other forms of coercion, of abduction, of fraud, of deception, of abuse of power, of abuse of a position of vulnerability, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
The consent issue

The consent of an adult victim of human trafficking is irrelevant to the prosecution of the traffickers, or the characterization of that person as a victim of this crime, when means are present (e.g., force, fraud, etc.). Even though some may be aware that they will be in exploitative conditions, they still are victims of trafficking if the trafficker uses force, deception, abduction or abuse of the victim’s position of vulnerability. The Palermo Protocol recognizes that the initial consent may be the result of the victim’s vulnerability or his/her difficult situation. Thus, apparent consent (including signed contracts) are irrelevant when traffickers use means to force their victims into exploitation, and the traffickers should be held legally responsible for the crime.

The mentioning of ‘abuse of power or of a position of vulnerability’ by the Palermo Protocol describes a person with no alternative but to submit to the abuse, which helps explain how the crime of human trafficking may happen without an actual threat or the use of force, but through other means, such as when the victim has no means to refuse being trafficked and is thus in a situation of vulnerability that is abused by the traffickers.

In the part II, article 11, of the COUNTER TRAFFICKING ACT, NO. 7 OF 2010, Saint Lucia law goes in more details:

"Consent or past sexual behaviour of a victim is irrelevant: 1) in any prosecution for an offence of trafficking in persons under section 3, the alleged consent of the victim to the intended or realized exploitation is irrelevant once any of the means or circumstances of trafficking in persons is established; 2) in a prosecution for trafficking in persons under section 4, the evidence of a victim's past sexual behaviour is irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behavior, or to prove the victim's sexual predisposition.

Legal age of consent to sex not a defense to trafficking in persons: The legal age of consent to sex or to marriage is not a defense to the offence of trafficking in persons."

3. THE COUNTER TRAFFICKING ACT, NO. 7 OF 2010, OF SAINT LUCIA

In January 2010, Saint Lucia enacted the Counter-Trafficking Act 2010, well aligned with the Palermo Protocol. It brings detailed definitions to guide the protection of victims, and the prevention and prosecution of human trafficking situations in the country. It defines a clear interpretation of human trafficking in Saint Lucia, as stated in its articles 4 to 7:

"4. The object of this Act is to prescribe measures to prevent and combat trafficking in persons with particular regard to victims who are women and children, by –

(a) protecting and assisting victims of trafficking, having due regard to their human rights;
(b) facilitating the efficient investigation of cases of trafficking in persons;
(c) facilitating the just and effective punishment of individuals and organizations involved in trafficking in persons;"

2 see Annex
(d) promoting cooperation between Saint Lucia and other States in order to prevent and suppress trafficking in persons and to punish offenders.

Part II
CRIMINAL OFFENCES AND RELATED PROVISIONS

Offence of trafficking in persons

5.— (1) A person who engages in, conspires to engage in, attempts to engage in, assists another person to engage in, or organizes or directs another person to engage in trafficking in persons commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or a term of imprisonment not exceeding five years.

(2) The recruitment, transportation, harbouring, or receipt of a child, or giving of payment or benefits to obtain the consent of a person having control of a child, for the purpose of exploitation, constitutes trafficking in persons irrespective of whether any of the means of trafficking in persons has been established.

Offence of unlawful withholding of identification papers

6. Any person who for the purposes of trafficking in persons and acting or purporting to act as another person’s employer, manager, supervisor, contractor, employment agent, or solicitor or client such as a pimp, knowingly procures, destroys, conceals, removes, confiscates, or possesses any passport, immigration document, or other government identification document, whether actual or purported, belonging to another person, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding two years.

Offence of transporting a person for the purpose of exploiting such a person’s prostitution

7.— (1) Whoever knowingly transports, or conspires to transport or attempts to transport, or assist another person engaged in transporting any person in Saint Lucia, or across an international border for the purposes of exploiting that person’s prostitution commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or imprisonment for a term not exceeding five years.

(2) The presence of any one of the following aggravating factors resulting from acts of the defendant may permit a longer sentence up to ten years, together with forfeiture of the conveyance used for transporting the victim -

(a) transporting two or more persons at the same time;
(b) causing permanent or life-threatening bodily injury to the person transported;
(c) transporting of one or more children;
(d) transporting as part of the activity of an organized criminal group.3

4. WHAT IS SMUGGLING OF MIGRANTS

Smuggling of Migrants is also a crime, which is sometimes connected with human trafficking. However, it is important to understand the differences. Migrant smuggling is the reception of benefits for an illegal entry of a non-national or non-resident person into a State. Like the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, there is a

3 See Annex
the Protocol against the Smuggling of Migrants by Land, Sea and Air (Migrants Protocol) and it is also a supplement to the *United Nations Convention against Transnational Organized Crime*. 

The United Nations Office on Drugs and Crime (UNODC) explains the main differences as follows⁴:

- **Consent**: Migrant smuggling involves consent. Victims of trafficking are under force or coercion, so there is no consent (or it is made irrelevant by the means).
- **Transnationality**: To smuggle a person means to facilitate the person’s illegal border crossing and entry into another country. Trafficking in persons does not necessarily involve the crossing of an international border. While migrant smuggling is always, by definition, transnational, trafficking in persons need not be. Criminals may both smuggle and traffic people, employing the same routes.
- **Exploitation**: The relationship between smuggler and smuggled migrant usually ends after the facilitation of the border crossing when the fees are paid. The smuggler has no intention to exploit the person after arrival. Trafficking involves the ongoing profits to the traffickers. It is the intention of the trafficker that the relationship with the exploited victims will continue. But smuggling can become trafficking, e.g. when the smuggler deceives/coerces/forces the person to work off transportation costs under exploitative conditions.
- **Appropriate charges**: the offence of trafficking in persons, by its nature, is very likely to involve other offences. These offences may be an integral part of the trafficking process, and can be used to prove that an element of the trafficking in persons offence has been committed.

### 5. WHY HUMAN TRAFFICKING EXISTS

The international community highlights some of the main factors responsible for the existence of human trafficking as follows:

- Poverty and economic disparity
- Unequal access to education and employment opportunities
- Destruction of traditional livelihoods
- Women’s disadvantaged social, economic and legal situation in many countries

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• Global demand for cheap and informal labour

• Demand for women and children in the globalized sex market

• Large numbers of migrants in situations of vulnerability

• Conflict and crisis that affect vulnerable populations

• Leniency in punishing the crime and corruption

• The highly profitable and low-risk profile of this crime in comparison with drug and illegal arms trade

According to the International Labour Organization (ILO), the Walk Free Foundation and IOM⁵, in 2016, 40 million people were victims of modern slavery. Out of that, 24.9 million people as domestic workers, on construction sites, in clandestine factories, on farms and fishing boats, in other sectors, and in the sex industry. And 15.4 million people were living in a forced marriage. Women and girls are 99% of the victims in the commercial sex industry and one in four victims of modern slavery were children.

People forced into modern slavery exploitation forms are seen by the perpetrators as if they were just a profitable business. Many of the products and services the victims produced are available in the markets or are invisibly part of a legitimate commercial chain, such as clothes, food or even the urban buildings. In 2014, ILO disseminated the figures of human trafficking business⁶:

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Table 2.1. Estimated annual profits from forced labour (US$ billion)

<table>
<thead>
<tr>
<th>Region</th>
<th>Forced Sexual Exploitation</th>
<th>Domestic work</th>
<th>Non Domestic Labour</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asia-Pacific</td>
<td>31.70</td>
<td>6.30</td>
<td>13.80</td>
<td>51.80</td>
</tr>
<tr>
<td>Latin America and the Caribbean</td>
<td>10.40</td>
<td>0.50</td>
<td>1.00</td>
<td>12.00</td>
</tr>
<tr>
<td>Africa</td>
<td>8.90</td>
<td>0.30</td>
<td>3.90</td>
<td>13.10</td>
</tr>
<tr>
<td>Middle East</td>
<td>7.50</td>
<td>0.40</td>
<td>0.60</td>
<td>8.50</td>
</tr>
<tr>
<td>Central and South-Eastern Europe and CIS</td>
<td>14.30</td>
<td>0.10</td>
<td>3.60</td>
<td>18.00</td>
</tr>
<tr>
<td>Developed Economies and EU</td>
<td>26.20</td>
<td>0.20</td>
<td>20.50</td>
<td>46.90</td>
</tr>
<tr>
<td>World</td>
<td>99.00</td>
<td>7.90</td>
<td>43.40</td>
<td>150.30</td>
</tr>
</tbody>
</table>

Source: ILO
Components may not add up to the total because of rounding.
6. WHO IS A VICTIM OF HUMAN TRAFFICKING

Victims of human trafficking can be anyone: men or women, adults or children, national citizens or foreign nationals whether documented or not, from rural or urban areas, with diverse ethnic and socio-economic backgrounds.

Some vulnerable conditions may exacerbate the risk of becoming a victim of human trafficking: domestic violence, sexual assault, physical and emotional violence, social discrimination, war and conflict, undocumented migration, among others.

Traffickers identify, manipulate, control and exploit those conditions and vulnerabilities, luring the victims with false promises or forcing them into exploitation situations.

According to ILO, IOM and The Walk Free Foundation\textsuperscript{7}, 71\% of the victims of human trafficking are females and one in four are children. Sexual exploitation and forced labour, as domestic servants, janitors, or in sweatshops, restaurants and farms, in the mining, fishery and tourist industries are the most frequent forms but people are forced also to beg, to be soldiers or to commit crimes within gangs, to marry, or to have their organs removed and sold.

Children who are victims of human trafficking are particularly vulnerable. As a person with physical, emotional and psychological dimensions in development, a child who is trafficked will confront exploitation, danger, injury, emotional and sexual abuse, violence, hazard working

conditions, family abandonment, loneliness, anxiety, depression, starvation and death. The effects are prolonged and severe.

Victims of human trafficking (VoT) are under control of the traffickers, who may confiscate their identification documents, keep their victims in captivity or deprived of free movement through psychological controls, have knowledge and threat victims’ family members, maintain possession of the victims’ money, or use the victims’ lack of familiarity with the language, geography and culture of the surrounding place to manipulate them.

In order to provide assistance, it is key to understand the viewpoint of a VoT and to be aware that:

- They may not speak English or other national languages;
- They may not know where they are or may not even be able to describe clearly the journey to reach there;
- They may fear human contact due to the constant isolation and the experience of being prevented to communicate with family or friends;
- They may have difficulties in trusting others, especially law enforcement agents, as they may have been taught so by traffickers;
- They may express concerns about the traffickers as sometimes they were under psychological and emotional manipulation;
- They need to be consistently reassured about their safety and protection efforts, and not to be judged or urged to testify regardless of their feelings and fear;
- They may have been forced to commit crimes;
- They may require a long time of consistent support to overcome the trauma of the violence and exploitation before they are able to be open to collaborate or to express self-confidence;
- They may not be willing or may be fearful to return to their community or country of origin because traffickers may have connections there and it may be unsafe;
- They may feel violence and abuse as normal or inevitable, damaging their personal sense of power and resilience.

Victims of trafficking require a multidisciplinary approach encompassing different dimensions, such as:

- Psychological counselling;
- Shelter (both urgent and long term);
• Referral mechanisms;
• Legal assistance, including for their immigration situation or crimes committed during the trafficking situation;
• Transportation;
• Witness protection;
• Medical care (both physical and psychological);
• Food and clothing;
• Language and cultural interpretation;
• Employment;
• Training and/or access to education opportunities; and
• Support for their children or other loved ones.

Who are the victims of human trafficking? 8

“The other girls and I were arrested over and over for prostitution. Never did the police or prosecutors ask us if we were trafficked. Never did they offer us help and protection.”

These were the words of Kikka Cerpa, speaking at the United Nations in New York, as she told the harrowing story of how she survived being a victim of human trafficking.

“I am telling my story to help other trafficking victims around the world,” she said. “We need to train police officers and prosecutors so they can identify and protect victims.”

“When I asked the policeman to help me, he told me my ‘boyfriend’ would give me a ride home,” said Rachel Lloyd. This was despite the fact that she was nowhere near home but in another country entirely, with no shoes, no passport, no money and no way to escape from her ‘boyfriend’ who was in fact forcing her into prostitution.

Rachel and Kikka were not only victims of trafficking but were also denied the protection and assistance they needed because they were not seen as victims. “Who’s going to believe a whore?” asked Kikka rhetorically, pointing to the paradox of their situation.

They, together with other victims who were trafficked for sexual and labour exploitation, were testifying at the special UN event “Giving Voice to the Victims and Survivors of Human Trafficking” in the hope that governments will do more to prevent human trafficking and to help the survivors.

But governments are not paying adequate attention to the need for properly identifying victims, according to Joy Ngozi Ezeilo, Special Rapporteur on trafficking in persons. This is despite the ready existence of toolkits and training manuals that could be utilized to train law enforcement and other officials.

“The first step in providing trafficked victims with protection and assistance is their proper identification,” the Special Rapporteur told the UN General Assembly. “Failure to do so leaves the victims open to being charged or prosecuted for their activities.”

Unfortunately, “in some cases, victims are simply treated as criminals and arrested and deported with no opportunity to be identified and provided with the necessary assistance,” she said. In addition, “screening procedures sometimes woefully fail to respect the rights of the victims to privacy and confidentiality.”

7. WHAT ARE THE SIGNS OF A POSSIBLE HUMAN TRAFFICKING SITUATION

It may be not easy to identify a VoT. Some indications related to the signs are offered by the experts and should be take into consideration by health, educational, social and law enforcement workers. When combined, the below listed indicators may be useful as red flags to a possible situation of human trafficking.

It is important to keep in mind that they do not necessarily mean that a human trafficking case is occurring, but should be taken as warning signs alerting for the need of further investigation within a context that may be much more complex than what is noticeable.

Signs that justify further assessment / a call to the authorities:

- The person is not allowed to leave or come and go freely.
- The person is unpaid or paid very little.
- The person is not in control of his/her own identification documents.
- The person is not allowed to speak with others for themselves and a third party insists on being present and/or translating.
- The person works excessively long or in unusual hours, without breaks.
- The person owes debts that allegedly he/she must pay before leaving.
- The person was recruited or transported based on false promises.
- The person shows signs of being submitted to psychological and physical violence, sexual abuse, torture, confinement, restriction of food.
- The person has no personal possessions or control of his/her own money.
- The person stays or lives in a place with high level security measures in order to keep him/her isolated or hidden (wires, fences, walls, cameras, closed windows, bars, bodyguards or surveillance).
- The person is not able to inform his/her address or is not familiar with their whereabouts.
- The person appears to work for a family in their home, where he/she also lives but does not eat with the family, has no proper sleeping place, never leaves the house “unsupervised” and may be accused of crime if they try to leave.
- The person is working in the commercial sex industry without his/her free will and he/she has a pimp/manager. The person shows loss of sense of time.
• The person appears to be strongly fearful, anxious, paranoid, depressed or submissive.
• The person is prohibited to access medical care.
• The person shows inconsistencies in his/her story.
• The person is very afraid of authorities, and has unusual reactions that might indicate high stress or exposure to trauma (e.g. extremely fearful, extremely numb and untalkative, etc.)
• The person shows signs of repeated injury or illness without proper treatment over a period of time, possibly related to their living and working conditions.

Children also are targeted by human traffickers. The combination of two or more signs on situations related to children should be noticed and further investigated by the relevant authorities:

• The child has no access to their parents or guardians, and he/she looks intimidated.
• The child has no relationship others with his/her own age but with adults who are not relatives.
• The child has no time for playing.
• The child does not go to school.
• The child eats leftovers, in a separate room and after the other members of the group with whom she lives.
• The child performs difficult, complex or demanding tasks that are not suitable for children.
• The child wanders or travels unaccompanied by adults or with persons who are not relatives.
• The child’s clothing shows evidences of agriculture, manual or sexual work.
• The child is alone and/or is found with a cellular that he/she uses to call taxis or the adult in charge who is somewhere else.
• The child is in a process of illegal adoption.
• The child has a consistent secretive behaviour and cannot provide coherent explanation for the possession of money, gifts, documents, keys or cards.
• The child shows signs of psychological, physical and sexual abuse, including sexually transmitted diseases.
• The child shows fear when in the presence of an older person, a boyfriend or an adult, and may have mixed feelings of loyalty, protection and empathy towards that person.
• The child shows a highly explicit sexual profile, including in social networks, and a high number of sexual partners.
• The child shows recurrent fear, anxiety, depression and may have attempted suicide or express willingness for doing it.
8. WHAT TO DO WHEN FACING A VICTIM OF HUMAN TRAFFICKING

When a situation of human trafficking is noticed, even when there is uncertainty, the following authorities should be contact:

| National Task Force: (1758) 468 3600 |
| POLICE: 4563858/56 |
| email: homeaffairs@gosl.gov.lc |

An important issue when facing a situation of human trafficking is acknowledging that a person who is found to be a VoT is under the legal responsibility of a State. He or she is granted the protection of that State’s legal framework regardless of his/her personal background or willingness to cooperate with the prosecution of his/her trafficker.

Victims of human trafficking require immediate assistance including housing, food, medical, safety and security, mental health assistance (counselling), income assistance (cash) and support for the best definition of their legal status (certification, immigration). Once they have been rescued (or they escape or are abandoned by the traffickers) they generally are not capable of finding by themselves the support they urgently need, due to the isolation and emotional/physical violence they suffered.

Governmental organizations and civil society organizations must be prepared to assist the VoT in what he/she requires. Only technical teams with specialized training, skills and experience should engage directly in assisting VoTs. Thus, to combat human trafficking problem, all relevant stakeholders must receive adequate training and support.

Victims should be stabilized emotionally and psychologically supported through the provision of health care, social support and counselling services, before engaging in testifying or collaborating with law enforcement. It is possible that they may not be able to do so in severe cases of violence, and the decision to press charges or testify remains always with the victim. Care should never be conditional upon such cooperation.

The technical team who will make the initial contact with the victim must avoid re-victimization or the secondary victimization, which occurs when the organization does not have the needs and the rights of a vulnerable victim in the center of their effort. To help the team to understand victim’s situation and to build trust, a good practice is to work with a cultural/linguistic interpreter or mediator. This is not only because of the language facilitation but also to contextualize the ethnic and cultural values and behaviours of the survivor.

IOM⁹ lists a set of measures to guide the way organizations should perform in providing assistance to the victims:

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• Do no harm. Consider the trauma and respect his/her need of time to recover.
• Provide individualized treatment and care and assistance appropriate to the needs and circumstances of the individual.
• Ensure continuing and comprehensive care in accordance with the physical, psychological and social state of the victims.
• Run victim interviews in a fair and professional manner, respectful of the human rights of the victims concerned and get his/her written informed consent before conducting the assessment or screening interview.
• Stimulate his/her self-determination and participation, recognizing the right of victims to make their own choices and decisions.
• Ensure non-discrimination of the victims, regardless of gender, age, disability, colour, social class, race, religion, language, political beliefs, or the nature of the activity when she/he was rescued.
• Respect the confidentiality and right to privacy of his/her personal information.

Situations of potential human trafficking cases must be reported to the national responsible team, who is in charge to engage the required experts accordingly to the situation, combining the best approach of health, social assistance and law enforcement capacities.

It is worth repeating, when the signs of human trafficking are detected, the following authorities should be contact:

| National Task Force: (1758) 468 3600 |
| POLICE: 4563858/56 |
| email: homeaffairs@gosl.gov.lc |

**What is a victim centered approach**

Too often, victims are required to wait for long periods of time for critically needed services. Service providers assist large numbers of clients with limited resources to address all their needs. Time pressures on overburdened police departments often place the priorities of other cases ahead of the trafficking case/victim. Heavy caseloads in prosecutor’s offices can often take the focus off the victim’s need for sensitive treatment and helping the victim understand what occurs during the prosecution of a case. When law enforcement, prosecution, service providers, or other professionals are involved in a case, the needs of victims must remain central in the process.

**In a victim-centered approach, the victim’s wishes, safety, and well-being take priority in all matters and procedures.**

**Smart Practice:** All professionals involved in human trafficking cases must advocate for the victim. Avoid activities that can ostracize a victim, those that mirror the behavior of a trafficker, however unintentionally, by limiting or not offering a victim choices in the recovery process. It will require patience, empathy, and compassion from you, as well as from your partners involved in the effort.

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10 For more information on victim centered approach, see https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/13-victim-centered-approach/
Victim service providers bring a diversity of specialized service skills, social resources, cultural competence, and ideally, a trauma-informed perspective. They are able to assess survivor needs and provide critical support to survivors. These skills are imperative to building rapport and trust with survivors, meeting their needs, and assisting the survivor in creating safety and security in their lives. Victim service providers often have partnerships and collaborations with communities that are highly vulnerable to human trafficking and those that are unlikely to report crimes to law enforcement.

Service provider and law enforcement partnerships are crucial to the provision of a comprehensive and victim-centered response to human trafficking. A comprehensive effort should include organizations with expertise in reaching targeted populations in culturally sensitive and linguistically correct ways, as well as those with expertise in trauma, emotional bonding, climate of fear, and other circumstances.

(...)

The victim-centered approach plays a critical role in supporting victims’ rights, dignity, autonomy, and self-determination, regardless of whether they chose to report or cooperate with law enforcement. For victims who do chose to work with law enforcement, employing a victim-centered approach to criminal investigations is fundamental to a successful criminal case.

9. HOW TO COMBAT HUMAN TRAFFICKING

The globally known 3P approach is the base of strategic and operational actions for combating human trafficking. Prosecution, protection and prevention are established in the Palermo Protocol as an interconnected response to the crime, at national and international levels. These areas of work reinforce each other in a virtuous cycle: prosecuting stops the crime from happening, also preventing its recurrence, and results in the rescue of victims who will be protected and supported; prevention increases public awareness in different manners which stimulate audiences in contact of potential cases to report situations, besides developing better protection capacities among all stakeholders.

With the progress of strategic actions against human trafficking since the Protocol, it became evident that a fourth P is intrinsically connected with the first ones: Partnership, as only with the engagement of all stakeholders is possibly to effectively prevent and respond to human trafficking.

9.1. What to do in the Prevention dimension

At the beginning, prevention was largely focused on campaigning. But the lessons learned progressively have shown that, although important to prevent human trafficking, more is required to inform public opinions and raise public awareness.

It is worthy to pay attention to some recommendations in terms of prevention:
• Adoption of a multidisciplinary and coordinated approach that addresses root causes of human trafficking, which may vary from country to country but are usually connected to gender-based violence, exclusion, unequal access to livelihood options, unequal access to innovative educational and professional opportunities by youth, lack of social services to support communities and families living in poverty, economic crises and social conflict.

• Preventive actions with a clear focus on reaching vulnerable groups, such as women, LGBTI persons, children, migrants, poor rural workers, and youth at risk.

• Development of recurrent activities to raise awareness and to educate people, disseminating objective information on human trafficking and related services accessible at national and community level, along with self-empowerment strategies with a human rights approach and innovative language.

• Ensuring a clear connection between the national legal framework against human trafficking and the national labour laws, complemented by consistent labour inspection protocols, as a measure both to prevent exploitation and to promote the exemplary punishment of traffickers and all of those who benefit from it.

• Development of legal and policy strategies to tackle the demand for exploitative commercial sexual services and exploitative and informal labour.

• Strengthening partnership among law enforcement, government, unions, non-governmental organizations (NGOs), churches and grass-root organizations to scale up the knowledge about human trafficking phenomena, which leads to increased social awareness and protective surveillance at the community level, with special focus on those working with themes related to youth, women, children, culture and education, employment and livelihood, human rights, HIV and STDs and other relevant topics.

• Designing and implementing measures to promote non-exploitative labour migration, focusing on both national and international workforces, and ensuring diffusion of public information on the risks of irregular migration, smuggling of migrants and human trafficking.

• Increase knowledge and capacity to monitor business practices, business recruitment standards, and supply chains in order to keep the market stakeholders aware of the negative impacts to the national economy and to the international image of the human trafficking exploitative practices, stimulating private sector to adopt responsible business practices, including prevention and response plans.
9.2. What to do in the Protection dimension

Victims of human trafficking are victims of a crime. They must be treated as such by the government, social organizations, community leaders and public opinion influencers - not as criminals themselves.

Protecting victims of human trafficking is a process over time, developed among institutional partners with complementary capacities. Instead of a one-time action, it is a consistent and multidisciplinary course of actions, fundamental to reassure the dignity of a survivor of human trafficking and to provide the required support to re-build his/her life. This is usually called a national referral system. Partnerships strengthen the referral mechanism so victims could access all types of specialized services depending on their needs.

A national referral system with a range of different stakeholders should be legally and formally established. That national referral system will perform its duties with the participation of leaders and experts from the government, non-governmental sector, private sector, local grass-root communities etc., in a cooperative environment, with roles and responsibilities clearly defined. The national referral system is a formal network of institutional capacities, with a human rights and gender-based focus, that supports and protects victims of human trafficking.

What is a national referral mechanism\(^\text{11}\)

“A National Referral Mechanism (NRM) is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help improve national policy and procedures on a broad range of victim-related issues such as residence and repatriation regulations, victim compensation, and witness protection. (…) The structure of an NRM will vary in each country; however, NRMs should be designed to formalize co-operation among government agencies and non-governmental groups dealing with trafficked persons. An NRM usually includes a national coordinator, who is often a high-level government official, and a roundtable made up of senior representatives of government agencies and civil society who develop recommendations for national policy and procedures regarding victims of trafficking. NRMs also often include ad hoc working groups that deal with specific issues relating to victims.

NRMs are likely to be most effective if they are founded on a formal co-operation agreement among the participants – for example, a memorandum of understanding – that sets out the specific role and duties of each participant. (…) Effective NRMs require good co-operation between government agencies and civil society. Often, victims of trafficking are first identified by law-enforcement personnel, but it is civil society organizations that provide shelter and other services to the victims. Thus, an NRM can be an essential structure for referring trafficked persons. NRMs should develop a dynamic process to ensure participation of civil society. Internal monitoring, evaluation, and feedback should be a continuing part of NRM activities.”

\(^{11}\) OSCE - Office for Democratic Institutions and Human Rights (ODIHR), 2004, NATIONAL REFERRAL MECHANISMS Joining Efforts to Protect the Rights of Trafficked Persons A Practical Handbook, in https://www.osce.org/odihr/13967?download=true
It all starts with the identification of a possible victim. Increasing capacities to identify the signs or red flags of human trafficking is key to engage law enforcement agents, and health, education and social workers to work in a collaborative system, not only for the identification, but to know who to call, and what to do to support the victim. This includes immediate support all the way through future proceedings related to the investigation and prosecution of the traffickers, if a formal prosecution takes place.

Protection measures also may include, depending on each case:

- Emergency services to provide support for shelter, security, clothing, food, language interpretation, protecting confidentiality, witness protection, medical care, legal assistance
- Ensuring the personal security of victim’s family members and loved ones
- Access to the judicial system for justice and compensation, including free legal representation
- Ensuring that all victims receive assistance and protection even though they are not willing to collaborate with the investigation and prosecution of the criminals
- Ensuring that all victims receive assistance and protection regardless of gender, age, disability, colour, social class, race, religion, language, political beliefs, or the nature of the activity when they were rescued
- Ensuring support to foreign national victims, including assisted voluntary repatriation if that is their choice
- Access to educational and professional opportunities
- Ensuring that the victims have a reflection/recovery period

What is a reflection/recovery period?12

“The reflection period is now recognized as an effective best practice and humanitarian measure aimed at protecting the human rights of trafficked persons. The reflection period grants victims of trafficking the possibility of beginning to recover from their experiences and of making an informed decision about whether to assist and cooperate in criminal proceedings. For the many victims of trafficking who have irregular immigration status, the reflection period ensures that they can be provided with appropriate assistance and support, such as secure housing, psychological counselling, medical and social services and legal consultation.

Such protection of the victim serves to raise his or her confidence in the State and its ability to protect his or her interests. Once recovered, a trafficked person with confidence in the State is more likely to make an informed decision and to cooperate with the authorities in intelligence-gathering and the prosecution of traffickers.

(…)

Good practice:

Guideline on a “reflection delay”: (Organization for Security and Cooperation in Europe) Where victims of human trafficking have been able to escape their situation, whether as a result of police intervention or in other ways, experience has shown that for various reasons they are often unable to talk about their suffering and thus unable to present themselves as victims. Therefore, an important step is to establish a time period during which presumed trafficked persons are afforded legal status and protection from detention and deportation measures.

During this period, the victims will need access to certain support services, such as: appropriate and secure housing, psychological counselling, social services and health care, professional advice, including legal counselling.

This period may enable victims to pursue legal proceedings for compensation claims. The reflection delay also enables victims to consider in a less pressured manner whether they are prepared to testify against the perpetrator. Since this constitutes a far-reaching decision with serious consequences for both the life of the person concerned and for the safety of family members in her or his country of origin, the person concerned should have time to weigh all the possible consequences of her or his choice. Anti-trafficking and victim-protection experts advocate a reflection delay of not less than three months. (in Source: National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons; a Practical Handbook (Warsaw, OSCE, 2004), available at: www.osce.org/publications/odihr/2004/05/12351_131_en.pdf)”

Providing to foreign national trafficking victims the conditions to remain legally in the country, temporarily or permanently, to work and live a productive life without fear of detention or deportation for lack of legal status or because of crimes that their traffickers forced them to commit. To design and establish a national referral system that can perform the above list measures and others, the partners engaged should:

- Keep team members well trained on how to identify victims of human trafficking and refer them safely, and disseminate information on the signs of human trafficking among new staff members.
- Develop a 24/7-on-duty scheme to respond to calls about identified possible victims – ideally through a toll-free hotline.
- Ensure there are both men and women available for the screening interviews with victims and during the continued assistance to the victims.
- Develop the system to manage the data about cases and victims of human trafficking, including the collaboration protocols, confidentiality and compatibilization of data to produce periodic reports and to monitor progress.
- Develop protocols for collaborative work among partners, their roles, responsibilities and flows for the referring of victims.
- Design and make the interview form available to the technical team members in charge of the first institutional contact with the victims.
- Ensure communities, churches and schools are aware of a focal point contact to refer possible victims.
• Establish regular meetings for the national referral system and hold them regularly to promote teambuilding among the members of all the organizations engaged in the national referral system, including civil society organizations.

• Agree on an emergency protocol in case a rapid response is required, including measures to protect the confidentiality of victims and to deal with press and public opinion.

One third of all victims of human trafficking are children\textsuperscript{13}. As expressed in the Palermo Protocol, besides those previously mentioned, States will adopt additional measures and special attention in relation to children victims of human trafficking (a person under 18 years old or to whom there are reasons to believe he/she is so):

• All measures to protect child victims must respect what is written in the \textit{United Nations Convention on the Rights of the Child} (CRC).

• The best interest of the child must be identified and pursued.

• The viewpoint of the child shall be listened to and taken into account according to his/her age and maturity.

• The child should receive information about his/her situation and rights in a language that the child victim is able to understand, with the assistance of cultural and language interpreters.

• A guardian must be appointed to accompany the child from the very beginning, ensuring that the adult in that role has the capacities and experiences to protect the child and assist her/him properly, considering the gender perspective.

• The child must be in a shelter that is safe and adequate to respond to her/his needs.

• The child and the trafficker should not be in contact during the phases of the protection and prosecution of the case.

• In the case of child victims who are of foreign nationality, support and protection actions and decisions must also include the country of origin.

9.3. What to do in the Prosecuting dimension

UNODC\textsuperscript{14} alerts that prosecuting goes beyond the application of the law. It is a key dimension in connection with all others, and it requires the collaboration and participation of other stakeholders, such as local communities and non-governmental organizations, in addition to the migration officials, police forces and prosecutors.


The International Center for Migration Policy Development (ICMPD)\(^\text{15}\) also add that States must investigate and prosecute persons who practice human trafficking and related offenses, those participating in the activities, and those helping them, while respecting and restoring the human rights and needs of the victims.

In all cases, law enforcement actions are indispensable to combat human trafficking, from investigation, to prosecution and sentencing. Among the aspects within that complex dimension, it is important to highlight:

- Avoiding and preventing secondary victimization should be explicitly pursued by police, investigators, immigration officers, prosecutors, judges and all involved in prosecuting human trafficking. The promotion of the dignity, compassion and respect of human rights need to be developed as part of the skills of the law enforcement teams. It is important to consider: the psychological condition of the victim, possible difficulties in expressing her/himself, gaps in descriptive memories, confusion on dates and locations, anger and sudden change of mood, and distrust in the legal system, all of which are common and normal reactions to surviving trafficking in persons. Women, girls and LGBTI persons deserve special care and attention due to the systemic discrimination they suffer, which in many cases can contribute to the present trafficking condition.

- Investigation and prosecution of traffickers should not rely entirely on the victim’s capacity and willingness to testify. It is key to balance what is known as the mix of a proactive and a reactive investigation:

  \[\textbf{What is proactive and reactive investigation?} \textsuperscript{16}\]

  “Proactive (intelligence-led) investigation is the use of a combination of intelligence gathering, human and technical surveillance, undercover deployment and standard investigative techniques with the objective of securing evidence other than the victim’s testimony and thus arresting and prosecuting traffickers without having to rely on the victim’s co-operation and testimony.

  Reactive (victim-led) investigation is based on a set of circumstances that arise and require an immediate police reaction; namely when a victim gives information or when another victim or third party informant provides intelligence or evidence concerning victims of trafficking. Financial investigations and investigations of money laundering should be an integral part of any anti-trafficking investigation in order to effectively break the cycle of human trafficking.”


• Agreements among national and international law enforcements agencies, neighbouring countries, ministries and international organizations should be established on technical collaboration, sharing information, training and legal assistance.

• It is possible to increase the potential success of specialize units on human trafficking by collaborative engagement of police and prosecutors, both male and female, with a combination of skills and experiences such as web investigation, surveillance, community partnership building, financial investigation, fraud and labour investigation, gender and human rights based approach, immigration issues, child protection and assistance, different language skills and cultural background. It is indispensable that all members are well trained and familiar with the 3P approach in combating human trafficking with a victim centered approach, as well as the local referral system.

The COUNTER TRAFFICKING ACT, no. 7 of 2010, of Saint Lucia, says in its article 13:

“Victim to be immune from prosecution: A victim of trafficking in persons is not criminally liable for any immigration-related offence, or any other criminal offence that is a direct result of being trafficked”

• The personal information of victims should be treated as confidential and the registration and exchange of data should not present additional risk or danger to them. Her/his name, photo, family or personal address, and case history should not be published publicly, nor shared outside a small group of trusted stakeholders. For the same reason, victim testimony in court should not put her/him in visual range or potential confrontation with the trafficker.

• Confiscating traffickers’ assets as part of the penalty, may result in financial resources being dedicated to providing compensation to the victims of human trafficking, or in victim assistance funds.

• Prosecution actions should be also proactive in looking for connections between human trafficking and money laundering, falsification of documents, online commercial sexual exploitation, corruption and other related crimes.

• It is key to consider the three elements (activity + means + purpose) that characterize human trafficking to establish effective and dissuasive penalties to criminalize and sentence the traffickers. All forms of human trafficking and all forms of exploitation should be taken into consideration: forced prostitution and others forms of sexual exploitation such as pornography, striptease, massage, sexual services online, child sexual exploitation, etc.; forced labour exploitation such as in domestic or factory work, "sweatshops", agricultural, construction, restaurant work, etc.; debt bondage, forced marriage, slavery or slavery-like practices and servitude. Also, all means mentioned in Palermo Protocol, applied by the traffickers and others, including torture, degrading treatment, rape, sexual assault, battery, homicide, kidnapping,
withholding the victim’s documents, psychological manipulation etc. Attempted human trafficking should be considered as well, “as is clear from the Trafficking Protocol, actual exploitation need not occur provided there is a manifestation of intention to exploit the individual. All that is required is that the accused committed one of the constituent acts, employing one of the listed means for the purpose or, put another way, with the intention that the individual be exploited”\(^\text{18}\).

- It is strongly recommended that only agents trained on combating human trafficking through the 3P approach should be part in the investigation and prosecution activities. Thus, it is so important to engage prosecutors, police officers, immigration officers, judges and others in periodic capacity building activities. The establishment of specialized counter-trafficking police units, investigators and prosecutors is therefore a good practice.

**Recommendations on investigating human trafficking, by Kevin Bales and Steven Lize\(^\text{19}\)**

"General considerations
Initial actions taken in investigation are crucial to the ultimate success of prosecutions. Human trafficking investigations require careful treatment of victims and witnesses, upon whose testimony the prosecution depends. The process of interviewing the victim, collecting corroborating evidence and investigating perpetrators is more effective when the victim has continued presence in the country and accesses care and protection from a service provider as early in the process as possible. Successful law enforcement intervention requires rapid, sustained response. After initial interviews of suspected victims, witnesses and where possible, perpetrators, investigators begin collecting information and corroborating evidence to build the charges and the case.

Victim and witness cooperation
The most successful results involve agents with experience in human trafficking cases, who show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence. Gaining the cooperation of victims as witnesses can be challenging. Often, because of their distrust of police in their home countries, trafficking survivors fear law enforcement agencies and are concerned that they will be treated as criminals, incarcerated or deported. These fears must be overcome in order for victims to become cooperating witnesses. Human trafficking survivors often do not identify themselves as victims. Law enforcement agents may therefore have difficulty in identifying victims among detainees and separating them from perpetrators. Investigators and prosecutors can gain the trust and cooperation of victims and witnesses by showing compassion and making them feel comfortable.

Agency roles and challenges
Human trafficking investigation requires cooperation among many agencies. Investigators must consider their questioning strategy to elicit information about captivity, forced work, coerced sexual acts and abuse by perpetrators. Investigators may consider working closely with prosecutors to secure corroborating testimony from trafficking victims and witnesses, and consult with specialist NGOs that provide services and advocacy to trafficked persons. Other agencies, such as those dealing with labour, can assist law enforcers in the process of investigating and prosecuting.

Evidence collection


Where investigators know where to look, they can gather evidence and locate victims and perpetrators. Traffickers use ordinary methods of commerce for activities in support of their crimes; reviewing records can provide valuable evidence. Other investigative methods such as surveillance, analysis of trash and correspondence, undercover operations and reviews of wire transfer records (if applicable), can also reveal pertinent information. Investigators are often required to work in settings unfamiliar to them and in communities which distrust law enforcement authorities (such as ethnic neighbourhoods which are socially and culturally difficult for investigators to access). Organizations experienced in working with law enforcement agencies can be an important resource during investigations in settings where trafficking occurs. The nature of these crimes requires appropriate social and cultural orientation to effectively gather criminal intelligence and arrest perpetrators. Ethnic community groups, immigrants’ and workers’ rights NGOs can assist in gaining access to culturally insulated communities. Law enforcement agencies should seek only the assistance of organizations with a proven record of assisting trafficking victims and collaborating with investigating authorities.

Interviewing considerations

Investigators should work together when interviewing victims and witnesses to avoid having multiple interviews on record with conflicting information. Even when an interview has established trust with victims and witnesses, they may never provide a full account in a single interview. Aside from the trauma they have suffered, other sociological and psychological barriers impede the process, including sociocultural differences, language and gender. Gender issues significantly affect the interviewer’s capacity to obtain information. Trafficked women and children frequently suffer sexual abuse and violence and may be reluctant to seek assistance because of the shame and stigmatization which may flow from disclosing their experiences. Men, particularly those from a culture with a traditional view of masculinity, may not want to admit their victimization because they fear that their disclosure of losing control of their lives may lead to perceptions of diminished masculinity. For these reasons, men and women may perhaps be more willing to talk to law enforcement personnel and service providers of the same gender. Investigators who are fluent in the language of the person they are interviewing and have cultural affinity with the person may have more success.”

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ANNEX I

Palermo Protocol

(The Palermo Protocol text is a pdf file provided separately)
ANNEX II

Counter-Trafficking Act No. 7 of 2010
(The Counter-Trafficking Act text is a pdf file provided separately)
ANNEX III

IOM Screening Interview Form for the Identification of a victim of human trafficking

(The IOM Screening Interview Form already have a visual as a form to be filled during an interview; please click footnote link)

A. Informed consent
1. Has the individual been informed that IOM and/or (name of partnering organization) reserves the right to share her/his individual case data for assistance purposes and only with IOM missions and partnering organizations involved in direct assistance? (Yes/No)

1.2. Has the individual further been informed that IOM reserves the right to make a limited disclosure of non-personal data based on the information collected at the interview to law enforcement for the purpose of rescuing other victims that remain under the control of traffickers or preventing other potential victims from being trafficked? (Yes/No)

1.3. Has the individual further been informed that IOM reserves the right to use (only anonymous, aggregate) data for research purposes? (Yes/No)

1.4. Has the individual’s full and informed consent been obtained to conduct the screening interview based on information given regarding the role of the organization, the voluntary nature of the interview and the use of the information provided by the individual as outlined above? (Yes/No)

Note: Informed consent is necessary for all services, such as medical examination and procedure, health assessments, assisted voluntary returns and reintegration assistance.

1.5. If the individual is a minor, has the consent of the parent(s)/guardian(s) been obtained? (Yes/No)

Signature of interviewer: ___________________________ Date: ____________________

B. Registration data
First name(s):
Family name(s):
Sex:
Country of birth:
Place of birth:
Last place of residence in country of origin:
Date of birth:
Is date of birth an estimate? (Yes/No)
Age (in number of years):
Citizenship:
Ethnicity:
Identity document (type, country, number and expiry date):

C. Case and interview data
Type of referring organization/individual: (NGO/international organization/law enforcement/ immigration/ Government/ embassy/ IOM mission/hotline/self-referral walk-in/ family/ friend/ client/ other)
Name/location of referring organization/individual:
Screening date:

D. Entry into trafficking
1. How did the individual enter the process (indicate multiple options if necessary)?

2. Did entry into the process involve recruitment? (Yes/No) If Yes, how was the contact initiated between the individual and her/his recruiter? (personal contact/employment agency/travel agency/internet advertisement/newspaper advertisement/radio advertisement/television advertisement/other)

3. If labour migration, what activity did the individual believe he or she was going to be engaged in following arrival at the final destination (indicate multiple options if necessary)? Agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport/other)

4. What was the individual told would be their benefits following arrival at final destination? Salary (equivalent in $US per month) Other benefits

5. In which month/year did the individual enter into the process?

6. Minor at the time of entry into the process? (Yes/No)

7. From which place/country did the individual enter into the process?

8. What place/country is the last (or intended) destination?

9. Did the individual travel alone? (Yes/No) If No, who did the individual travel with (indicate multiple options if necessary)? (husband/wife/partner/relative/friend/recruiter/transporter/unknown persons/other)

10. Did the individual spend any time in transit place(s)/country(ies) (Yes/No)

• If Yes, who did the individual travel with? (husband/wife/partner/relative/friend/recruiter/transporter/unknown persons/other)
• Did he or she engage in any activity in this place(s)/country(ies) (Yes/No)
• If Yes, which activity in first/only transit place/country? (agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/marriage/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport sector/other)
• If more places/countries, add respective places and activities engaged in.

11. Were any of the following means used to control the individual?

• Physical abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Psychological abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other Sexual Abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threats to individual Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threat of action by law enforcement Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threats to family Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• False promises/deception Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of freedom of movement Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Giving of drugs Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Giving of alcohol Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of medical treatment Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of food/drink Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Withholding of identity documents Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Withholding of travel documents Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Debt bondage Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Other Specify:

E. Exploitation phase
12. What activity has the individual undertaken since her/his arrival in the last destination? Agricultural work/begging/child care/construction/domestic work/ factory work/ fishing/low-level criminal activities/ marriage/military service/mining/prostitution/ restaurants and hotel work/ study/small street commerce/trade/transport sector/ unemployed/other

13. How old was the individual when the activity began? How long did the only/most significant activity last? Threat of action by law enforcement Yes/No If Yes, who by?

14. Were any of the following means used to control the individual during the activity?
• Physical abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Psychological abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other Sexual Abuse Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threats to individual Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threat of action by law enforcement Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Threats to family Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• False promises/deception Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of freedom of movement Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Giving of drugs Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Giving of alcohol Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of medical treatment Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Denial of food/drink Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Withholding of identity documents Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Withholding of travel documents Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Debt bondage Yes/No If Yes, who by? Recruiter/Transporter/Harbourer/Receiver/ Other
• Excessive working hours Yes/No If Yes, who by? Receiver/Exploiter/Clients/Other

If exploited for prostitution (sexual exploitation):
• Denial of freedom to refuse client Yes/No If Yes, who by? Receiver/Exploiter/Clients/Other
• Denial of freedom to refuse certain acts Yes/No If Yes, who by? Receiver/Exploiter/Clients/Other
• Denial of freedom to use condom Yes/No If Yes, who by? Receiver/Exploiter/Clients/Other
• Other means of control Specify:

15. Did the individual experience exploitation? (Yes/No)

16. If no exploitation took place, was there any indication of a real and substantial threat of exploitation? If Yes, what were the reasons that exploitation never took place? (Rescue/Escape/Other)

F. Exploitation phase
17. Additional corroborative materials
• Police or other official reports Yes/No
• Identity documents Yes/No
• Travel documents Yes/No
• Medical reports Yes/No
• Copies of employment contract or recruitment offer Yes/No
• Personal writings by the individual Yes/No
• Hotline reports Yes/No
• If other, specify Yes/No

18. Is the individual a victim of trafficking? Justify this decision.

19. Decision made by whom (specify names):

20. If the individual is a victim of trafficking, was the type of trafficking in-country or transnational? (in-country/transnational/both)

21. If the individual is a victim of trafficking, is he or she eligible for the IOM victim of trafficking assistance programme? (Yes/No)

22. If the individual is not a victim of trafficking, is he or she in need of assistance? (Yes/No) If Yes, what is the individual’s situation? (Please specify all that applies.)

23. Additional remarks

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ANNEX IV

Useful Resources

Technical inputs, manuals, guidelines, resources for training, methodology and monitoring processes on combating human trafficking:

http://humantraffickingcenter.org/problem/
https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/
https://www.state.gov/j/tip/3p/

Specialized studies and cases on human trafficking


http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx

Communications resources on campaigning, human faces stories and audio-visual materials to public and professional awareness initiatives:

https://www.iom.int/iom-x
https://www.youtube.com/channel/UCIOkGewp_Bw9j8HBX4w52Kg
https://www.stopthetraffik.org/spot/dashboard.html
http://humantraffickingcenter.org/resources/media/
https://www.youtube.com/watch?v=GGqb9ayUiaU
https://www.youtube.com/watch?v=aG1Jd3PF-JU
https://www.dhs.gov/blue-campaign/myths-and-misconceptions
https://ovc.ncjrs.gov/humantrafficking/publicawareness.html
https://www.youtube.com/watch?v=E7IESZyP4yg
http://iomx.org/C4D/

Documentaries and media investigation on human trafficking:
https://www.youtube.com/watch?v=JKoeUxvjiRA
https://www.youtube.com/watch?v=Hy0uA-srXig
https://www.youtube.com/watch?v=otvWPV_7cK0
https://www.youtube.com/watch?v=QBAs13AL1Jg
https://www.youtube.com/watch?v=uDhYxVGTpg0
ANNEX V

Some extracts for reading and studying

I

Appropriate charges

Extracted from:

“(…) the offence of trafficking in persons may involve many different acts and many different actors. The offence is committed by acts of 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.

Trafficking cases, by their nature, are very likely to involve other offences. These offences may be an integral part of the trafficking process, and can be used to prove that an element of the trafficking in persons offence has been committed. They can also be charged separately or utilized as alternative charges, depending on the legal system. They can also be called underlying offences to trafficking. Other offences may be committed against the trafficking victim or others, but would not be an integral part of the trafficking offence. These should be charged separately.

Underlying offences to trafficking may include but are not limited to:

- Slavery
- Slavery-like practices
- Servitude
- Forced or compulsory labour
- Debt bondage
- Forced marriage Forced abortion
- Extortion Torture
- Cruel, inhumane or degrading treatment
- Rape
- Sexual assault
- Assault
- Bodily injury
- Murder
- Kidnapping
- Abduction
- Unlawful confinement
- Labour exploitation
- Withholding identity papers
- Violations of immigration law
- Money-laundering
- Corruption
- Abuse of office
- Smuggling of migrants

Investigation and prosecution of the individual acts mentioned above can be particularly useful in situations and in countries where:

- A distinct criminal offence of trafficking does not yet exist;
• The penalties for trafficking do not sufficiently reflect the nature of the crime and do not have any deterrent effects; or
• In cases where the existing evidence is not sufficient in order to prosecute for trafficking but may be sufficient to prosecute for such underlying offences. In systems that allow plea bargains, in general it would be recommended to charge for all possible offences, so that in the case of a plea bargain, some charges may be crossed out.

Where the evidence is there, for a number of reasons, you should aim at prosecuting perpetrators under the offence of trafficking in persons. If possible in your legal system, utilize underlying offences as alternative charges to increase chances for a conviction.

If the criminal offence of trafficking exists in your jurisdiction, the underlying offences are particularly useful in situations where you do not find sufficient evidence for the prosecution of trafficking. The evidence may still be sufficient for prosecution of the individual criminal acts, the underlying offences to trafficking such as unlawful confinement, sexual assault, bodily injury, withholding of identity documents, etc. In these situations, your only option may be to prosecute for the individual criminal acts.

Even if you initially choose to prosecute traffickers under the offence of trafficking in persons but the evidence does not support your case beyond reasonable doubt, the evidence may suffice for conviction for the underlying offences. Hence, the underlying offences can also be invoked in addition to prosecuting under the offence of trafficking in persons. The provisions can also be invoked as additional or overlapping offences to demonstrate the seriousness of a particular trafficking operation.

As a practitioner, you know that investigating suspects and prosecuting defendants with trafficking offences can be very complex, time consuming and costly. It is therefore not surprising that there are a number of examples of cases where trafficking in persons is present, indeed is the driving force—may be the raison d’être of a case—but the only charges laid are for the underlying offences such as unlawful confinement, sexual assault, bodily injury, withholding of identity documents, etc.

Failing to prosecute for trafficking offences may be appealing in the short term, but has a number of potentially significant long term consequences. On many occasions, a trafficking charge may give a victim access to victim support services, protection, and assistance that would not otherwise be available. These victim support services can include the possibility of a reflection period, temporary or even permanent residence status in the destination country, and support services at various levels, including accommodation, health care, legal and psychological counselling and access to resettlement packages. This is of importance to you for a number of reasons.

Trauma can affect the quality of the testimony of trafficking victims. Providing support, protection and assistance to victims of trafficking helps the victim overcome the most severe consequences of trauma and helps you to build the trust of a trafficking victim. You are not likely to get that trust if you cannot provide proper support for victims. Without trust you are unlikely to get the quality of testimony you require.

In many jurisdictions, the laying of a charge for trafficking in persons will trigger various protection and assistance measures for victims. It may also mean that the victim is not prosecuted for offences he or she may have committed in the process of trafficking. Prosecuting the victim for offences he or she may have committed as a direct consequence of being trafficking may destroy the relationship that you have to build in order to gain the best possible witness testimony for your case. It may directly significantly weaken the witness testimony and contribute to the victim’s decision not to cooperate with the criminal justice system. Failing to prosecute for trafficking in persons offences may also mean that the wider trafficking networks are left to operate without any disruptions.”
What are some of the underlying offences to trafficking in persons?

When is it useful to investigate and prosecute a trafficker for those underlying offences?

II

Human Trafficking or Smuggling of Migrants?

“An advert is placed by a recruitment agency in a local newspaper in a town. It promises good wages for cleaners and domestic servants in another country. All visa and other migration requirements will be taken care of. A young woman applies. She is worried because she thinks she may have to pay a fee. She is told not to worry because all fees will be taken care of when she arrives at the destination. Reassured, she agrees to be flown to the developed country for the promised work. She is taken to the airport, provided with a passport and given instructions that she will be met at the other end by the agency’s staff. When she arrives, she is met by a man and a woman. She is told she must hand over her passport as security. She is driven to a large house where she is told she must work as a servant. Money is exchanged between the “staff” from the “agency” and her new “employer”. Before they leave, she asks the “agency staff” about her wages. She is told she will be paid a wage but will have to pay for accommodation and food. She asks about when she will get her passport back. She is told she will get her passport back once she has reimbursed the employer for the costs of recruitment. She is further told it will be possible to save money from her wages to pay back the fee the “employer” has paid and the transport costs. As the weeks go by the amount “owed” increases because she is paid little and the cost of food and accommodation is high. For every small mistake she receives a slap. She has no alternative but to work for 14 hours per day, seven days per week.

Pedro lives in South America. He is 35 years old and does not have a permanent job. He earns some money in seasonal construction work but it is not enough to sustain him, his wife and their two small children. While working on a construction site in his city, he hears about a man who is looking for people interested in selling one of their kidneys for organ transplant purposes. This man organizes trips to another country where the kidney is removed by medical professionals. The recipients pay up to $US60,000 for a healthy kidney. Although Pedro is worried about having one kidney, he agrees to have his kidney removed. He is promised $US30,000 for his kidney, as well as payment of all his travel expenses and accommodation for recovery in a nice, comfortable environment. The organizer assists Pedro in applying for a passport and visa and makes all the travel arrangements for him. Upon arrival at his destination, he is questioned by the immigration officials, but since he can show that he has a return ticket, he is allowed entry. He is met at the airport by a man named Luis and is taken to a small apartment which is far from the luxury accommodation he was promised by the organizers. After a couple of days’ rest, during which he is not allowed to leave the apartment, he is taken to a small dirty room, where the operation takes place. Before the operation, Pedro signs a paper in English but as his English is very limited, he does not quite understand what he signs. After the operation, Pedro is taken back to the
apartment, where he recovers for one week. Luis gives him only $US500 instead of the $US30,000 he was promised. Pedro gets angry with Luis and demands the rest of his money. Luis tells him that the trade of organs, tissues and other body parts is strictly prohibited by law and if Pedro wants to approach the police, he will himself end up being arrested and deported, without having received any money. Luis also points out that since Pedro signed a paper stating that the donor and recipient of the organ were relatives and that no money was being exchanged, Pedro cannot prove that he in fact is to be paid anything. Pedro decides that it is after all better to receive $US500 than nothing, so he agrees and goes home. A week later Pedro falls ill with a serious infection.”

• Are those cases of human trafficking or smuggling of migrants? Why?

Extracts from:


“Traumatic experiences suffered by victims of trafficking in persons are often complex, multiple and can occur over a long period of time. For many individuals who are trafficked, abuse or other trauma-inducing events may have started long before the trafficking process. Studies of trauma in cases of trafficking in persons have been conducted, but there are few of them. Studies so far tend to focus on trafficking for sexual exploitation but yet to cover victims from every origin location. However, they offer some guidance and conclusions, especially when they are considered in conjunction with what is generally known about trauma and anecdotal evidence from around the world.

“No two victims of trafficking are the same and the impact trafficking has upon each individual varies. You cannot make assumptions about how individuals might or should react. You must treat each person as an individual and on his or her own merit. Individuals will react to you in different ways. Do not expect a victim of trafficking to see you as their rescuer or saviour: Some might, but many may see you as an unwelcome interlocutor, which may further compound what is already a very complex situation. If a victim reacts in a hostile or aggressive way, it may have nothing to do with you as a person, your role or the organization you work for. Victims may have adopted these tactics and emotions to cope with or to survive their ordeal. It is likely that they would react to anyone in the same way. Not every victim will react to the investigation with hostility, but many will.

“Do not see this as your fault or that of the victim and do not respond to any hostility in a negative way. If you do, it is very unlikely you will be able to build up the necessary rapport with the victim. Challenging and direct questioning too early is very likely to alienate the victim and may re-traumatize the victim. Challenging a victim’s veracity, treating the victim as a suspect or showing doubt or signs of disbelief are likely to remind him or her of the
defensive position they held during the trafficking ordeal. This is likely to destroy any chance of cooperation. Avoid this approach at all costs.

“A considered, methodical and non-judgmental approach has the best chance of revealing the truth whatever it may be. In most cases, you will have an opportunity to express your concerns or doubts at a later date. You are unlikely to have encountered people who have suffered the range of chronic abuses found in trafficking victims. Nonetheless, there might by some similarities with cases you have dealt with previously. Victims of chronic domestic violence have often suffered similar levels of assault, abuse and control to those experienced by victims of trafficking for sexual exploitation.

“Levels of psychological trauma experienced by some victims (either before or during the trafficking process) may be so high that they are never going to be able to serve as witnesses in court or even give an account that can be used as the basis of intelligence. You should always be prepared to terminate an interview if necessary and seek immediate assistance for the individual. On the other hand, it is also possible that some individuals who initially present strong emotional reactions, may, with time and professional support or counselling, become perfectly capable witnesses.”

(…)

“For the investigator, these strong symptoms levels suggest the need for extremely sensitive and timely approaches to questioning a victim. Real danger may remain after a woman is removed from a trafficking situation; removal in itself will not necessarily reduce levels of well-founded and symptomatic anxiety. A victim’s expression of hostility may be surprising for some investigators, who are more likely to expect victims to appear broken, tearful and/or fearful.

“Yet, hostility is a well documented response to trauma. It will not be uncommon for a victim to be “annoyed or easily irritated”, “easily upset” and “irritated by everything”, have “temper outbursts”. Again, while these feelings may subside, they are likely to ebb and re-emerge depending on the stresses the victim faces. It is not uncommon for victims who have been aggressive to be regretful, baffled, and embarrassed by their own behaviour. Women in the study in Europe described their irritability and related acts of aggression, such as punching walls, throwing items and hitting others.”

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International Organization for Migration
Saint Lucia, April 2018
Ofelia Ferreira da Silva, Consultant