TOOLKIT FOR
CIVIL SOCIETY ORGANIZATIONS

ON THE OPERATIONALIZATION OF
THE ZAMBIA ANTI-HUMAN TRAFFICKING
ACT (NO.11 OF 2008)

ZAMBIA

2011
FOREWORD

Human trafficking is a tragic feature of contemporary global migration and continues to exact egregious violations on the human rights of those who fall victim to it. Sadly, even as the United Nation Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, turns a decade old, more people are said to be living in slave-like conditions, now than at any other time in our history. The number of cases recorded in recent years shows that Zambia has not been spared from the telling effects of both internal and cross border trafficking, particularly of women and children for the purposes of labour and sexual exploitation.

In response to this growing threat, various Government, civil society and international organizations have undertaken wide-ranging actions with significant support from the US Government and the European Commission. These actions commenced in 2004 with the establishment of the National Anti-Human Trafficking Taskforce and were followed by a programme of activities tailored to raise awareness among government, law enforcement officers, the general public, and to some extent the media. However, it is well noted that there has not been sufficient focus on raising awareness among civil society organizations and engaging with them to support the operationalization of the Anti-Human Trafficking Act. Combating all forms of human trafficking requires strong partnerships and cooperation between government, law enforcement agencies, international organizations, and indeed, civil society.

This cooperation begins with a shared understanding of the problem and a common approach to addressing it. It is therefore important that all partners in the sector have the necessary knowledge and tools to respond. It is my hope that this toolkit will offer civil society organizations a useful and valuable resource to support their role in the operationalization of the Anti-Human Trafficking Act and ultimately the achievement of the national goal of eliminating human trafficking from Zambia.

S. Thole (Mrs.)
Permanent Secretary
MINISTRY OF COMMUNITY DEVELOPMENT AND SOCIAL SERVICES
ACKNOWLEDGEMENTS

This toolkit is designed to assist Zambian civil society organizations working in the field of counter-human trafficking. It is part of a wider programme to operationalize the Zambian anti-trafficking legislation, the Anti-Human Trafficking Act (No. 11 of 2008).

The IOM-Zambia Counter Trafficking Team compiled the material for this Toolkit with technical and editorial input from Ms. Annie Lane of IOM Zambia and Yitna Getachew, Regional Thematic Specialist, IOM Regional Office for East and Southern Africa. The Anti-Human Trafficking Civil Society Stakeholder Group in Zambia provided input and guidance for the preparation of its contents, and Ms. Eugenia Temba, for IOM, was responsible for the preparation of the first draft.

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Children in Need Network (CHIN)

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Department of Social Welfare, Ministry of Community Development and Social Services (MCDSS)

Human Rights Commission (HRC)

Jesuit Centre for Theological Reflection (JCTR)

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Ministry of Labour and Social Security (MLSS)

Ministry of Sport, Youth and Child Development (MSYCD)

Plan International

Salvation Army

Save the Children

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United Nations Joint Programme on Human Trafficking (UNJPHT – ILO, IOM and UNICEF)

United Nations High Commissioner for Refugees (UNHCR)

United States' Embassy in Lusaka

Women and Law in Southern Africa (WLSA)

Young Women's Christian Association (YWCA)

Zambia Police - Child Protection Unit (CPU)

Zambia Police - Victim Support Unit (VSU)
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GLOSSARY

Abuse of vulnerability: Refers to any situation in which the person involved has no real and acceptable alternative but to submit to exploitation. This is to acknowledge that many trafficked persons are under the influence to which they are vulnerable; for example a person holding a position of official authority or a parent or a spouse. A vulnerable person can be any person who is in the country illegally or without proper documents; a pregnant person; a person who cannot do certain things because of a disability; a person who is addicted to a drug or other substance; or a person with reduced capacity to form judgments by virtue of being a child.

Centre for victims: A place where victims can get temporary accommodation. Reference to cases in which accommodation would be needed is made under Sections 42 and 43 of the Zambia Anti-Human Trafficking Act.

Child: A person below the age of eighteen years.

Child labour: Subjecting a child to slavery and conditions like slavery; trafficking a child in order to exploit the child by making the child work away from home and from the child’s family care; forcing the child to work so that a debt is repaid or any other form of work where the child is pledged by someone else; or forcing the child to work or to fight using firearms or in conflicts or being the property of a person who owns land and being forced to work on such land.

Coercion: Violent or non-violent force that disturbs the mind of a person so they believe that if they do not perform the labour or provide a service they or someone else close to them will suffer serious harm. This may be in the form of a threat of harm or threats to misuse, or the actual misuse of the legal process.

Committee: The Committee on Human Trafficking in Zambia, established to coordinate activities of all institutions working on human trafficking matters including recommending national plans to combat human trafficking and providing advisory services as well as addressing other matters related to human trafficking.

Debt bondage: A person forced to work because their services have been promised as a surety for a debt. The services can be promised by the person doing the work or by another person. This definition applies where the debt is one which is obviously too high; where the value of the services on reasonable assessment is not used to pay the debt or alleged debt; or where the length and nature of service are not defined or restricted.

Director of Public Prosecutions: Also known as the DPP, as appointed under the Zambian Constitution.

Exploitation: Practices such as slavery and actions similar to slavery, debt bondage or forced marriage, sexual exploitation, servitude, forced labour, child labour, and removal of body parts.

Forced labour: Labour undertaken against the will of the labourer, either as a result of threats, physical violence, intimidation or physical detention.

Fund: The Human Trafficking Fund, established under the Zambia Anti-Human Trafficking Act, for basic material support for victims including for rehabilitation and re-integration of victims according to their best interest.

Guardian: A person who is in charge of a child at a particular time.
Immigration officer: Includes the Chief Immigration Officer and all other immigration officers.


Legal practitioner: A person qualified as a practising lawyer in Zambia who has a certificate to practice law or is employed by the government.

Medical practitioner: A person qualified to practice medicine and who is registered by the Medical Council of Zambia.

Parent: A biological parent, adoptive parent or a guardian.

Person: A natural person, a corporate body or a partnership.

Police officer: A person who is a member of Zambia Police.

Practices similar to slavery: Debt bondage, servitude, institutionalized forced marriage on payment to parents or guardians, widow inheritance or delivery of children to third parties by a parent or guardian so that the child is exploited.

Premises: Buildings and cars or other moveable buildings or shelters. Structures that are surrounded by water are also included.


Public officer: A civil servant.

Public Service: The civil service.

Servitude: Forcing someone to perform labour or provide services, through any means, because they believe that if they do not then they or someone else will suffer serious harm.

Sexual exploitation: Forcing someone into prostitution and other sexual acts through coercion, intimidation and other non-voluntary methods.

Slavery: Having ownership of a person so that the person is regarded as property.

Smuggling: Facilitating the entry of a person who is not a citizen or permanent resident, into a country in exchange for payment or material benefit.

Trafficking: Recruiting, transporting, transferring, harbouring or receiving a person within or across a Zambian border by abducting, threatening, coercing, fraud or deception, illegally adopting of children, destroying or denying access to identity or travel documents or threatening to abuse the legal system or some other form of power, or the giving or receiving of payments to achieve consent, for the purpose of exploitation.

Victim: A person who has been exploited and has suffered loss of fundamental rights and psychological or physical harm as a result of being trafficked.

Welfare officer: A social welfare officer from the ministry responsible for social welfare.
CHAPTER 1
Civil Society Organizations and the Operationalization of Zambia’s Anti-Human Trafficking Act (No. 11 of 2008)

1.1 Background to the Toolkit

Human trafficking is a transnational crime that crosses state borders and jurisdictions. It can also occur domestically, within national borders. The offence is best understood as a collection of crimes and rights violations bundled together rather than a single culpable act; a criminal process rather than a criminal event. Effective responses to human trafficking require strong cooperation among civil society organisations and law enforcement agencies both at national and sub-national levels. While local conditions may vary greatly, certain challenges are commonly faced by civil society organisations throughout the world in their efforts to respond to human trafficking, often dubbed ‘modern day slavery’. For example, cases of human trafficking are not always reported as the general public has minimal awareness of trafficking and victims are often frightened into silence by the offenders. Due to the clandestine nature of the crime, identifying human traffickers can also be difficult, and as such, securing a conviction can be harder still. Enhanced collaboration, effective cooperation to ensure provision of comprehensive services for victims, as well as enhanced prevention measures must be part of the strategy to meet these challenges.

Human trafficking has become an issue of growing national concern in Zambia, given the increasing numbers of cases recorded in recent years. National efforts to fight human trafficking have concomitantly been stepped up to ensure that key stakeholders have the capacity to effectively respond to the scourge. Since 2007, training has been a fundamental counter trafficking prevention strategy. However, to date training has primarily been developed for and targeted at law enforcement officers. Civil society organisations², however, received less focus, yet are supporting victim identification, assistance and rehabilitation as well as efforts to prevent trafficking in persons. Effective training programmes enable participants to acquire new skills and knowledge necessary to better do their work. Training also provides opportunities for coordination, networking and partnership building.

1.2 Purpose of the Toolkit

This Toolkit is designed to provide Zambian civil society organisations with reference material, and serve as a training aid, to enable them to understand what human trafficking is and become familiar with the provisions of the Zambia Anti-Human Trafficking Act, No. 11 of 2008. It further aims to offer guidance on the basic principles of victim identification and protection, as well as provide strategies for prevention and advocacy aimed at strengthened national responses to trafficking in Zambia.

² The term civil society organization in this manual includes service provider organizations that offer care to victims of trafficking.
1.3 Structure of the Toolkit and Presentation of Content

Structurally, this manual is divided into six chapters, including this introductory chapter. Chapter 1 gives a brief overview of the background the development of this manual, describes its structure and contains introductory activities. Chapter 2 provides guidance on methods of training, and includes activities that are designed to set the scene for the smooth facilitation of sessions in the remaining chapters. Chapter 3 is focused on the definition of trafficking in persons. In this chapter, the similarities and differences between trafficking in human beings and migrant smuggling are explored. Participants are also exposed to the constituent elements and various stages of the crime of TIP. Chapter 4 is about victim identification. It discusses the basic principles involved and major indicators used in identifying victims of TIP. Chapter 5 focuses on direct assistance to victims of trafficking and provides guidance on subjects including risk assessment and referral. Chapter 6 is a brief overview of civil society/service providers’ cooperation with law enforcement agencies.

Each chapter begins by listing the specific learning objectives of the chapter along with the expected outcomes, the resources needed, the estimated timeframe for facilitating the sessions, and the key references used for the compilation of material. Each chapter also begins with a brief introductory paragraph that offers an overview of the contents covered by activities. There are several activities and case studies in each module, designed to prompt interactive sessions of discussion among participants on specific subjects dealt under the respective chapters. The manual is designed for use with a maximum of twenty participants. Facilitators are advised adjust estimated timeframes and sizes of work groups accordingly if there are more participants.
2.1 Introduction

This chapter aims at providing guidance on methods of training, and includes activities that are designed to set the scene for the smooth facilitation of sessions in the remaining chapters.

Objectives:
- Setting up an atmosphere of trust, respect and collaboration;
- Getting acquainted with one another and stating expectations;
- Laying the ground rules for the training.

Expected Outcomes:
- A conducive learning atmosphere;
- Open and frank interaction between participants and facilitators;
- A set of rules to be observed for the duration of the training.

Resources: Flip chart, marker, pens and notebooks.

Timeframe: 50 minutes in total estimated.

Key references: The IOM Counter-Trafficking Training Modules, 2006.

2.2 The Challenge of Diversity

Trafficking in persons is a complex problem that requires cooperation among diverse stakeholders at the local, national, regional and transnational level. This Training Manual has been developed for use with Zambian civil society organizations from diverse institutions and backgrounds involved in the fight against human trafficking.

These organizations are likely to have varying levels of knowledge and experience on the topic.

Facilitators will need to provide opportunities for dialogue about issues and approaches in the field. Differences of opinion should be acknowledged and respected without engaging in contentious debate or avoiding the identification of issues. At the same time, a high value will be placed on learning more about the common knowledge base that can help participants from varying settings to participate in an informed discussion so that assumptions, positions, options, and principles can be thoroughly explored. In a discussion characterized by diversity, it is important to clearly separate acknowledgment from agreement, fact from assumption or opinion, and questions from statements.

To meet the challenges presented by diversity, facilitators should keep their educational function in mind, follow the principles of adult instruction, and strive to use non-technical language to provide a knowledge base that can be used by a varied and multi-level audience to improve their ability to participate in counter-trafficking activities.

2.2.1 Principles of Adult Instruction

TIP
Describe issues without trying to settle them, open dialogue without trying to control outcomes, and listen in order to understand and acknowledge what you hear.

Adults want to achieve their learning goals by a direct route. When individual differences are respected, learners can connect their individual experiences to the material and learn in the way best suited to their needs. Facilitators should look at both process and content during the training. An effective session will strike a balance between presenting content and enabling interaction that connects the content with
what learners need, want, and can do. When this balance is achieved, a group learns from its members as well as from the material, and a learning community develops.

Facilitators can help a group become a learning community by:
- Spending the first part of each session on introductions, reviewing the learning plan for the session, and answering any questions about how the session will be conducted. This should include any “housekeeping” (e.g. details about schedule, facilities, breaks, and support services);
- Using plain language, multiple explanations, and applications to participant experience to support comprehension without assuming that there is a uniform education level in a group;
- Providing frequent opportunities for learners to assess their knowledge, ask questions, offer comments, and apply course content to their own situations and expectations. This approach makes the material relevant and demonstrates respect for each person’s needs and experience;
- Staying focused on the learning objectives for the training so that discussion can be managed in the right direction. At the same time, all responses need to be acknowledged and put into a context that respects them;
- Presenting complex and detailed content in a logical way that is guided by unifying themes. Some key points are to enable trainers to focus on the most important information when adapting and carrying out the training;
- Participating as a colleague with facilitation responsibilities. Your interaction with learners should be an interaction with peers and colleagues who share an interest in learning about counter-trafficking. Everyone’s experience is welcome, and you can set the tone by participating in discussion as well as by serving as a “master of ceremonies.”

These practices stress interaction throughout a session, and combine to demonstrate respect while giving equal consideration to the interests of each learner.

**REMEMBER**

It is the participants who know the local context. Regardless of their varying levels of education or experience, they know something about trafficking in persons in their part of the country, whether they realize it or not. Even if participants are just beginning to learn basic trafficking concepts, recognize what they bring to the counter-trafficking response.

**2.2.2 Training Facilitation**

Creativity is an essential part of good facilitation and training. The following guidelines are meant to be suggestive, not directive, and trainers are encouraged to create a delivery form that achieves the learning objectives of this manual through an effective balance between process and content. Facilitators should also be aware of their personal training style and how it fits into the local context. Any delivery must not only be true to the content and learning objectivities, it must also be ethical, respectful, and attractive to people who learn in different ways. The goal should be to produce an environment where free and open discussion is both an expectation and a reality. Here are a few guidelines to support ethical educational practice:

- **Use effective questioning techniques** – Do not ask a question that suggests a pre-determined answer. “Mind reading” or guessing what the trainer wants to hear makes an answer right for the wrong reasons, and does not allow people to develop independent thoughts;
- **Avoid asking open-ended questions** – For example, ask each person to make one comment about how an issue affects them in their situation, rather than asking the group “Who is affected by this issue?” or “What do you think about this issue?”;
- **Record responses that require attention later and acknowledge them** – Do not ignore comments because they do not address your needs or expectations. This will allow you to redirect communication without being authoritarian or insensitive;
Ask for responses in ways that allow each person to participate – Use pairs, small groups, and one person at a time interviewing methods to provide fair and considerate participation opportunities;

Avoid required participation – Listening can be an important way to participate in a learning experience. It may be helpful to indicate that a response of “I pass” is perfectly acceptable when someone wants time to think, prefer to listen, or has nothing to offer at that moment. Make it clear from the start that this is a valid response;

Provide thinking time in exercises – Set up a time for reflection in an exercise before taking any responses. This will avoid a competition scenario where “being first” replaces the achievement of the learning objective;

Check-in with participants – Ask specific and direct questions to assess how the training can better meet the needs of the participants. This is important throughout the sessions, from questions during activities (“do you need more time?”) to checking in with the group about planned activities and outcomes (“anything else you would hope to achieve during this two-day training?”).

Expectation Setting

Facilitator: This will be a good time to give participants an explanation of the purposes of the training. Your discussion depends on whether you are conducting a training of trainers or a field level training. Ensure that everyone is clear on the objectives of the training and the expected outcomes. The following proposed set of activities is designed to help the facilitator and the participants to lay the ground for interaction and create an environment that is conducive to interaction during the training. It is suggested that the facilitator select one or more of the below activities to use at the beginning of the training.

Activity 2a: Getting to know one another

Objective: To introduce participants and facilitators to each other and create a relaxed atmosphere for interaction

Timeframe: 25 minutes.

Facilitator:

- Invite participants to be seated preferably in a ‘U’ shaped arrangement whereby everyone can see each other; thank everyone for attending; introduce yourself and your team and their roles in the training session.
- Be friendly and courteous.
- Ask participants to introduce themselves; identify where they come from and their organizational affiliation (if any).
- During the introductions, ask participants to describe their first major trip, as a child, away from home and what lasting impression that trip had on them.
- Make sure that everybody gets an opportunity to give his or her input.
- Once everyone is introduced, ask participants what they would have felt should things have gone wrong during their first major trip. State that during the training, there will be substantive discussion about people whose trips went terribly wrong. Indicate that victims of trafficking often leave their homes with high hopes for a better life only to end up with these hopes harshly dashed.
- Conclude the session by thanking everyone and asking if they have any questions at this point.
Activity 2b: Rules of interaction

Objective: Fostering an atmosphere of respect and discipline to enable the smooth running of the training.

Timeframe: 10 minutes.

Facilitator:
- Explain to participants they are going to play the “pen game”, and tell them to go ahead and play. This is an imaginary game and nobody knows the rules; ask the question ‘why do we need rules?’
- State that the rules for the duration of the training need to be set by the participants.
- These are to include: starting time, tea & lunch breaks, ending time, cell phones, rules for interaction in training sessions, group work, peer review, individual responsibilities and what to do with those that breach consensus agreements. Make sure that the penalties for breaking rules are not too formal and involve a fun activity.
- Record these responses on the flip charts.
- State that these will be the rules for the training session, but can subsequently be changed through consensus.

Activity 2c: Expectation Setting

Objective: identifying the learning goals of participants and see if the training will respond to those. In cases where it does not, facilitator may consider adapting sessions within the general learning framework of the manual.

Timeframe: 12 minutes.

Participants are expected to state what they expect to get out of the workshop

Facilitator:
- Ask participants what their expectations are for the training. What is it that they hope to take with them at the end of the exercise?
- Record responses on flip charts.
- Record the main points and avoid repetition.
- Make sure everybody gets a chance to contribute.
- Achieve consensus decisions.
- Conclude by stating that the list will be reviewed at the end of the training to see if expectations have been met and fix the flip chart/s to the wall where everyone can see it.
CHAPTER 3
UNDERSTANDING HUMAN TRAFFICKING

3.1 Introduction to Chapter

This chapter focuses on the definition of trafficking in persons and explores the nature and scale of trafficking both globally and in Zambia. The chapter provides an overview of the international and national legislative frameworks as related to human trafficking, and explores the similarities and differences between trafficking in human beings and migrant smuggling. Participants are also exposed to the constituent elements and various stages of the crime of TIP.

Objectives:

- Defining ‘human trafficking’;
- Understanding the nature and scale of trafficking globally and in Zambia;
- Outlining the provisions of the UN Protocol on Human Trafficking and the Zambian Anti-Human Trafficking Act;
- Identifying acts, means and forms of exploitation that constitute the crime of trafficking;
- Clarifying the differences and similarities between smuggling and human trafficking;
- Understanding child trafficking as a special case;
- Recognising the role of service providers in the response to human trafficking.

Expected Outcomes:

- Be able to identify the salient features of human trafficking;
- Understand the nature and scale of trafficking globally and in Zambia;
- Be familiar with the UN Protocol on Human Trafficking and the Zambia Anti-Human Trafficking Act;
- Understand the similarities and differences between human trafficking and smuggling;
- Understand why child trafficking constitutes a special case;
- Recognise the role that service providers play in ensuring an effective response to trafficking.

Resources: Documentary film ‘Soul Trade’ if available, cases and questions in this Toolkit, flip chart, and marker.

Time frame: 5 hours in total estimated.

Key references:

- The IOM Counter Trafficking Handbook for Law Enforcement Officers in Southern Africa, 2005;
- The IOM Counter-Trafficking Training Modules, 2006;
3.2 Defining Human Trafficking

Activity 3a: Defining human trafficking
Objective: Enable participants to clearly define human trafficking.
Time frame: 90 minutes.
Facilitator:
- Start this session by asking participants what they understand of the term “human trafficking”. Register responses in brief on a flip chart. They may give examples of cases they know.
- If available, the documentary film “Soul Trade” can be used as a tool to initiate discussion. If not, ask participants to read the story of Olga above.
- After watching the documentary/reading the story, ask participants if their views have changed after reading the story/watching the film.
- Register responses on the flip chart. Try to guide the discussion so that you can have points summarized under the three distinct categories of act, means and purpose. Questions that may help you to guide the discussion include:
  - What is it that traffickers do?
  - What is it that traffickers wish to achieve? What do they intend to do with their victims?
  - How do they go about achieving their goal? How do they attain control over their victims?
  - Refer participants to the definition of trafficking in Part 1 of the Zambia Anti-Human Trafficking Act. Ask whether the film/Olga’s case falls under the definition of trafficking in the Act. Use the Glossary section of this manual to follow up on the discussion and explain the meaning of terms used in the trafficking definition, as it appears in the Act.

CASE STUDY 3a: ‘Selling Olga’ (see Activity 3a)

This is the true story of Olga who was a poor Moldovan girl trying very hard to make ends meet. All she did was respond to a newspaper advertisement which read “Girls and women under thirty-five. Well-paid jobs abroad.” She made a phone call subsequent to which she had a meeting with a young man who promised a salary of 1,000 USD per month for looking after the elderly in Italy.4 “I met him at the end of June 2000, and by the end of July I had been sold to a bar in Kosovo...and I really thought I was going to Italy.”5 In a string of events involving the provision of forged documents, prolonged and continuous road travel taking them across several stop-sites in Romania, Serbia and Montenegro, and finally a walk in the dark across what was said to be a mined border area, the group of young women with whom Olga travelled, finally arrived in Kosovo.6

On arrival, Olga and her compatriots were curtly informed at a bar that each now owed 2,500 Deutsche Mark (DM) for their travel expenses and could only leave once they had paid that debt to the bar owner.7 After several beatings for having refused what the bar owner demanded, Olga was sold to another bar in Kosovo8 Her job was to clean the place during the day, dance in the evenings and stand ready to be rented out to clients for the night.9 The bar owner had her registered with the police as a waitress and started to pay her a stipend once she earned back for him what he had paid when he bought her.10 She had to buy her food from the bar, which was barely affordable, but she had saved money out of the tips from some of the

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clients who rented her for the night. By the end of a year, she had saved almost a thousand DM.

At this point, the bar owner informed her that he had been offered good money for her and presented the option that she either pay him what he was offered and stay with him or he will have to transfer her to another owner. Fearing the prospects of a worse-off place, Olga effectively sold herself to her owner and paid him all her money. It would be another year before she could escape and seek refuge with the Police. By then, she had lost the sight of one eye and much of the other from retinal detachment resulting from several beatings administered to her head. With assistance from the International Organization for Migration (IOM), she managed to go back home. She has no job; has to look after her son and receives the equivalent of 10USD per month as a state disability grant.

3.3 Human Trafficking: A Global Perspective

Migration is considered one of the defining global issues of the early twenty-first century, as more and more people are on the move today than at any other point in human history. There are now about 192 million people living outside their place of birth, which is about three per cent of the world’s population. The southern African region is no exception. Individuals move, among others, in search of opportunities for employment and education. Such migration can be both within a country (internal) and across borders. It often reflects patterns that have been established over many generations. Within southern Africa, patterns of internal and cross-border mobility and migration have changed considerably over the last three decades and are likely to continue to change in the future. Migrants work in various sectors including manufacturing, informal trade and agriculture, construction and domestic service.

Though the prevailing view holds that migration has been a positive force in both countries of origin and of destination, unregulated migration can involve social, financial and political costs for the individuals, society and governments alike, including irregular migration, migrant smuggling and trafficking in human beings.

3.3.1 Global Facts and Figures

TIP is a highly lucrative business to organised criminal syndicates with profits of up to 32 billion USD a year. This makes it the third most profitable international criminal activity, only surpassed by the drug trafficking and firearms trades. The International Labour Organization (ILO) estimates that there are 12.3 million people in the world today living under one or another form of slavery. UNICEF estimates that more than one million children are trafficked each year. An often-quoted estimate by the US Department of State puts the number of people trafficked every year between 600,000 and 800,000. Based on ILO’s figures, it is now widely believed that, globally, the majority of victims are trafficked into forced labour. Much media and academic attention has however been devoted to sex trafficking which ‘comprises a significant portion of overall human trafficking.’

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20 http://www.iom.int
22 p 4
25 Belser Forced Labour and Human Trafficking p4
Public attention was first drawn to the issue with reports of Eastern European girls trafficked for forced prostitution to the West following the fall of the Iron Curtain and the disintegration of the former Soviet Union. Most of these reports focused on a growing sex industry characterised by the presence of brutal violence. As time went by, presumably as a result of shifting media attention, many began to consider TIP as a South East Asian problem. It took several years for the world to realise that almost all parts of the world are affected by the problem with countries being source, transit or destination points or some combination thereof. Clear proof that TIP indeed has become a worldwide problem is to be found in the Trafficking in Persons Report issued by the US Department of State Office to Monitor and Combat Trafficking in Persons (TIP).


“Trafficking in persons shall mean recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of 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”

When a country is party to the TOC Convention and the Palermo Protocol (hereinafter referred to as the Protocol), it is obligated to align its domestic Criminal Code accordingly. The precise wording of the definition can differ from that which is defined in the Protocol, however the conduct of trafficking must be criminalised nonetheless.

Global TIP Facts & Figures:
(2011 USG TIP report)
- 3619 (237)* - Successful trafficking convictions in 2010
- 6,017 (607)* - Successful trafficking prosecutions in 2010
- 33,113 - Victims identified
- 17 - New or amended legislation in 2010

Global TIP Facts & Figures:
(2010 USG TIP report)
- 12.3 million - Adults & children in forced & bonded labour & sexually exploited
- 4,200 - Successful trafficking prosecutions in 2009
- 50,000 - Victims identified
- 0.4% - Victims identified as a proportion of estimated total victims
- 1.8 per 1,000 inhabitants - Prevalence of trafficking victims (global estimate)

*The numbers in parentheses are those of labor trafficking prosecutions and convictions.

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27 Okolski “Illegality of International Population Movements in Poland” 2000 (38) International Migration p55, 77-80
28 Skeldon “Trafficking: A Perspective from Asia” 2000(38) International Migration p7, 8
29 The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (is included in Annex I)
Article 5 of the Palermo Protocol requires State Parties to criminalise trafficking in persons as defined in Article 3, above. In addition to the criminalisation of trafficking, the Protocol requires criminalisation of:
- Attempt to commit the crime of trafficking;
- Participation as an accomplice;
- Organising or directing others to commit human trafficking.

On the basis of the Protocol definition, Article 3 (a), trafficking in persons has three constituent elements: the Act (what was done), the Means (why was it done), and the Purpose (always exploitation).

**Act:** The act of trafficking a person refers to the measures employed by traffickers (i.e. what is done) to introduce or maintain a victim in the trafficking scenario. The acts - as detailed in the Protocol above - are not criminal *per se* in isolation. These acts become illegal when coupled with two additional elements: 1) indication that the act was committed without the consent or through the vitiated consent (*Implying the absence of a fully informed and freely given consent*) of the victim and 2) indication that the intent of the conduct was exploitation.

**Means:** The means (i.e. how) used to traffic a person refers to the manner in which a trafficker introduces or maintains an individual in the trafficking scenario. Means employed by traffickers can include fraud, deception and the abuse of power or of a position of vulnerability and can occur with or without the use of any overt (physical) force. The ‘use of power or of a position of vulnerability’ contained in Article 3 of the Protocol “is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the exploitation involved.” This is to acknowledge that many trafficked persons are under the influence of someone to whom they are vulnerable, for example a person holding a position of official authority or a parent or spouse.

**Purpose (exploitation):** The purpose of trafficking in persons is ultimately exploitation. The definition of trafficking in the Palermo Protocol includes the following forms of exploitation: Prostitution of others;

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### The Elements of Trafficking

<table>
<thead>
<tr>
<th>ACT</th>
<th>MEANS</th>
<th>PURPOSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(What is done)</td>
<td>(How it is done)</td>
<td>(Why it is done)</td>
</tr>
<tr>
<td><strong>The Act of:</strong></td>
<td>By <em>Means of:</em></td>
<td>For the <em>Purpose</em> of Exploitation, including:</td>
</tr>
<tr>
<td>Recruitment, or Transportation, or Transfer, or Harbouring, or Receipt of persons</td>
<td>Threat or Use of force of other forms of coercion or Abduction or Fraud or Deception or Abuse of power or of a position of vulnerability or Giving or receiving of payments or benefits to achieve the consent of a person.</td>
<td>Prostitution of others and other forms of sexual exploitation or Forced labour or services or Slavery or practices similar to slavery or Servitude or Removal of organs.</td>
</tr>
</tbody>
</table>

So long as one condition from each category is met, the result is **TRAFFICKING.**
Sexual exploitation; Forced labour; Slavery or similar practices; Servitude; or Removal of Organs. According to the Protocol, exploitation covers the forms of exploitation that shall be included “at a minimum.” This means that the list provided in Article 3 is non-exhaustive. Individual states may include other forms of exploitation in their domestic criminal law, depending on national experiences with different forms of trafficking.

‘Exploitation of prostitution of others’ and ‘sexual exploitation’ are not defined in the Palermo Protocol or elsewhere in international law. They were intentionally left undefined so as to allow all States to ratify the Palermo Protocol, irrespective of their domestic laws relating to the legality or illegality of prostitution.

Consent as a defence: Trafficking per se cannot involve consent. In addition, the presence of consent of the victim at one stage of the process cannot be taken as consent at all stages of the process. If there has not been consent at every stage of the process it means that the case is one of trafficking. This means that if a person consented to work abroad or to enter a country illegally, but did not consent to exploitation, an offence has been committed. In the case of children, consent is irrelevant because a child cannot voluntarily or willingly enter into an arrangement that resulted in trafficking, even if the child’s parents were to give their consent.

The Special Case of Children: The Trafficking Protocol recognizes the special situation of children in subparagraph c, which removes the need for means to be present for trafficking to occur. Child trafficking is defined in Article 3 c as: “The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation”. In other words, for children, it is not necessary that there be force, fraud or coercion for trafficking to occur. In the case of a child, not only will consent fail as a defence, but there need be none of the prescribed means as well. (See Section 3.7 of this Toolkit for more detail).

3.3.3 The US Department of State Trafficking in Persons Report

The Office to Monitor and Combat Trafficking in Persons (TIP Office) within the Department of State, releases an annual Trafficking in Persons Report that monitors countries’ anti-trafficking efforts against minimum standards set forth in the U.S. Trafficking Victims Protection Act (TVPA) of 2000, as amended. The standards in the TVPA, however, are largely consistent with the framework for addressing trafficking set forth in the Palermo Protocol. Both define trafficking in persons as a set of acts, means and purposes. Both emphasize the use of force, fraud or coercion to obtain the services of another person. And both acknowledge that movement is not required, framing the crime around the extreme exploitation that characterizes this form of abuse. The TIP Report places each country onto one of three tiers, as mandated by the TVPA.

This placement is based on the extent of government efforts to reach compliance with the TVPA’s minimum standards for the elimination of human trafficking under the “3P” paradigm: prosecution, protection and prevention. Countries whose governments fully comply with TVPA’s minimum standards for the elimination of trafficking are placed on Tier 1.30 While Tier 1 is the highest ranking, it does not mean that a country has no human trafficking problem. Rather, a Tier 1 ranking indicates that a government has acknowledged the existence of human trafficking, has made efforts to address the problem, and meets the TVPAs minimum standards. Each year, governments need to demonstrate appreciable progress in combating trafficking to maintain a Tier 1 ranking. Indeed Tier 1 represents a responsibility rather than a reprieve. Tier 2 is for countries that do not meet the minimum standards, but have been assessed as making significant efforts to do so. Tier 2 WL is for Tier 2 countries that have been assessed as not making increased efforts to combat severe forms of trafficking from the previous year; or countries for which the “significant efforts” identified are commitments of future actions over the next year; or the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing. Tier 3 is for countries that have been assessed as not meeting the minimum standards and not making a significant effort to do so. Pursuant to the TVPA, governments of countries on Tier 3 may be subject to certain sanctions, whereby the U.S. government may withhold or withdraw non-humanitarian, non-trade related foreign assistance. Consistent with the TVPA, governments

30US TIP Report 2010: Tier Placements
subject to sanctions would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international institutions such as the International Monetary Fund (IMF) and the World Bank. No tier ranking is permanent. Each and every country can do more, including the United States. All countries must maintain and increase efforts to combat trafficking.

3.4 Trafficking in Persons in Zambia

3.4.1 Excerpts from the Trafficking in Persons Report 2011 - Zambia

(Note: This report is released annually. Both facilitators and participants are advised to refer to the latest report available at the time of training.)

Overview: Zambia is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. Most trafficking occurred within the country’s borders and involved women and children from rural areas exploited in cities in domestic servitude or other types of forced labor in the agricultural, textile, and construction sectors. Zambian trafficking victims have also been identified in South Africa, the Democratic Republic of the Congo, and Namibia. While orphans and street children are the most vulnerable, children of more affluent village families are also vulnerable to trafficking, as sending children to the city for work is perceived as a status symbol. Some child domestic workers receive adequate room and board, but others are starved, beaten, deprived of sleep, or overworked to the point of exhaustion – practices indicative of forced labor. To a lesser extent, Zambia is a destination for migrants from Malawi and Mozambique who are exploited in forced labor or forced prostitution after arrival in Zambia. Asian and South Asian males continue to be trafficked to and through Zambia for forced labor in the mining and construction industries in Zambia or South Africa. An increasing number of Chinese and Indian men recruited to work in Chinese- or Indian-owned mines in Zambia’s Copperbelt region are reportedly kept in conditions of forced labor by the mining companies. Officials believe transnational labor trafficking of South Asians through Zambia is becoming increasingly organized and linked to criminal groups based largely in South Africa. Zambia’s geographic location and numerous porous borders make it a nexus for trafficking from the Great Lakes Region to South Africa. While the movement of Congolese children to and through Zambia remains a concern, the destination of these children remains unclear; some may be trafficking victims.

The Government of Zambia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the reporting period, the government increased law enforcement efforts by convicting one trafficking offender under its 2008 anti-trafficking law and investigating and prosecuting three additional suspected trafficking cases. Government-provided protection for victims remained weak; though the government continued to provide services to victims through partnerships with international organizations and NGOs, the continued lack of shelters significantly hindered appropriate victim care, as victims were, at times, detained in jails alongside trafficking offenders.

Prosecution: The Government of Zambia demonstrated increased anti-trafficking law enforcement efforts during the reporting period, convicting one trafficking offender under the 2008 anti-trafficking law and investigating and prosecuting additional suspected trafficking cases. Zambia’s comprehensive Anti-Human Trafficking Act of 2008 criminalizes all forms of trafficking and prescribes penalties that range from 20 years’ to life imprisonment, which are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape. In 2010, the government amended its Immigration Act, adding additional prohibitions against human trafficking. During the reporting period, the government convicted one trafficking offender, acquitted two suspected traffickers, and detained two suspects who are awaiting trial or sentencing; two investigations were ongoing at the end of the year. In December 2010, a Zambian court convicted a Zambian man under the anti-trafficking law, and sentenced him to 10 years’ imprisonment for confining seven Indian nationals in a Zambian home with the intention of forcing them to

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labour in construction in South Africa. The sentence for this conviction was below the minimum prescribed penalty of the anti-trafficking law. Additional cases were investigated as trafficking offenses; however, with insufficient evidence on the intentions of the suspects to exploit the potential victims, the courts dropped the human trafficking charges and tried these as smuggling cases or dismissed them. One such case involved seven Congolese children who were travelling with individuals who were not their legal guardians, were locked in a small room, and were unaware of why they left the Congo or where they were going; though originally charged as a trafficking case, with insufficient evidence on the intent to exploit these children, this case is pending trial as a smuggling case. In partnership with IOM, the government provided anti-trafficking training for law enforcement and immigration officials. In addition, during the reporting period, the Director of the Research, Planning and Information Department of the Ministry of Home Affairs led trafficking awareness briefings for new police recruits and immigration officers at the Police Training Academy. An immigration official, charged with trafficking in 2010, was dismissed from his job and convicted of smuggling, as the court lacked sufficient evidence to support a conviction under the anti-trafficking law; he was given a suspended sentence in September 2010. The government reported no other investigations, prosecutions, convictions, or sentences of public officials complicit in human trafficking. The government did not take action to criminally prosecute mining company personnel who reportedly operated their mines through the use of forced labour; however, the government did not receive any new reports of trafficked labour in the mining sector during the reporting period.

Protection: The government continued to ensure victim care through partnerships with international organizations and local NGOs during the reporting period. These efforts remained lacking in critical areas, however, including the establishment of victim shelters, though such initiatives are mandated in the 2008 anti-trafficking law. The government did not develop or implement systematic procedures for the identification of trafficking victims, nor did it demonstrate use of a formal mechanism for referring victims to NGOs for protective services. Due to limited secure shelter space in certain parts of the country and limited means for transporting victims, foreign victims were jailed alongside traffickers for extended periods. The government acknowledged this shortcoming and, through a partnership with an international NGO, began to plan the construction of Zambia’s first dedicated human trafficking shelter. While existing NGO shelters offered limited accommodation for women and children, no services were available for men. The Department of Immigration and the National Secretariat identified 37 potential trafficking victims and informally referred 18 of these to IOM for care; IOM independently identified and assisted four additional victims with psychological counselling, medical treatment, and skills training during the reporting period. The government also sustained a partnership with IOM on the repatriation of victims; during the reporting period, 18 Congolese and one Zimbabwean were repatriated to their home countries. The government offers temporary residency and legal alternatives to the removal of victims to countries where they may face hardship or retribution; during the reporting period, the government granted temporary residency to at least 19 victims. Without proper procedures for the identification of victims and with the unavailability of shelters, the government likely arrested, jailed, and penalized victims for unlawful acts committed as a direct result of being trafficked. Officials encouraged victims to assist in the investigation and prosecution of traffickers; during the reporting period, one trafficking offender was convicted based on testimony provided by victims.

Prevention: The Zambian government maintained its efforts to prevent trafficking during the reporting period. In 2010, the government worked with partners to prioritize and implement key components of the 2009 National Anti-Trafficking Plan, including multimedia outreach, employer workshops, and the formation of child coalitions to raise awareness on human trafficking. During the year, the government developed the 2011-2012 National Anti-Trafficking Plan, which prioritizes the development of victim referral procedures. It also selected representatives of government ministries to serve on the national anti-trafficking Secretariat, created in 2009; however, they remain overburdened by their primary functions due to understaffing in their respective ministries. The six members of the Secretariat met monthly and, in addition, held several ad hoc meetings as necessary in
response to specific cases. The government continued its “Break the Chain of Human Trafficking” campaign, with support from the UN Joint Programme and local NGOs. Beginning in October 2010, the government helped plan and participated in a UN Joint Programme-funded outreach campaign on gender-based violence and human trafficking, including forced labour, and involving school debates, cycle races, marathons, dramatic performances, with traditional leaders and community radio taking part. As a result of this campaign, child coalitions were formed in 10 districts to continue awareness-raising efforts. Throughout 2010, the Ministry of Community Development and Social Services spearheaded a 13-episode English language television program on human trafficking, as well as an interactive radio program in seven local languages. In 2010, a Zambian court sentenced a Zambian man to 18 years’ imprisonment for selling his 7-year-old daughter for the purpose of harvesting her organs for use in ritual practices in Tanzania. Action to combat labour trafficking was hampered by an inadequate number of labour inspectors; during the reporting period, the Ministry of Labour and Social Security (MLSS) conducted 15 child labour inspections, none of which resulted in prosecutions. In December 2010, the MLSS, in partnership with the UN Joint Programme, conducted a workshop for employers and trade unions on the demand for forced labour, working towards the development of employer guidelines, and both entities partnered to begin a study on internal trafficking to be completed in 2011. The government did not make efforts to reduce the demand for commercial sex acts during the reporting period. The Ministry of Home Affairs and Ministry of Defence provided anti-trafficking training to Zambian troops prior to their deployment abroad on international peacekeeping missions.

3.4.2 Zambia Anti-Human Trafficking Act

Zambia acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Supplementing the United Nations Convention against Transnational Organized Crime) in April 2005, and by so doing committed itself to take effective action to prevent and combat trafficking in persons. Although human trafficking is an age-old practice, Zambia recorded its first case of trafficking in December, 1999. An Australian male was arrested at the Chirundu border post while allegedly trying to transport five Zambian teenage girls to Australia for purposes of prostitution. The man was acquitted on the grounds of inadequate legal provisions to deal with such cases.

Five years later, another case of human trafficking occurred in Zambia when a Congolese woman was apprehended at the Zambian border with Zimbabwe, with 14 children aged between 5 and 17 years old. She did not have documentation to prove she was the legal custodian of the children, despite claiming so. Investigations revealed that the children were recruited from different families and were promised jobs in America and South Africa, yet the legitimacy of these jobs could not be verified. Although there were indications that this could have been a trafficking case, the limited capacity of law enforcement to conduct further investigations led the case to be dropped. The Congolese woman was fined two million Zambian Kwacha for passport fraud and was later released.

This propelled the need for the enactment of an anti-human trafficking law that would adequately deal with the scourge and bring it into the public spotlight. Zambia subsequently passed amendments to the Penal Code. The amendments, however, were not sufficiently comprehensive in that they did not clearly define all the elements of trafficking or prescribe specific penalties for these offences. There was therefore need for a single and comprehensive anti-human trafficking law.

As a result, in September 2008, Zambia enacted the Anti-Human Trafficking Act (Act No.11 of 2008). The law has since been tested and a number of

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32 Government of Zambia Anti-Human Trafficking Act No. 11 of 2008

33 USAID, Framework and Comprehensive legislation to Combat Human Trafficking in Zambia, Development of an effective policy, May 2007


35 Amendment Act No.15 of 2005
prosecutions and convictions have been recorded under the new law.\footnote{U.S. State Department Trafficking in Persons Report 2011}{36}

Section 3\footnote{ibid}{37} of The Act criminalises human trafficking as outlined in the Palermo Protocol. Part II, Section 3(1) of The Act provides that:

- “... a person who intentionally and unlawfully traffics another person commits an offence and is liable, upon conviction, to imprisonment for a term of not less than twenty years and not exceeding thirty-years”.

And Section 2 of The Act defines trafficking as:

\textbf{(Act)} “To recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, by means of-

\textbf{(Means)} “Any threat or use of force or other forms of coercion;

- Abduction;
- Fraud or deception;
- False or illegal adoption of a child contrary to the Adoption Act or any other written law;\footnote{Section two (2) of the Zambian Anti- Human Trafficking Act No. 11 of 2008 includes ‘false or illegal adoption contrary to the Adoption Act or any other written law’ as a means in the definition of trafficking when the purpose is exploitation. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children does not cover false or illegal adoption. The scope of the Zambian law is thus slightly wider than the protocol.}{38}
- The destruction, concealment, removal, confiscation or possession of any passport, immigration document or other official identification document of a person;
- The abuse or threatened abuse of the law or legal process or any other form of abuse of power or of a position of vulnerability; or
- The giving or receiving of payments or benefits to achieve the consent of the person;
- For the purpose of exploitation”.

\textbf{(Purpose - i.e. Exploitation)}: The Act defines exploitation to include\footnote{See Section 2}{39} -

- Sexual exploitation;
- Servitude;
- Forced labour;
- Child labour; and,
- The removal of body parts contrary to the Human Tissue Act\footnote{Cap 306 of the Laws of Zambia}{40}.

\textbf{Grounds that cannot serve as defence:}

The Anti-Human Trafficking Act lists non-defences in relation to trafficking cases. Section 21 of the Act provides that:

- “It shall not be a defence to a charge for an offence under this Act to prove- that a victim consented to the act constituting the offence;
- That the victim had previously engaged in prostitution, or has any other history of a sexual or criminal nature;
- Where the victim is a child, that the victim, the parent, guardian or other person who has parental responsibilities and rights in respect of the child consented to the act constituting the offence;
- That the exploitation of the victim did not occur;
- That the act constituting the offence is a customary practice”.
### Penalties prescribed by the Zambia Anti Human Trafficking Act

<table>
<thead>
<tr>
<th>Sections in the Act</th>
<th>Offence</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 3 (1)</td>
<td>Trafficking an adult</td>
<td>20–30 years</td>
</tr>
<tr>
<td>Section 3 (2)</td>
<td>Trafficking a child</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 12</td>
<td>Attempted human trafficking</td>
<td>10–20 years</td>
</tr>
<tr>
<td>Section 3 (4)</td>
<td>Trafficking for forced labour</td>
<td>20–35 years</td>
</tr>
<tr>
<td>Section 6 (1)</td>
<td>Using or obtaining the labour services of a trafficking victim</td>
<td>10–25 years</td>
</tr>
<tr>
<td>Section 3 (3)</td>
<td>Trafficking for sexual exploitation</td>
<td>25 years–life</td>
</tr>
<tr>
<td>Section 3 (11)</td>
<td>Trafficking for removal of the victim’s body parts</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 3 (6)</td>
<td>Trafficking resulting in serious bodily harm or death</td>
<td>Life</td>
</tr>
<tr>
<td>Section 3 (10)</td>
<td>Multiple counts (more than 5) of human trafficking</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 9 (1)</td>
<td>Smuggling a person across a Zambian border or agreeing to be smuggled</td>
<td>15–20 years</td>
</tr>
<tr>
<td>Section 9 (3)</td>
<td>Producing, obtaining or possessing a false travel or identity document (ID)</td>
<td>10–15 years</td>
</tr>
<tr>
<td>Section 3 (5)</td>
<td>Trafficking by abduction</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 7 (1)</td>
<td>Transporting or facilitating the transportation of a victim</td>
<td>20–30 years (for trafficking an adult); 25–35 years (for child trafficking)</td>
</tr>
<tr>
<td>Section 11</td>
<td>Harbouring, concealing or permitting the harbouring of a victim of trafficking</td>
<td>20–30 years (for trafficking an adult); 25–35 years (for child trafficking)</td>
</tr>
<tr>
<td>Section 7 (1)</td>
<td>Advertising, publishing, printing, broadcasting, distributing, including through the Internet and other communications, information that suggests human trafficking or permitting any of these actions</td>
<td>20–30 years (for trafficking an adult); 25–35 years (for child trafficking)</td>
</tr>
<tr>
<td>Section 3 (8)</td>
<td>Public officer facilitating and using authority to facilitate trafficking</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 3 (9)</td>
<td>Individual participating in institution or criminal group facilitating trafficking</td>
<td>25–35 years</td>
</tr>
<tr>
<td>Section 4</td>
<td>Causing another person to enter a situation of debt bondage</td>
<td>15–25 years</td>
</tr>
<tr>
<td>Section 5</td>
<td>Destroying, confiscating or tampering with a victim's identity or travel documents</td>
<td>15–25 years</td>
</tr>
</tbody>
</table>
Activity 3b – Understanding the Elements of Human Trafficking

Objective: To help participants identify the methods of recruitment, transportation, and control used by traffickers according to the Anti-Human Trafficking Act.

Timeframe: 75 minutes

Facilitator:

- Ask participants to form groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Assign one statement (and related question/s) to each group.
- Reporters will present the findings of the group.
- Give 25 minutes for group discussions.
- Give each group 8-10 minutes to report.
- Use the discussion on each of the statements to facilitate a plenary discussion on the following issues:
  - Statement 1 - Cross border vs. internal trafficking, means of transportation, documentation used in travel, why traffickers want to move their victims away from familiar surroundings.
  - Statement 2 - Means employed by traffickers in recruiting their victims, the issue of consent, various types of methods of recruitment (for example, medium and structure).
  - Statement 3 - Forms of exploitation, places of exploitation.
  - Statement 4 - Demand and supply for labour and services as they relate to trafficking, exploitation of men and boys.
  - Statement 5 - Methods of control employed by traffickers.
- Remember to make use of Part 1, Sections 2 and 22 of the Act.
- Conclude by highlighting the major elements involved in the process of human trafficking.

3.5 Recruitment and Mobilization

Medium of communication used in recruitment:
Recruitment may be carried out in various ways. Some traffickers use newspaper advertisements or other printed materials to attract their victims while others rely on word of mouth, social and interactive networks, the Internet or personal contact. Structurally, they may be organised as travel or employment agencies, labour broker offices, mail order bride agencies, or agents of the entertainment industry. Recruitment may also be operated through a network of individuals or simply persons working independently. Members of the victim’s family such as parents, siblings, relatives, boyfriends or girlfriends and spouses, may also carry out recruitment.

In the context of cross-border human trafficking, the movement of the trafficked person begins at the country (or place) of origin and is concluded in the country (or place) of destination. Should the victim pass through and spend time in a third country (or place) in between, that would normally be referred to as a country of transit. Victims of trafficking are typically subject to exploitation upon arrival at the destination country. However, one should not lose sight of the fact that exploitation of many victims commences in transit, prior to their arrival at the country of destination.

Modes of travel and documentation: Travel in cross-border trafficking can be by land, air or sea. It should not be assumed that all documents used by traffickers during the movement of their victims are forged. Where documents such as visas, temporary travel documents or passports are used they may be genuine or forged. Many victims travel on valid passports and

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41 Holmes et al Best Practice Manual p10
42 The IOM Handbook on Direct Assistance to Victims of Trafficking (2007)p43
44 The IOM Handbook on Direct Assistance to Victims of Trafficking p42
genuine work, study or tourist visas.\textsuperscript{45} Traffickers often accompany their victims during travel and in many cases withhold their documents.\textsuperscript{46} This arrangement allows for the trafficker not only to retain control over the victim but also approach immigration officials with a plausible story about the travel, concealing its true nature, and where circumstances dictate, negotiate payment to corrupt officials who may otherwise foil the operation. In summary, victims of cross-border trafficking may be transported legally, having complied with all the requirements of immigration law, or illegally, on forged documents including by way of smuggling.

However, all the requirements of the definition of human trafficking can be met without one necessarily having to leave a single country. This is known as internal trafficking.\textsuperscript{47} Internal trafficking may in fact take place without the victim being moved at all. This is for instance the case where a victim is recruited or harboured for purposes of exploitation without having been moved from place to place.

\textbf{Why traffickers often move their victims:} In cross-border trafficking (and in internal trafficking when movement occurs), moving a victim away from his or her place of origin has a significant advantage to the trafficker. Primarily, it serves the purpose of alienating the victim from a familiar surrounding or environment, which otherwise would have created a defence against abuse and exploitation.\textsuperscript{48} Victims will find it very difficult to seek help if they do not know the geography, language, culture and setting of their new environment, rendering them easier to exploit. Continuous movement also serves to disorient the victim making it impossible to retrace the way back to the place of origin.

\begin{multicols}{2}
\textsuperscript{45}The IOM Handbook on Direct Assistance to Victims of Trafficking p38-41
\textsuperscript{47}Suwal, Amatya, Community Action Center - Nepal & Bansbari Internal Trafficking Among Children and Youth Engaged in Prostitution in Nepal (2002) p4
\end{multicols}

3.5.1 Control Mechanisms
\textbf{(see Part I, Section 2 of The Act)}

In order to secure a trafficking conviction, prosecutors will need to ensure commission of the culpable act through one of the listed means contained in Part I, Section 2, of the Act e.g. threat, force, deception, abuse of authority etc. The possible combination of means employed by traffickers share one significant characteristic i.e. they all imply the absence of free and informed consent on the part of the victim. Any apparent consent by the victim is inherently vitiating, as it would have been extracted out of the victim through the use of one of these means. The means employed by traffickers against their victims can broadly be divided into two categories which may, at times, overlap: deceptive and coercive.\textsuperscript{49}

\textbf{Deception:} In the case of deception, a distinction will need to be made between complete deception and that which is only partial.\textsuperscript{50} When a trafficker promises a job as an au pair to his victim and subsequently causes her to become a prostitute, the deception is complete. In some cases however, the trafficker may be forthcoming about certain aspects of the arrangements but not others. Such would be the case when a victim knowingly accepts to be engaged in prostitution but is furnished with fraudulent information as to the abusive and exploitative conditions of what they will be doing. The apparent consent by the victim is thus vitiating.

\textbf{Coercion:} Coercive means include coercion itself, threat, use of force, abduction, abuse of power or vulnerability. Under these circumstances, the victim’s consent is totally absent. The drafters of the Protocol appear to understand that traffickers will find it easy to justify their conduct by claiming that the victim has consented to the act. This possible avenue for evading conviction is effectively closed by the provisions of sub article (b), which clearly rules out the defence of victim’s consent where the trafficker has employed any
of the means in the preceding paragraph. See definition of coercion under Part II, Section 2, of the Act.

Whether deceived or coerced, once a victim is recruited, trafficking involves enduring continuous exploitation by the victim. One may wonder then why victims, who suffer so much at the hand of their traffickers, do not escape or seek help. This is often because their traffickers control them. Understandably, many victims protest and try to resist terms and conditions forced on them by their traffickers. Resistance is often quelled by violence and intimidation at the very beginning. Thereafter, traffickers employ numerous methods of control to ensure victims remain under their influence and submit to continuous exploitation. Some of the most widely used methods of control include:

**Isolation (Section 22(b)):** A trafficked individual is in the broader sense isolated from familiar surroundings and associated support structures as soon as (s)he leaves her/his country or area of origin. (S)he will be placed in an environment where (s)he does not know the language, the culture or geography and will have to rely solely on the will of her/his trafficker for survival. In the narrower sense, traffickers usually lock-up the victim in a separate room as soon as he or she arrives at the point of destination and make sure that the victim does not contact anyone. This restriction is often accompanied by denial of food, access to any form of communication with the outside world and any other person that might be on the same premises. The aim is to break the will of the victim and secure compliance by instilling a sense of helplessness. Isolation may very well continue after the victim complies with the demands of the trafficker to ensure that no escape mechanism is developed or support is available.

**Force: (Section 22(a) (i-vii))** Although the entire trafficking process is often ridden with violence, certain acts of coercion are worth special attention. Physical, verbal, emotional and sexual abuse of a newly arrived recruit is normally carried out to convey the message that the victim is completely at the mercy of the trafficker. In many cases of TIP for sexual exploitation purposes, the victim is repeatedly raped by one or more men and is severely beaten until she agrees to engage in commercial sex. Beatings are also administered as a form of punishment during the exploitation phase for ‘breaking rules’ or unacceptable behaviour such as failing to perform to the satisfaction of a client.

**Confiscation of documentation (Section 22(d)):** This is particularly common in cases of cross-border trafficking. Travel documents and other identification documents, most importantly passports, are often the only official proof of the identity of victims. Passports are often retained by traffickers during the transit stage and are produced only when the need arises to cross an international border. Victims are often persuaded to hand over their passports for safe keeping both during travel and after arrival. Once a trafficker gets hold of the document, it is used as leverage to keep the victim from running away. Not only will she/he be unable to establish her/his identity but would also risk arrest and deportation for immigration related offences if found without papers. This message is in many cases unequivocally conveyed to victims by traffickers, who also warn against contact with officials or venturing out of the place of detention/exploitation.

**Drugs (Section 22(a)iv):** The deliberate introduction of victims to narcotic and psychotropic substances, which

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51 Palermo Protocol Art 3(b)
54 p4
55 The IOM Handbook on Direct Assistance to Victims of Trafficking p45
are addictive in nature, continues to be one of the methods by which traffickers ensure that victims do not run away.\(^2\) In order to feed the addiction and avoid the risk of going without supply, victims will have to work hard and show up with their earnings in exchange for which the trafficker will offer the drugs.

**Intimidation (Section 22(a))**: Applies to a variety of scenarios. The physical, sexual, emotional and verbal abuse of one victim is used to send a message to other victims that the same would happen to them should they fail to obey instructions.\(^3\) Some traffickers resort to a ‘divide and rule’ type of approach and encourage the victims to tell on each other, which makes it very difficult for the victims to develop any form of trust amongst themselves, and compel them to see the trafficker as the only reliable ‘friend’.\(^4\) On a different level, traffickers threaten and sometimes actually cause harm to close family members and loved ones of victims.\(^5\) It is important to note, that in many cases the trafficker is known to the victim (e.g. a boyfriend) while in others, the victim is asked to furnish information about family ties and related details, either at recruitment or immediately upon arrival at the place of destination, while (s)he is still in a state of confusion. These pieces of information are easily used against the victim later on to discourage any plans of escape or resistance to instructions.

**Debt bondage (Section 22(g))**: This is a most peculiar method of control which is not too easy to explain without taking a step back in the trafficking process. Targeted victims are usually lured with promises of well-paying jobs often accompanied by reminders that there are expenses to be incurred.\(^6\) These include travel and living expenses en route to the destination. Sometimes the trafficker or his agent will require commission for his job hunting services, which make the story appear even more credible. Many victims may manage to raise resources through the sale of property or loans, but that is often not enough. The trafficker will take this opportunity to inform the targeted person that he will cover the expense but will need to be reimbursed later from the earnings of the job.\(^7\) It is an irresistible offer which may be reduced to writing, creating the beginning of a debtor-creditor relationship. Others are unaware of any irregularity, until the time of their arrival at the place of destination, when they will be simply told that the trafficker has incurred a specified and often exaggerated amount of expenses to get them there, and they will have to work under his/her instructions to win back their freedom.\(^8\) Olga’s is a case in point. In many cases, the debt is never fully paid as reasons are found by the trafficker to increase it.\(^9\) Such would be the case when a victim is fined for discipline, tardiness or absence from work, be it for sickness or other reasons. Some victims have to pay their traffickers for food, accommodation, clothing and make-up. The idea is to keep the victim in a perpetual cycle of debt, until she/he is no longer “useful”, or is sold off to another trafficker who is most likely to repeat the same process.

**Voodoo/Witchcraft (Section 22(a) iii)**: This form of control is mostly reported in connection with West African trafficking networks, particularly Nigerian.\(^10\) Initial reports suggested that voodoo or black magic was used to frighten and retain control over the victim.\(^11\) A traditional healer will acquire items of personal contact from the recruited female usually in the form of nail clippings, locks of hair or drops of menstrual blood.\(^12\) A ritual is then conducted in which the relationship between the trafficker and the victims is, in a manner of speaking, cemented.\(^13\) The trafficker

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\(^{2}\) The IOM Handbook on Direct Assistance to Victims of Trafficking p45

\(^{3}\) Counter Trafficking Training Modules. Children. Facilitator’s Guide. p5-6

\(^{4}\) The IOM Handbook on Direct Assistance to Victims of Trafficking p191

\(^{5}\) Tudorache “General Consideration on the Psychological Aspects of the Trafficking Phenomenon” in Psychosocial Support p20

\(^{6}\) Van Impe “People for Sale” 2000 (38) International Migration 113 p120

\(^{7}\) The IOM Handbook on Direct Assistance to Victims of Trafficking p46

\(^{8}\) Dijk “‘Voodoo’ on the Doorstep: Young Nigerian Prostitutes and Magic Policing in the Netherlands” 2001 (71) Africa 558 p564

\(^{9}\) p565

\(^{10}\) p569-570

\(^{11}\) p569
agrees to arrange the travel in exchange for a specified amount of payment (again usually a large sum of money) and the traveller agrees to honour and pay back the debt.\textsuperscript{74} The power of voodoo will be used to punish those who defy the terms of the agreement. Discovery of some personal contact items during brothel raids in parts of Europe gave impetus to the belief that the victim is forced to undergo the ceremony by the trafficker who later displays the items in places of exploitation by way of intimidation.\textsuperscript{75} The idea is, should a girl run away from her exploiter, these items could be used to trace her and cause her harm through the medium of voodoo. More recent reports however, indicate that the ritual is nothing more than a blessing ceremony in which the healer is asked to approve the travel, and pray for good luck to the traveller.\textsuperscript{76} Ceremonies with similar purposes are said to be carried out in churches where the traveller is Christian.\textsuperscript{77} While this makes little difference for the girl (as traffickers abuse the arrangement and use it for purposes of control), it has important implications for the traditional healers who may otherwise be held accountable for complicity in the crime of trafficking.

### 3.5.2 Types of Exploitation

The types of exploitation in the Act can broadly be identified under three categories that, once again, may overlap: sexual exploitation, labour exploitation and harvesting of human organs. \textit{(See definition of exploitation under Part I, Section 2, of the Act)}

**Sexual exploitation:** Sexual exploitation may include forced prostitution or forced marriage, the use of persons for pornographic productions, or the performance of other sexual acts including erotic dancing.\textsuperscript{78} Such exploitation may take place on streets, in brothels, bars, private residences, saunas and massage parlours.\textsuperscript{79} The latter two appear as euphemisms for brothels as they often offer clients sexual services as well. Sexual exploitation of trafficked women is the most highly publicised and researched subject on the issue of TIP, so much so that at some point it was believed to be the only form of trafficking. Further research has dispelled this myth and has revealed the existence of not only other forms of exploitation but also the fact that men and boys are also trafficked for sexual exploitation purposes.\textsuperscript{80} \textit{(See Part I, Section 2, of the Act for definition of ‘sexual exploitation’).}

**Labour Exploitation:** Conversely, it appears that men and boys are more prone to trafficking for labour exploitation purposes.\textsuperscript{81} This type of exploitation may take place in factories, agricultural and mining fields, fishing, and construction work.\textsuperscript{82} There have been recorded incidences of boys trafficked for camel jockeying as well, most notably in countries in the Middle East.\textsuperscript{83} Girls are often trafficked for domestic servitude.\textsuperscript{84} There have also been reports of young persons being trafficked for purposes of engaging in begging\textsuperscript{85} and criminal activities such as serving as drug mules and pick pocketing in streets.\textsuperscript{86} \textit{(See definition of exploitation under Part I, Section 2, of the Act.)}

\textsuperscript{74} US Department of Health Sex Trafficking Fact Sheet: types of Sex Trafficking
\textsuperscript{75} Cepellin & Honduras “Trafficking and Sexual Exploitation of Boys and Male Adolescents in Central America” in Global Eye on Human Trafficking IOM 5 (2009) p2-3
\textsuperscript{76} The IOM Handbook on Direct Assistance to Victims of Trafficking p27-28
\textsuperscript{78} UNICEF The State of the World’s Children: Excluded and Invisible (2006) 50
\textsuperscript{80} Also see IOM The IOM Handbook on Direct Assistance to Victims of Trafficking p27
**Harvesting or Removal of Organs:** Trafficking in persons for the purpose of removal of organs is addressed in the Protocol. The inclusion of this form of exploitation into the Palermo Protocol is intended to cover those situations where a person is exploited for the purpose of a trafficker obtaining profit in the ‘organ market’; and situations where a person is trafficked for the purpose of the removal of their organs and/or body parts for witchcraft and traditional medicine.

Organ harvesting is a peculiar addition to the list in the provisions of the Protocol. It appears to have been fuelled by growing concerns about a number of medical professionals who found a lucrative black market for human organ transplants in the 1990s.\(^87\) There has been some discussion as to whether the term ‘organ’ will include body parts such as blood, fingers and skin. As can be expected, organ trafficking normally takes place in medical facilities that sedate patients under false diagnosis and remove their organs for sale.\(^88\) Most reports on this subject refer to the stealing of kidneys.\(^89\) (See Part I, Section 2, of the Act, Definition of ‘Exploitation’ (f), which makes reference to the removal of body parts contrary to the Human Tissues Act of Zambia.)

### 3.5.3 Other Forms of Exploitation

Trafficking for the purpose of production of pornography: Women, men and children can be trafficked for the purpose of producing pornography. This is included in the Act under the definition of Sexual Exploitation: “...the production of pornographic material as a result of being subjected to threat, force, intimidation or other forms of coercion or any practice in terms of which it cannot be said that the person participated voluntarily.” Although not explicitly referenced in the Protocol, the definition of exploitation therein includes ‘other forms of sexual exploitation’, such as the production of pornography. Further, it is addressed with respect to children in Article 2 (c) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Article 2 (c) defines child pornography as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.” (See Part I, Section 2, of the Act for definition of ‘sexual exploitation’).

**Forced Marriage:** Trafficking can exist for the purpose of forced marriage (as well as marriage for the purpose of trafficking). There have been cases of women and young girls being trafficked internally or trans-nationally for the purpose of marriage. Marriages that can comprise an exploitative purpose of trafficking include early marriage, forced marriage, arranged marriage, temporary marriage, marriage by catalogue (the mail order bride phenomenon\(^90\)), and marriage for the purpose of child bearing.

In some cases, marriages are used to facilitate human trafficking (for instance, to acquire travel documentation) or to conceal the crime of human trafficking (for instance, where victims are forced to marry their traffickers). Often exploitation amounts to ‘servile forms of marriage, as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and the Institutions and Practices similar to Slavery, as “any institution or practice whereby:

- A woman without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or
- The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or

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\(^{87}\) Pearson  Coercion in the Kidney trade?: A Background Study on Trafficking in Human Organs Worldwide (GTZ) (2004)p9-10

\(^{88}\) p10

\(^{89}\) p17-19

\(^{90}\) Rosenberg, R (ed) Trafficking in Women and Children in Indonesia. Describes the “mail order bride phenomenon as” a trend in which men from industrialized countries find brides from developing countries. This phenomenon involves internet sites that market women as potential wives to men. Often the women are from Eastern Europe and Asia and are advertised on such internet sites for men primarily from industrialised countries. This system of finding a wife is referred to as ‘the mail order bride system’ referring to the similarities between this system and buying goods through a mail order catalogue. p106
A woman on the death of her husband is liable to be inherited by another person.

Note that the Zambia Anti-Human Trafficking Act adopts this definition (see Part I, Section 2, of the Act, definition of “Practices Similar to Slavery”).

The ‘mail order bride’ industry has been linked to trafficking in persons with international ‘matchmaking’ organizations operating as a front for the recruitment of victims, who are offered as brides, but sold privately into sexual exploitation, forced marriage (sometimes entailing forced prostitution), or held in domestic slavery. The industry does not screen its male customers and there is no formal means of ascertaining whether male clients are already married, and whether they have a criminal record.

**Slavery or practices similar to slavery and servitude:**

How does the definition of contemporary or modern-day slavery differ from slavery in the traditional sense? The Palermo Protocol evolved from earlier instruments against slavery. Concepts such as forced labour, slavery and practices similar to slavery are elaborated in a number of existing treaties and conventions, which, where applicable to particular States, should provide interpretative guidance. (See Part I, Section 2, of the Act for the definition of ‘Slavery’ and ‘Practices similar to slavery’).

### 3.6 Human Trafficking versus Migrant Smuggling

One of the difficulties faced by civil society service providers in potential cases of human trafficking is how to determine whether they are addressing ‘illegal’ immigration or human trafficking; however, service providers must be able to make that distinction. Whilst there are many similar components within the two types of crime, they are distinct criminal phenomena. This section introduces the differences between human trafficking and migrant smuggling.

<table>
<thead>
<tr>
<th>Activity 3c: Trafficking in persons versus migrant smuggling</th>
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<tbody>
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<td><strong>Objectives:</strong> Define “migrant smuggling”.</td>
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<tr>
<td>Clarify the connection between smuggling and human trafficking.</td>
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<tr>
<td><strong>Time frame:</strong> 60 minutes.</td>
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<tr>
<td><strong>Facilitator:</strong> Ask participants to form small groups with not more than five members. Each group should elect a chairperson and a reporter. Ask groups to respond to the following questions and report.</td>
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<tr>
<td><strong>Question:</strong> Using the definitions of trafficking and smuggling under Part I of the Act, determine under which the two cases below will fall. Proceed to identify the similarities and differences between the two cases. Use your findings to fill out the table.</td>
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<th>Human trafficking and migrant smuggling</th>
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CASE STUDY 3b: Deng  
(Referring to Activity 3c)

Deng is a 20-year old fisherman living in a rural part of the Fujian province in the People’s Republic of China. Recently, he has been considering leaving China to pursue a life in the West. Although he is able to support himself by selling the fish he catches, he has noticed that there are very few people of his age left in his village. In fact, young children and the elderly populate most of the villages in the area, and almost all of them survive on remittances gained from parents or children who are working in the United States or Canada.

When Deng approaches his parents for their advice on whether he should attempt to go to the West, he realizes that while they would be sad to see him go, they would be very proud at the same time to have a son living in America. With his father’s assistance, Deng engages a local ‘agent’ who agrees to help him get to the United States for USD 3,700. A week later, Deng finds himself on a rusty Korean freighter in the Indian Ocean with approximately 24 other Chinese migrants hoping to get to America. Life on board the vessel is cold and uncomfortable. The migrants are confined to a large shipping container, and are guarded at all times by armed Cambodians who do not speak Chinese. They are allowed on deck once a week to wash, but nearly everyone gets eye infections because of the unhygienic conditions. Deng is afraid, and has thoughts of escaping, but several weeks later, the vessel lands on the Mozambican coast, and the migrants are told they will be taken to Johannesburg where they will receive travel documents that will allow them to fly to South America, and from there to the United States.

While waiting in a warehouse in Maputo, however, the migrants and the agents are surprised by a police raid and, in the confusion, Deng escapes. He makes his own way west until he meets a truck driver who recognizes his desperate state, and generously helps him to cross the border hidden in the truck into Swaziland. Once in Swaziland, the Swazi police arrest both Deng and the truck driver for entering the country illegally.

CASE STUDY 3c: Penda  
(Referring to Activity 3c)

Penda is a 20-year-old woman from the United Republic of Tanzania. She is unmarried, and has two small children whom she supports by selling vegetables. One day, a friend, Marjani, who says that she can find her a job as a nanny in South Africa where she can make ten times her current monthly earnings, approaches her. Marjani also promises to make all her travel arrangements, and pay for her trip if Penda agrees to repay her, once she starts her new job in South Africa. Deciding that the extra income will benefit her family, Penda leaves her children in the care of her mother and begins her journey by bus in the company of Marjani. Penda has no passport, but Marjani assures her that she will not need one since she has friends at the border. They cross the border into Malawi without any problems, as Marjani had said. It is the only time Penda will knowingly cross a border on her trip to South Africa.

After traveling for one day, Marjani leaves Penda in the care of a truck driver whom she says will take her the rest of the way to South Africa. Penda is surprised to see the truck driver give Marjani a large role of bills since she expected that Marjani would have to pay him for Penda’s transportation. She does not ask any questions about the transaction, assuming it to be an unrelated business deal that Marjani has worked out on the side.

The truck driver is friendly, but asks that Penda travel in the truck’s closed rear compartment so as to avoid problems at the border. It is dark, hot, and very uncomfortable in the back of the truck, but Penda agrees since she has no passport, and can only rely on his advice and goodwill. That night, however, after a full day’s travel, he stops the truck on a lonely rural road, unlocks the rear compartment, and rapes her. Penda is then forced back into the truck, which is again locked behind her.

It is a long trip, and Penda’s journey in the rear compartment of the truck comes to an end in an empty field beside a wide river. There the truck driver is met by four men who give him a lot of money. Penda is taken across the river by the four men, and is told that she is now in South Africa. After waiting for a few hours under a tree, a 4X4 vehicle arrives, and Penda is ordered to get in the back of the vehicle. Five other young women are already seated there, but none of them are talking. All of them appear to have been beaten. Penda is afraid, no longer believing that she is to be given the
job she was promised, and when she refuses to get into the back of the 4 X 4, the men threaten her with a gun. Penda and the other women are taken to a private house in an urban area. Over a period of several weeks, the four men physically and sexually abuse the women, and they are not permitted to leave the premises. Penda is told that if she escapes, the police will put her in prison for being in South Africa without a passport, and that then she will never see her children again. She is also told that if she even tries to escape, her children will be located, captured and sold. Eventually, other men begin stopping by the house, and Penda is forced to have sex with them, for which her four captors are paid. Penda is eventually sold to a brothel, where she is forced into prostitution. The brothel owner takes her earnings.

One night, the brothel is the target of a police raid. Finding Penda without the proper documentation allowing her to be in South Africa, she is deported.

**Migrant smuggling:** The second Supplementary Protocol to the Convention on Transnational Organized Crime is the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereinafter called the Smuggling Protocol). The Smuggling Protocol is of importance from the perspective of migration and trafficking; it focuses on the smuggling of migrants, producing a fraudulent travel or identity document; procuring, providing or possessing such a document and other acts building on and profiting from irregular migration. According to the Smuggling Protocol, “smuggling of migrants” shall mean: “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident; and illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.

**Smuggling under Zambian Law:** Refer to the definition of smuggling in Part I of the Act. Note that this definition is a verbatim reproduction of the protocol’s definition. The Immigration and Deportation Act of Zambia does not define smuggling as such. However, Section 46 (4) reads: “Any person who knowingly facilitates the entry into, or the remaining in Zambia, of any person in contravention of this Act, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or imprisonment for a period not exceeding three years, or both.”

Note that there is no requirement of ‘benefit’ to the offender in contrast to the definition of smuggling under the Anti-Human Trafficking Act.

**Trafficking and Smuggling: Similarities & Differences**

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There are some similarities between smuggling of persons and cross-border trafficking in persons. Thus it is of utmost importance to clarify the similarities and, more importantly, the differences between these crimes.

Although both phenomena can involve criminal networks and transporting persons across borders, trafficking involves the continued exploitation of the victim. Once a migrant has been smuggled into a country of destination and has paid the required fee, his relationship with the smuggler comes to an end and the migrant enjoys relative freedom and is not exploited by the smuggler in the country of destination. In the case of cross-border trafficking, the relationship with the trafficker does not end upon crossing the border; instead the victim is subjected to continued exploitation.

Smuggling is therefore an offence against the state, while trafficking always constitutes a violation of the individual freedom of a person. However, it should be noted that smuggling could sometimes be a prelude to exploitation.

There are several important differences between trafficking and smuggling. These are:

- **Consent (agreement):** Migrant smuggling, while often undertaken in dangerous or difficult conditions, involves clients or migrants that have consented (or agreed) to be smuggled. Trafficking victims on the other hand, do not agree to be trafficked: they are either abducted by their traffickers or agree to travel with a trafficker only because they have been made false promises of jobs or opportunities that do not exist in the country of destination.

- **Exploitation:** Once a migrant has been smuggled into a country of destination and has paid the required fee, his relationship with the smuggler comes to an end, and the migrant enjoys relative freedom and is not exploited by the smuggler in the country of destination. Unlike a smuggled migrant, a trafficked person is forced to continue his/her relationship with their trafficker after they have reached the destination. In this relationship, she/he is controlled and exploited by the trafficker and may even be resold to other traffickers who will continue to exploit her/him.

- **How money is made:** Traffickers make their money by exploiting people (usually in prostitution or forced labour) in the country of destination, whereas migrant smugglers make money through charge of fees in exchange for helping people to cross borders irregularly.

- **Border crossing:** Human trafficking can take place both in country and across-borders. In other words, a person can be trafficked either within a country or to a foreign country for purposes of exploitation. Internal trafficking may in fact take place without the victim being moved at all. However, a person cannot be smuggled within a single country; smuggling always involves crossing international borders illegally. Additionally, trafficked persons may cross borders by either regular or irregular means.

**Overlapping cases:** After being smuggled across borders, irregular migrants may later be tricked or coerced into exploitative situations and thus become victims of human trafficking. It is often difficult for victim assistance workers to determine whether a situation is a case of smuggling or a case of trafficking, and migrants themselves might not be aware of the potential dangers. In order to overcome such problems of proving exploitation in trafficking cases, the Anti-Human Trafficking Act\(^ {94}\) (Section 21 (d)) provides that:

> It shall not be a defence to a charge for an offence under the Act to prove that the exploitation of the victim did not occur.

Furthermore, victims of trafficking often come to the attention of authorities not as victims, but as offenders, since they are forced to participate in various types of criminal activities (e.g. drug production, illegal labour, or prostitution). Authorities might initially find it difficult to distinguish between irregular migrants who have been smuggled, and victims who have been trafficked. Depending upon the jurisdiction and circumstances, protection and assistance services might be available to victims of trafficking. In Zambia, the identification and protection of victims is governed

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94 Section 21(d)
by the provisions of Parts III and IV of the Anti-Human Trafficking Act, which provide for a range of services to individuals who have been identified as victims of trafficking.

CASE STUDY 3d: Government expresses concern over Zambians aiding illegal immigrants (Lusaka Times, January 2010) (Referring to Activity 3c continued)

GOVERNMENT has expressed great concern over the increased cases of Zambians aiding prohibited immigrants to enter the country illegally through Nakonde border in Northern Province. Nakonde District Commissioner Edwin Sinyinza told Zambia News and Information Services [ZANIS] in Nakonde today that his office is concerned and worried with the trend.

Mr. Sinyinza said the increased cases of Zambian nationals being caught aiding prohibited immigrants to enter the country illegally were posing a serious security risk to the country.

He warned those aiding prohibited immigrants that they risk heavy punishment once arrested. The District Commissioner also called on the security officers in the border town to be patriotic and ensure that they do not allow prohibited immigrants to enter the country illegally, as they would destabilize the peace and harmony the country was currently enjoying.

Mr. Sinyinza was reacting to the arrest of 13 Somali nationals in the early hours of the morning who were intercepted at Nsansamwenje Basic school about 56 km from Nakonde border along the Great North Road. The 13 were en route to Lusaka aboard a Mitsubishi Carter registration number ACL 3411.

The driver was detained at Nakonde police station, together with the Somali nationals, to appear in court.

The named driver used Malawi road and connected into the Great North Road in order to avoid a police check point at Wulongo, but security officers working on a tip from members of the public waylaid the truck and intercepted it just as it was connecting into the Great North Road from Malawi road around 01:00 hours. A source from the immigration office said the driver of the truck failed to stop when ordered to do so, forcing other officers in the operation to fire warning shots in the air.

The source added that initial investigations have indicated that the Somali nationals had paid USD 200 each to be taken to Lusaka.

CASE STUDY 3e: Yolande (Referring to Activity 3c continued) - a 31-year old woman from the Democratic Republic of Congo (DRC).

A fruit seller in the city of Lubumbashi, she was approached by a businessman from a neighbouring country who introduced himself as George. George said he wanted to help her, and offered her a job in a clothing boutique in South Africa. Yolande was reluctant at first, but George was persistent, and seemed well off, so after several days Yolande agreed to accompany him to South Africa. George promised to ‘arrange everything’, and one Saturday they crossed the border together into Zambia in his private car. In Ndola, a city in the Copperbelt, George booked a hotel room where he and Yolande stayed for several days. During this time, they had sex.

After nearly a week in the hotel, George told Yolande that he had a few business matters to take care of and would be gone for several days, but that he would return soon to take her to South Africa. Several hours after George had left, a man knocked on the door of the hotel room and told Yolande that he was George’s friend and that George had said he could stay in the room until George returned. Since George had booked the room, Yolande didn’t feel that she could refuse, and the fact that the room had two beds in the room made her slightly more comfortable. That night the man asked Yolande to have sex with him, and when she refused, he raped her. The next day, another man arrived and also raped her. Over the next five days, Yolande was raped by at least ten different men. They didn’t seem to know each other very well, if at all, but Yolande was unable to escape because one of them was always in the room with her.

On the sixth day, the hotel manager knocked on the door, and told the man that was with her at the time, that George had only paid for three nights, and that if they wanted to keep the room, they would have to pay a deposit for the rest of the week. The man left the room shortly after this conversation, leaving Yolande alone for the first time. At first she thought he might be at the hotel reception paying the bill, but when he didn’t come back for three hours, she decided to leave.
Yolande never saw George again, but learned sometime later that he had four other women booked into other rooms in the same hotel. These women had all had similar experiences.

**CASE STUDY 3f: Lungowe (Referring to Activity 3c continued)**

Lungowe, aged 16, is a beautiful Zambian girl who stopped attending school in grade seven. She has a special talent of plaiting hair and most girls in the village go to her for their different hairstyles. Because of her beauty, most boys in the village who have approached Lungowe's family seeking her hand in marriage seek Lungowe. Lungowe's parents have turned down all the proposals, as they want a man from the city to marry their daughter.

Lungowe's aunt is based in Lusaka and she owns a hair salon. She travels to Kalabo to visit her sister, Lungowe's mum. Lungowe is presented with an opportunity to follow her aunt to the city and work in her salon with a monthly salary of ZMK500,000. The family is excited as Lungowe will be lodging with her aunt and will be able to save some of the money to send back home to her mother.

Lungowe's parents share their daughter's good news with neighbours. Lungowe's aunt promises her sister that on top of the job, she will enroll Lungowe into night school so that she can finish grade 12.

Lungowe could hardly sleep that night. She kept thinking about the good life in the city and the opportunity to continue her school. She asked God several times to bless her aunt for the noble gesture. Lungowe and her aunt set off early morning for Lusaka. On the way, her aunt gave her a lecture on how to carry herself in the city. She also told her that if she conducted herself well, she could hook up with the right people and live a very comfortable life.

By midday, Lungowe and her aunt arrived in Lusaka. They proceeded to Matero where her aunt lived. The house had three rooms alongside an outside room that operated as a salon and another outside room as a shabeen (bar). The next day, the Lungowe’s aunt went around the house showing Lungowe where she would be operating from. The first day was great for Lungowe. A few days later, as she was knocking off from the saloon to go home, one of the patrons of the shabeen (bar) noticed her beauty and commented to the aunt that he would give his whole salary if he could be allowed to date Lungowe. Lungowe’s aunt was excited at the offer of money and called on Lungowe to come and assist with serving. Lungowe’s aunt later told Lungowe to start entertaining the group of visitors who were sitting with that customer. Her aunt reminded Lungowe about the discussion that they had on the bus concerning mixing with the right people. Lungowe told her aunt that she could not do what was being requested of her, which annoyed her aunt. She ordered that as long as Lungowe was under her roof, she should sleep with whoever she is told or she would be dealt with severely.

Lungowe was denied meals every time she refused to attend to her auntie’s clients and she even stopped paying her school fees. Lungowe’s health started to deteriorate and she was denied access to medical care. She wanted to return home but had no means of doing this as her aunt had kept all the money she earned.

**CASE STUDY 3g: Kim (Referring to Activity 3c continued)**

Kim is a 24-year-old woman in prostitution in Bangkok, Thailand. Business was slowing down, and Kim assumes that it is because she is getting older, and the younger women in prostitution are stealing her clients. She hears rumours that a number of older Thai women in prostitution have been making a lot of money abroad, and when a local agent approaches her about working in South Africa, she readily agrees.

The agent is very helpful. He books and pays for Kim's USD 700 flight to Johannesburg, and arranges to have someone meet her at the airport upon arrival. When Kim voices concern about not speaking much English, the agent reassures her by telling her that many Thai women arrive in South Africa without speaking any English, but learn it quickly, and end up marrying wealthy men. Kim is pleased by this information. She knows that she will not be able to be a prostitute forever, and is looking for a way to secure her future. She agrees to reimburse the agent in the amount of USD 7,000 for his expenses and effort, and he assures her that she can earn enough money to repay him in a month’s time.

Kim travels to Johannesburg International Airport via Mauritius, and encounters no difficulties since she does not need a visa to enter South Africa: she can enter...
under a tourist visa. Kim was not aware that she would only be entitled to a single month’s stay, and wonders how she will be able to earn any money for herself if it will take a month to pay off the Thai agent. As had been arranged by the agent in Thailand, a man named Charles is waiting for Kim at the airport. He is South African. He doesn’t speak any Thai, but is nonetheless able to recognize Kim, and takes her to a private house in a wealthy area of Johannesburg where she rests after her long flight.

The next day, at around 10 a.m., Charles escorts Kim to an up-market brothel where she begins to work off her debt. The work is more or less what Kim expected. She works very long hours, often beginning at 10 a.m., and finishing at 5 a.m. or 6 a.m. the next morning, and occasionally, she travels with some other women in prostitution in some of the major cities in the country.

As her month in South Africa neared its conclusion, and with some of her initial debt still to be paid off, Kim decides to continue working in South Africa without a visa since she still has not earned any money for herself. To avoid potential problems with the police, Charles and the brothel owner make arrangements to have Kim marry one of her South African clients to enable her to stay in the country. A client agrees, and pays Charles USD 7,000 to marry Kim. The client is quite wealthy, and Kim is happy to marry him, believing that she will be able to stop being a prostitute. However, after the wedding, Kim learns that she must continue engaging in prostitution until she has paid off the USD 7,000 that her client/husband paid Charles.

Kim is nonetheless reasonably content with this new arrangement, since she has much greater control over her working hours, and she can take time off when she needs to. Her husband treats her reasonably well, and she has complete freedom of movement. In addition, she has her own bank account, and is able to save some money, even though she must still pay her husband a certain amount every month. Once the USD 7,000 debt is repaid, Kim will retire from prostitution and remain in South Africa.

3.7 The Special Case of Children

Activity 3d – Understanding Child Trafficking

Objective: Enable participants to identify the distinction between cases of child and adult trafficking.

Timeframe: 50 minutes

Facilitator:
- Divide participants into groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Ask participants to read Antonio’s case and answer the questions below.
- Reporters will present the findings of the groups.
- Give 25 minutes for group discussions.

Questions relating to Antonio’s case:
- Is this a case of trafficking as defined in Part I of the Act? Explain your answer.
- Look at the definition of ‘child labour’ and ‘practices similar to slavery’ in Part I of the Act and see if it alters your answer for question no. 1
- Who should be held legally responsible for Antonio’s condition? Consider each possible defendant and discuss which provisions under Part I of the Act apply.
- Refer to Sec 21 of the Act. How would you apply it in this case?
- What are the implications of Antonio’s age in your responses?

Facilitator: Conclude the discussion by pointing out the absence of ‘means’ in the Protocol’s definition of child trafficking and relating it to the issue of consent. Ensure that there is common understanding on the definition of a child and the related lack of capacity to give consent.

CASE STUDY 3h: Antonio
(Referring to Activity 3d)

Antonio is a 12-year old boy from a rural area in Mozambique. His mother, Justa, is a widow with six children to care for, and with drought affecting much of the region, finding food to feed them all is an
increasingly difficult task. As the eldest boy in the family, Antonio feels responsible for his siblings, and would like to help his mother feed them. Before the drought, he would occasionally do odd jobs for neighbours, but these days no one has anything with which to pay him.

One day, Justa met a man, Alfredo, who was looking for strong boys to work on farms in Zimbabwe. When Justa told Alfredo that she had a 12-year old son who was looking for work, Alfredo offered her the equivalent of USD 50 for Antonio’s services, promising that Antonio would be fed and accommodated at his place of employment. To Justa, the sum offered was a significant amount of money that would enable her to feed her other children for some time, and with the prospect of having someone else feeding her eldest son, and thereby having fewer stomachs to feed herself, she agreed to the deal.

Although Antonio was sad to leave his family, he was pleased to be able to help his family in this way and, together with Alfredo and four other boys, they hitchhiked for several days, often walking along the roadside, and occasionally riding in the backs of trucks. Antonio has no recollection of crossing a border, but eventually he and his travelling companions came to a farming area that had not been affected by drought. Alfredo led the boys along the edges of several large farms, occasionally negotiating with other men whom he found there. After receiving a sum equivalent to USD 80, he left Antonio with a man named Godfrey.

Godfrey supervised a large number of workers, and some of these were boys of Antonio’s age. He made sure that they all worked very hard in the fields, with the working day starting before the sun rose, and ending after it had set. They were given no payment for their work, but were fed two meals a day, one in the morning and one in the evening. At night, the boys all slept in a small room with a hard dirt floor, without mats or mattresses, although each was given a thin wool blanket. Antonio was usually hungry, cold and uncomfortable, and was frequently ill.

After many months, Antonio was very tired of the conditions in which he was living, and started to feel homesick. He had no idea how to return home to his family, but he decided to leave the farm anyway, telling no one of his intention to do so.

Shortly after leaving the farm one night, he was apprehended by the police.

3.7.1 Child Trafficking Explained

The Palermo Protocol defines a child as any person under the age of eighteen years, the Zambia Anti-Human Trafficking Act carries the same definition. (See Part I, Section 2, of the Act, definition of ‘child’).

Although several international instruments impose the obligation to fight child trafficking on states, the Protocol is the only one that actually defines the term. Prominent examples would be the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, both of which contain provisions on trafficking.

CHILDREN AS A SPECIAL CASE

The trafficking Protocol recognizes the special situation of children in sub paragraph c, which removes the need for means to be present for trafficking to occur. In other words, for children, it is not necessary that there be “treat, or use of force, or other forms of coercion, of abduction, or fraud, of deception…” for trafficking to occur. For example, if a parent arranges to have their child transported into a situation where they are forced to work (e.g. begging on the streets) this can be considered trafficking even if the child is a willing participant, and is returned after a period of time.

3.7.2 Child Work, Child Labour and Child Trafficking

Child Work: Consists of light work that is not dangerous and does not interfere with a child’s development.

Child labour: Involves hazardous work that places a child’s right to survival, protection or development at risk.

Child trafficking: The recruitment, transportation,
transfer, harbouring or receipt of any persons under 18 years of age for the purpose of exploitation.

### 3.7.3 Child Trafficking
**(forms of child exploitation)**

Child trafficking may be difficult to detect and may vary depending on the local context. Some forms of child trafficking that are believed to take place in Zambia include:

- **Labour exploitation:** Children may be trafficked for the purpose of labour, usually forced labour, related to forms of employment or unpaid work that violate child rights. Some sectors in which trafficked children may be found include: farming, fishing, domestic servitude, and mining;

- **Sexual exploitation:** Child victims of trafficking for sexual exploitation often suffer extreme physical, sexual and psychological violence and abuse by traffickers, pimps and customers. Sexually exploited children are also at risk for HIV and STI infection. While trafficking for sexual exploitation predominantly affects females, male trafficking for the purpose of prostitution, particularly of teenage and younger boys, is increasing and should not be excluded;

- **Forced marriage:** This form of trafficking is most relevant to girls. It may take place for economic reasons (from poor families) or as a result of matrimonial matchmaking by families between prospective spouses under the cultures of certain ethnic groups. In some areas, there is a growing demand for young virgin brides, particularly in places with a high HIV infection rate.

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98 IOM Counter-Trafficking Training Modules Children p 18-20
CHAPTER 4
IDENTIFICATION OF VICTIMS

4.1 Introduction to Chapter

The chapter addresses the principles of identifying and interviewing victims of trafficking, as well as approaches to ensuring they are appropriately protected. Victims of trafficking (VoTs) have immediate and acute physical, sexual and psychological health needs, which need to be addressed at the earliest opportunity. The fundamental aim of victim identification is to ensure that appropriate measures can be taken to assist a victim. However, victim identification can also aid the effective investigation and prosecution of traffickers.99

Objectives:
- Appreciating the importance of victim identification and basic principles involved in the treatment of victims;
- Identifying major indicators used in the identification of victims of human trafficking;
- Understanding the process of interviewing victims of trafficking.

Expected Outcomes:
- Participants will have the skills to identify victims of trafficking and at the end of the module:
  - Understand why it is important to accurately identify victims;
  - Recognise the basic principles and procedures involved in victim identification and protection;
  - Be able to identify the major indicators used in the identification of victims.
  - Gain knowledge about the process and techniques of interviewing victims of trafficking.
  - Familiarise themselves with the provisions of Part III of the Zambia Anti-Human Trafficking Act (No 11 of 2008), as relevant to identification and treatment of victims of trafficking.

Resources: Cases and questions in this Toolkit, flip chart, marker, Part III of the Anti-Human Trafficking Act no. 11 of 2008

Time frame: 5 hours 30 minutes in total estimated.

Key references:
- The Anti-Human Trafficking Act (No 11 of 2008), Government of Zambia, 2008;
- IOM Counter-Trafficking Training Modules Victim Identification & Interviewing Techniques, 2006;
- The IOM Handbook on Direct Assistance for Victims of Trafficking, 2007;
- Anti-Trafficking Training for Frontline Law Enforcement Officers Training Guide, ICMPD, 2006;

4.2 The Importance of Victim Identification100

Trafficking in human beings constitutes a serious infringement of a person's integrity and human rights. Identifying trafficked persons is vital to ensure that they are granted access to protection and support services. If a victim is not identified as such, he/she might be treated as an irregular migrant or left without resources, protection or appropriate support in order to recover from the trafficking ordeal. This is to the detriment of both, the trafficked victim and the

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99 IOM Counter-Trafficking Training Modules Victims Identification & Interviewing Techniques p15.

100 IOM Counter-Trafficking Training Modules Victims Identification & Interviewing Techniques p15.
trafficking investigation. Without access to protection and support services, trafficked persons might not have sufficient confidence and security to co-operate with law enforcement officials in their criminal investigations. Without evidence and testimony from trafficked persons, it is difficult to prosecute traffickers.

**Assistance to victims of trafficking can be an effective way to fight organized crime** *

Persons trafficked across borders are exposed to a wide range of detailed information as they are moved from source to destination countries, including: the names, home addresses, and telephone numbers of those involved in the trafficking operation; vehicles and communication methods used, and the addresses of safe houses or other premises where exploitation occurs; and the names, physical descriptions and locations of other victims still being exploited. They may also be aware of methods of laundering money, and the locations of liquid and other assets. Therefore, a strategy that immediately deports trafficked persons seems the logical equivalent of disposing of both the drugs and the police agent’s testimony in a drug bust.

While a victim may agree to provide some intelligence to police to avoid deportation, they may be reluctant to reveal details that will compromise their identity or location if they are not convinced of the State’s ability to protect them. IOM recommends that trafficked persons be provided with both medical assistance and psychosocial counselling, in addition to a secure environment, to help them come to terms with their experiences. Those who are able to cope with the trauma they have suffered will be in a better position to assist in providing information on organized criminal networks, and have a better long-term chance of recovery.

While it would seem clear that trafficking victims should be encouraged to cooperate with police investigations into the activities of organized criminal networks, and that offers of temporary residence are useful tools with which to encourage cooperation, trafficked persons will be less able and effective if they continue to feel threatened, and if they remain severely traumatized by their experiences. Any exchange of temporary residence for intelligence, therefore, should contemplate additional measures such as shelter support, medical assistance and extensive psychosocial counselling. With such assistance, victims of trafficking will not only have a chance at long-term recovery, but will also be able to offer invaluable intelligence to investigations and prosecutions.

*Based on the IOM Counter-Trafficking Handbook for Law Enforcement Officers in Southern Africa, Chapter 4 (2006).*
4.3 Guiding Principles in the Treatment of Victims

The primary guiding principle in the treatment of victims is “do no harm”. Subsidiary to this principle, service providers should be cognisant of the following approaches and issues in their interactions with victims of trafficking. 101

Human rights approach: Trafficking in human beings is a grave violation of human rights, one that deprives and demolishes the dignity of the trafficked person. Therefore, it is critical that response systems are rights-based and human rights oriented. Those who interact with the victims should be empathetic and should understand the concerns from the victim’s perspective. Decision-making about the victim should emanate from and be based on the ‘best interest of the victim’. Victims have a right to be protected, consulted and informed of all actions being taken on their behalf.

Victims of a Crime

One must always remember that victims of trafficking are victims of a crime; they are not criminals themselves.

Note that, the Anti-Human Trafficking Act Section 24 provides that:

The decision as to whether criminal proceedings should be instituted against a victim for an offence committed as a direct result of the victim’s situation shall rest with the Director of Public Prosecutions.

Victim-centered approach: Any action initiated by the service providing agencies should ensure that the victim is the pivotal/focal point. This requires that the victim of trafficking is:

- Not treated as an offender;
- Not ‘re-victimised’;
- Not branded ‘as a soliciting person’;
- Not arrested;
- Not stigmatised;
- Extended all help and assistance as a matter of right.

Multi-disciplinary approach: A comprehensive knowledge of trafficking requires it to be understood from a process-centric perspective. The offense of human trafficking is best understood as a collection of crimes bundled together rather than a single culpable act, a criminal process rather than a criminal event that may involve multiple offenders. Accordingly, the response to trafficking requires simultaneous attention by various agencies mandated to carry out different tasks, viz. police agencies, social services, prosecutors, counsellors, NGOs, etc. all of whom perform several functions in the process of combating human trafficking.

In Zambia, response to trafficking is supported by the Ministry of Community Development and Social Services (in particular the Department of Social

Welfare) and National Secretariat on Human Trafficking (under the Home Affairs Research and Information Department), which are two government entities that have an active role in addressing human trafficking in Zambia. Their mandates allow for coordination amongst various stakeholders in order to ensure that the various needs of victims, including but not limited to, shelter, psychosocial counselling, medical/physical care and legal assistance are met.

The Ministry of Community Development and Social Services (MCDSS) in Zambia has a wide mandate but in terms of combating human trafficking, it:

- Provides care and support to victims of trafficking, in collaboration with partners;
- Provides basic services and ensures that the human rights of victims are upheld, in collaboration with partners;

Moreover, under the Anti-Human Trafficking Act No. 11 of 2008, the MCDSS:

- Shall establish and operate centres for victims of trafficking and ensure the provision of counselling, rehabilitation and in collaboration with the Ministry of Education shall provide educational services; and
- Shall trace family members of victims in collaboration with the Zambia Police Service.

The National Secretariat on Human Trafficking, under the Home Affairs Research and Information Department in Zambia has the following mandate:

- To work with ministries and other stakeholders to design and implement counter-trafficking and victim assistance programmes and strategies, and to coordinate, monitor and evaluate the implementation of those measures;
- To work with local stakeholders to establish inter-sectoral coordinating committees on trafficking at the regional and/or district level, and/or to integrate trafficking-related concerns and strategies into existing community-based coordinating structures;
- To monitor the treatment, referral, care, legal status, and repatriation of identified victims of trafficking in Zambia, including internally-trafficked Zambians, non-Zambians, and Zambians who have returned or are still in other countries, to ensure that victims receive treatment and assistance consistent with the National Policy and implementing guidelines and protocols;
- To develop and maintain a national data base to support effective monitoring and evaluation; and
- To compile and disseminate data, informational resources, and research findings on human trafficking.

4.4 Special Considerations

Gender Considerations: Though the victim could be any person, research shows that the majority of trafficked victims, particularly those trafficked into commercial sexual exploitation, are females. An inadequate response to the trafficked victim by various agencies further exacerbates gender discrimination and gender violations that already exist in society. Hence, gender sensitivity is an essential requirement in addressing human trafficking. The procedures and steps undertaken by the responders should conform to gender rights.

Child Rights Considerations: Research has shown that there is a high demand for children for purposes of exploitation. Being more vulnerable, children are subjected to extreme violations during and after trafficking, and an improper response aggravates the harms already inflicted on them. Therefore, the response to trafficking has to be specifically oriented to child rights.

The following principles should be considered when providing assistance to children:

- The decisions taken are in the best interest of the child;
- The child should be given the opportunity to express their views in all cases;
- A guardian will need to be appointed to take decisions on the child’s welfare. The Anti-Human Trafficking Act prescribes that a child victim of trafficking should be referred to a designated social worker for the investigation; and, a child

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103 IOM (2006) IOM Counter-Trafficking Training Modules Children, p. 41
who is a victim may be placed in temporary safe care, pending an investigation (refer to Part III, Section 25 (b) (i) and 31 (1), of the Act). The Convention on the rights of the Child states that: “State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”;

- Every effort should be made to locate the child’s place of origin and family, although due consideration should be given to the fact that the child’s legal guardian may be complicit in the trafficking process;
- Special considerations are given to the rights of child victims of trafficking regarding repatriation and their right to remain in Zambia (Part III, Sections 31-39, of the Act);

Cultural, religious and linguistic considerations: All victims of trafficking should be treated with equal respect, regardless of their cultural, social or religious background. Victims of trafficking may originate from various parts of the country or region, or indeed from anywhere in the world. It is essential to be aware of cross-cultural and religious differences when responding to victims’ needs. One of the key challenges in providing assistance to victims of trafficking is linguistic difference. Victims of trafficking may not be able to speak the language that is common to the country in which they are to be assisted; indeed traffickers often ensure that this is the case as a mode of controlling the victim. With this in mind, information materials, consent forms and services should be provided to the VOT in a language that they can understand. This will often require the services of a translator. As with all service providers, it is essential that any translators that come into contact with the victim of trafficking can be trusted and are bound by a confidentiality agreement. It may be best to work through formalized structures such as embassies, courts, which frequently use translation services that have been verified. As service provider you are assuring the VOT that they can trust you; their trust has already been severely broken thought the trafficking process. The same assurances must be made for translators. Translators must understand that they are not there to answer for the VOT, but to directly translate, verbatim.

Organised Crime: Trafficking is often an organised crime extending beyond national and state boundaries. It is multidimensional because:

- It involves the elements of several crimes, like selling, buying, sexual abuse and exploitation, criminal confinement, abduction;

Guidelines for Assistance to Child VOTs
The following basic guidelines should be borne in mind in addressing the needs of child victims of trafficking:

- Where the age of the victim is uncertain and there are reasons to believe that the victim is a child, service providers should act assuming that the victim is a child. Pending verification of the age, the victim should be treated in accordance with the special protection measures for child victims.

In particular:

- Upon identification of a child victim, or when there is presumption that the victim is a child, service providers should immediately organize the transfer of the child victim to a safe location/shelter for accommodation;
- Age assessment should be done according to national requirements, but always in a sensitive way;
- Following identification of the child victim, guardianship services have to be contacted in order to appoint a guardian;
- In the meantime, the privacy and confidentiality of the child has to be ensured;
- Child victims are entitled to receive immediate care and protection including security, food, and accommodation in a safe place, access to health care, psychosocial support, legal assistance;
- Child victims, who are not nationals/residents of the country in which they find themselves, are as a general principle entitled to return to their country of origin;
- Child victims shall not be returned to their country of origin if, following a risk and security assessment, there are reasons to believe that the child’s safety or that of their family is in danger.
• The scenes of crime extend from the Source area through the Transit area to the Destination area;
• It entails multiple abuses and abusers, who are often networked and organized;
• It is a ‘continuing offence’, starting with recruitment/procurement and continues until the victim is rescued; and,
• By ‘trading’ in human beings, offenders make ‘profits’ at various levels of their activity.

**Demand for Cheap Labour:** Trafficking clearly generates a flow of profits, not only for the agents who provide transportation or cross-border movement of people, but also for the employers who exploit forced labourers in the place of destination. The exploitation of trafficked persons often takes place in any of the these three; (a) forms of economic activity that are either illegal or informal, (b) poorly regulated or unregulated economic sectors in which it is difficult to enforce regulatory controls and where profit margins are deemed extremely low, (c) settings that are beyond labour regulation, for instance private households. As such demand should be understood as that of cheap and flexible labour driven by employers.

Employers, in almost all cases provide goods or services and are in the position to demand cheap labour. For instance the high demand for cheap labour in cocoa fields has led to trafficking of children and adults into Ivory Coast from its surrounding neighbours (this has been occurring since mid-1990s).

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**4.5 Victim Identification**

**CASE STUDY 4a: Kim (Referring to Activity 4b)**

Kim was referred to your office by an NGO. She is twenty-two years old and has recently run-away from one of the local brothels. The NGO informed you that she does not have any identity documentation. In fact, they were unable to communicate with her as she did not speak any of the local languages. You can see bruises on her face and she looks tired.

**CASE STUDY 4b: Dan (Referring to Activity 4b)**

The NGO has also referred another individual to you; Dan. Dan looks about thirty-five years old and communicates well. He was found unconscious near a border town by local residents and was taken to a hospital. He says he was travelling as part of a group led by an individual known to the police for his previous criminal records. Dan has a passport but no visa allowing him to enter the country. He looks very nervous and apprehensive. He says he was robbed by a gang of youths who took away the money he was carrying.

**4.5.1 Initial Indicators Explained**

Indicators are facts or signs that suggest a case might be one of human trafficking. They can be uncovered through understanding events associated with the criminal activity, statements from the victim or signs of harm that are associated with trafficking. There are many indicators of trafficking. Some are obvious, visible signs expressed or displayed by the victim. For example, the victim might openly express the belief that they have been working against their will or act in a manner of distrust towards the authorities. Other indicators are less obvious and might not reveal themselves until a later stage in the investigation. Every trafficking situation is different and therefore the indicators also differ. Some cases of trafficking are clear from the visible signs that the victim displays. Others might present circumstances that cause service providers to feel uncertainty or question whether the victim has experienced a situation of trafficking.

Initial identification of indicators is important, to determine if a victim has been trafficked or if the

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105 Trafficking – a demand led problem: A multi country study, Save the Children Stockholm: Bridget Anderson, Julia O’Connell Davidson2002 p.23

106 The Vienna Forum to fight Human Trafficking 13-17 February, Austria Background Paper, ILO (International Labour Office) Geneva 2008 p.2


service provider suspects circumstances of human trafficking. The presence or absence of initial indicators should not mean that trafficking has been established or discounted.

It should be noted that the indicators listed below are intended to assist in the overall assessment process, are generalizations, and that exceptions exist in relation to all of them. Local circumstances and experience may indicate the need for additional indicators or adaptation of the indicators. Service providers should adapt and expand the process accordingly. All indicators should be considered cumulatively as none will provide the answer on its own.

The following initial indicators should accordingly be taken into consideration:

**Age:** The older the individual is, generally, the less likely it is that the case involves trafficking. Sexual exploitation is still the principal purpose for trafficking, and traffickers will not normally traffic victims of middle age or older, as there are little client demand for them. The same general rule can be applied in respect of labour exploitation because the older the person is the less productive they may be in conditions of arduous labour. Conversely, the younger the individual is, the more likely it is that the case involves trafficking. The number of minors drawn into the crime increases year by year and minors are particularly vulnerable because they can be exploited in a variety of ways: in the sex industry, illegal labour markets, as domestic ‘slaves’ and for their organs.

**Sex:** Sex trafficking predominantly affects women and girls because heterosexual prostitution remains the largest and most profitable form of exploitation. Male trafficking for the purposes of prostitution, particularly of teenage and younger boys, is beginning to increase and should not be excluded. Whether a person is male or female is not so strong an indicator in respect of trafficking for labour exploitation, servitude or organ donation, as both sexes appear to be equally susceptible to these forms of trafficking.

**Ethnicity/nationality:** The supply chain of victims relies on exploitation of a combination of factors including poverty, discrimination and lack of opportunity and it is less likely that a genuine victim will originate from a wealthy industrialised country. However, it is possible that specific ethnic minorities may be vulnerable/targeted for trafficking. ‘Pull’ factors play important role in local and regional patterns, i.e. rural to city – the “bright lights” syndrome.

**Documentation:** Depending on regional and geographical circumstances, identity and travel documentation is often seized from victims of trafficking as part of the control mechanisms of the traffickers and genuine victims will not normally be in possession of them, although exactly the same observation could be accurately made in respect of the majority of asylum seekers and in some cases, smuggled migrants.

**Last location:** The location where the victim was immediately prior to coming to the notice of service providers.

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**Activity 4b – Initial Indicators**

**Objective:** To identify initial indicators used in the identification of possible victims of human trafficking

**Timeframe:** 50 minutes.

**Facilitator:**

- Ask participants to state the various circumstances under which service providers might come across victims of trafficking.
- List responses on the flip chart.
- Discuss points that may be left out.
- State that the next exercise relates to the following questions
- How can we tell if a person might be a victim of trafficking?
- What face value clues or indicators may be used in determining whether a person might be trafficked?
- Ask the participants to look at the scenarios below and answer the question below.
- Give seven minutes for reading.
- Conduct a plenary discussion on responses.
- List responses on the flip chart and briefly discuss each identified initial indicator. Give additional input on initial indicators that might have been left out in the responses.

**Question:**

Which of the two individuals strikes you, at first sight, as more likely to have been trafficked? Explain why.
providers will always be significant; a brothel, call-girl agency or lap dancing club, place of labour exploitation such as ‘sweatshops’, restaurant kitchens or agricultural sites will all be indicators of exploitation.

**Context/ circumstances:** The circumstances leading up to the referral will always be a key indicator and as much information as possible should be obtained from the referee; circumstances such as removal from brothels by ‘client rescue’; identification and rescue by an NGO will simplify the screening process.

**Signs/ evidence of abuse:** Any signs of physical injury to the individual can be a positive indicator of trafficking; victims are subjected to abuse by their traffickers and clients, which is generally not a factor in smuggling cases. Key to any decisions in this regard, is the issue of continuation of abuse after arrival at the designated location.

**Assessment of a referring agency:** In cases where the victim is brought to the attention of service providers by a referring agency, such as an NGO, the opinion of the referring professionals working in this area will always be relevant to the screening process and should be included in the overall assessment.

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### Activity 4c – Beyond Initial Indicators

**Objective:** To determine major indicators used in the identification of victims of human trafficking under the Act  
**Timeframe:** 60 minutes.

**Facilitator:**
- Divide participants into groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Ask them to look at the case below and answer the questions that follow
- Explain that participants should make use of Part III of the Act to support their answers to the questions 4.5 a-d.
- Give twenty-five minutes for the group work.
- Hear reports from each group and use the opportunity to discuss relevant parts of Part III of the Act.
- Afterwards, conclude by highlighting the guiding principles in the identification of victims under Part III of the Act.

**Questions:**

(a) Using the provisions of Sec 22 of the Act, determine whether Precious might be a genuine victim of trafficking. Explain which principles under that section helped you to reach your decision.

(b) As a service provider, what are you expected to do at this stage? Base your response on the provisions of Sections 25 and 26 of the Act, under Part III.

(c) Were the night-duty patrol officers correct in seeking the help of the NGO, WADA? Why?

(d) Working in your group, formulate questions under each of the following categories for a detailed interview questionnaire to be used in interviewing Precious to determine whether she has been trafficked: **Act – Means - Purpose**
CASE STUDY 4c: Precious Busang - Phase 1\(^{109}\) (Referring to Activity 4c)

Wednesday, 20\(^{th}\) October 2009 – 04:00hours

Two uniformed police officers are on foot patrol in Impala Road, a residential street in Kabulonga, one of the most expensive suburbs of Lusaka, the capital city of Zambia, when they see a partially clothed female running towards them, calling for help. They stop the female and can see that she is a teenager and in a deeply distressed state. She tells them that her name is Precious and begs the officers to help her and to get her to a place of safety. The officers try to obtain more details from her, but it is obvious that she is too distressed and frightened at that location to provide any more detail to them. The officers then call for transport and take Precious to the local police station where they give her a blanket with which to cover herself.

After a while, Precious calms down sufficiently to give the two officers some details of her situation. Although Esanian and Nyanja are two distinct languages, there are sufficient similarities to enable the officers to understand Precious who speaks Esanian. Between bouts of weeping, she gave them the following account:

Her full name is Precious BUSANG and she is a 17-year-old girl from Esania, a neighbouring country to Zambia. She has been in Lusaka for about two weeks and had come here believing that she was on her way to Ayham, the capital city of Jamāhīriyya Arab Republic, to fulfill an employment contract as a trainee nurse, but she had been deceived and forced into prostitution in a large house near where the officers had found her.

When asked for more information, Precious stated that she had accepted an offer to work in Ayham from a woman with an employment agency in Laboville, the capital city of Esania where she lived with her mother. She had come to Lusaka because the woman had told her that she had to, in order to get her contract and travel documents and because she could fly to Ayham from Lusaka as it was not possible to fly directly from Laboville.

She went on to say that when she arrived, the woman took her to a large house where she met a man named Amir Ahmed, who was the ‘boss man.’ Amir Ahmed had told her that she already owed the agency a lot of money because of fees incurred from the arrangements that had been made for her and that she would have to pay some of it back before she could go to Ayham. When Precious explained that she had no money but that it had been agreed that she could repay the fees from her salary in Ayham, he had said that this was not good enough and that some money would have to be repaid first. He had then forced her to become a prostitute and to entertain men at the house.

Precious was so ashamed of what she had done, but she was very scared of Amir Ahmed who had told her that she would be locked up for being illegally in Zambia and engaging in prostitution if she did not do as he said. He had also threatened to tell her mother that she was a prostitute and Precious could not risk that because such knowledge would be ‘the end’ of her mother who was in very poor health.

The officers reassured Precious that she was now safe. When asked for more details, Precious seemed reluctant to say anymore, stating that she was scared that her mother would find out what she had done. When pressed, she told the officers that the house was located right on the corner of Mwatupeza Road and Ash Road, it was the large white house with double blue front doors. She said a man called Amir Ahmed, who was helped by a woman called Dorothy, ran the place. Precious said that there were three other girls in the house who had been there longer than her, who were forced into prostitution. As far as she could tell, they were all a bit older than her and they all seemed scared of Amir Ahmed.

When asked how and why she had managed to escape, Precious told the officers that she had jumped out onto the lawn from the first floor window whilst everyone was downstairs. She had decided to escape because Amir Ahmed had told her that Lottie (the woman who from the employment agency) was returning to Lusaka the following week to take her and the other girls up to Ayham on the Tuesday evening flight and Precious was terrified that she would end up as a prostitute for the rest of her life if she went to Ayham, so she had decided to escape. She had discussed her plan to escape with the other three girls but they had decided against it

\(^{109}\) The Case of Precious Busang is an extended, fictitious case study used for chapters 4 and 5 and is adapted from material produced by Paul Holmes for IOM South Africa, 2004.
because they were too scared of the consequences. They were prepared to take their chances in Ayham because they hoped that conditions would improve once they got there. She was now terrified that Amir Ahmed would tell her mother what she had done as a punishment.

Precious was clearly distressed and fearful of her mother knowing the truth of what had happened. She wanted to co-operate with the police because she was so angry towards Amir Ahmed, Dorothy and the woman in Laboville who had clearly deceived her and forced her to become a prostitute against her will, but she was too scared of the consequences if she did tell her whole story.

The officers sought the assistance of the staff of a local NGO called WADA (Women Against Domestic Abuse) who came to the police station and arranged for Precious to be temporarily accommodated in their refuge, until later that day when specialist investigators would be available to talk to her and to decide what to do in her case.

The two night-duty patrol officers typed up the above outline for use by day duty specialist investigators.

### 4.5.2 Corroboration of Indicators

If indicators have been identified, the next stage is to find out if there is other information that supports the indicators. Corroborating indicators can help to reveal the nature of the trafficking case and provide information in order to make decisions on what action to take next. Once again, corroborating indicators are different in each case given that each one involves a unique set of indicators.

Corroborating the initial indicators can be achieved by a number of methods, including asking the victim additional questions and examining documents (for example, travel documents to verify identity, age, dates of entry and exit; medical records if available; transport tickets). Following enquiries a decision on further action should be made. The course of action depends on the nature and circumstances of the particular trafficking case and the well-being of the trafficked victim.

### 4.5.3 Specific Identification Questions

The questions and comments set out below are best practice interview questions— the responses and the pre-assessment indicators should be jointly considered before coming to a decision.

1. **How was contact initiated between the individual and the recruiter?**
   Was contact initiated by the trafficker through personal contact, family or a friend’s network or via job advertisements or proposed employment opportunities? In regional cross-border trafficking, most frequently direct contact is made with the victim or the victim’s family (minors/children). Labour migration often presents traffickers with an opportunity to exploit the movement of the individual in pursuit of employment to their advantage. Mass media is often utilized in the identification process of victims for sexual exploitation and transnational transfers, for example, by responding to an advertisement for foreign employment.

2. **What kind of job was promised or expected, either at another location in the home country, or abroad?**
   What were the wages and conditions promised at the final destination?
   Trafficking cases generally involve some degree of deception on the part of the trafficker. This may be total deception as to the nature of the employment or partial deception where the victim knows in advance that the purpose of the journey is to engage in prostitution or some form of labour but is deceived as to, for example, the working conditions and level of payment.

3. **Was any money handed to the recruiter in advance?**
   The financial arrangements are important; trafficking crime usually operates on a basis of some form of debt bondage whereby the victim incurs debts to the recruiter that are to be paid off after arrival in the country of destination. Trafficked victims are generally impoverished and rarely have the financial

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110 This section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13-15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking P. 3-4

111 Taken with adaptations from the IOM (2007) IOM Counter-Trafficking Training Modules Victim Identification & Interviewing Techniques p43-45
means to fund their own travel arrangements and confirmation of this fact is a strong trafficking indicator.

4. Was the individual transported by force out of the country of origin to be exploited? Increasing numbers of trafficked victims are abducted and this will always be a strong indicator of trafficking crime – forcible removal rarely occurs in smuggling cases.

5. Who paid the travel expenses? As the majority of victims come from poor or impoverished environments, traffickers will often pay for their travel. This places victims in their debt, which acts as a control mechanism, and is a strong indicator of trafficking. Cases of smuggling in which the smuggler pays the cost upfront which places the victim in a situation which facilitates exploitation may in fact be disguised as a case of smuggling in which the victim ends up in debt bondage at the point of destination and a victim of exploitation, thus comprising trafficking.

6. Were any borders crossed and, if so, were they crossed clandestinely or openly? If openly, were the documents used to gain entry the trafficking victims’ own identity documents or false ones, or were false visa entitlements used? Trafficking victims cross borders clandestinely or legitimately, on foot, or in vehicles, using legitimate or forged documents. Transport procedures relate to context and location. Local and regional entry can be more easily achieved by covert means; distant locations may call for more overt means and the production of documentation when crossing borders. Traffickers prefer to move victims openly using their own documents or good-quality forged identity documents because they can exploit the victims more efficiently if they can move them freely about in the country of destination, rather than have to keep the victims hidden from public view as clandestine entrants. In addition, in cases of trafficking recruitment achieved through deception, it is important for the traffickers to maintain the appearance of legality by using the victim’s own documents; to do otherwise risks triggering suspicion on the part of a deceived victim.

7. Who has the documents now? Trafficked victims will not normally be allowed to retain their own documents as they may use them to escape. Seizure of documents is a key method of control used by traffickers to control their victims. New trends in trafficking procedures allow victims to keep their documentation, but they are threatened in other ways; the assumption being that victims are now working freely/legally.

8. Did the victim spend any significant amount of time in transit in third countries and, if so, did she/he engage in any activity in these countries? What type of activity was involved? Victims of cross border trafficking are not always transported directly to the country of destination. The process can be spread over a period of time and victims may be coerced into exploitative activities in different locations.

9. What activity has the individual been engaged in since arriving at the final destination? Exploitation for financial gain after the entry into the country of destination is the sole purpose of human trafficking and activities such as prostitution or illegal labour are clear indicators of the crime. These characteristics are also applicable in respect to internal trafficking.

10. How soon after arrival at the final destination did this activity begin? The chronology is a key indicator; in genuine trafficking cases, the exploitation phase will generally begin immediately or very soon after arrival because the trafficker wants to earn profits from the victim as soon as possible. If there is a significant time gap between arrival and the beginning of the exploitative purpose, it is more likely to indicate a case of simply illegal entry - followed subsequently by a decision to engage in exploitative work. For example, a female may enter a country as an illegal entrant, either independently or by advance payment to a smuggling network and then later decide to become a prostitute to clear debt or simply to make money.

11. Was the person coerced into engaging in any activity? If so, how? Any coercive relationship is central to the trafficking crime. The extent of coercion is related to the activity the victim is expected to be engaged in. In abduction, the victim is coerced from the outset and in deceptive recruitment the victim is coerced from the point that the deception is revealed. Coercion can take a variety of forms; for example, threat or use of physical, sexual or psychological violence against the victim or the victim’s family, social or linguistic isolation, creation of fear of exposure, stigmatization and/or rejection, mistrust for authorities and deprivation of free will and dignity. Traffickers may create dependence through physical (drugs or alcohol) or psychological dependence, or even through limited access to food and water.
12. How much money has the individual earned through this activity? The amount earned will vary according to the activities the victims are involved in. Prostitution can potentially earn many times more than manual labour. Often the victim never sees this income as it is appropriated by the traffickers, who sometimes make promises of payment at a future date.

13. Was the individual allowed to keep the earnings? In the majority of cases, the trafficker takes possession of all of the money earned from the exploitative practices and may provide the victim with a small amount for simple living expenses. Smuggled migrants earn money after they have illegally crossed the border and they normally maintain control of it, whether they spend it locally or remit it back to their family in the country of origin. Trafficked victims generally do not enjoy this level of control. However, in cases where the victim appears to be sending money home to a family member at regular intervals, it may still constitute a trafficking case because traffickers are known to establish bogus bank accounts in the name of a family member in order to facilitate the laundering of the profits.

14. Was the alleged victim made to repay a debt by the traffickers and their accomplices? If so, how much? And what for? Debt bondage is a common feature of trafficking. Debts are created in return for provision of documents, visa entitlements, travel costs, accommodation and other expenses. Debts are compounded and this results in amounts that are almost impossible to pay off.

15. What were the working conditions? The more inhumane and restrictive the working conditions, the greater the likelihood that the case is one of trafficking.

Continuous control of the victim in conditions of extreme exploitation is a central feature of the modus operandi of traffickers.

16. What degree of freedom of choice and movement did the individual have? Trafficked victims will be given little or no freedom of choice in the nature of the work or services that they are required to provide. Why did the individual not escape sooner? Continuous exploitation is achieved through continuous coercion. To put it simply, the working conditions and exploitation are such that any rational human being would escape from them, if they could, at the first opportunity. The reason that trafficked victims rarely escape is that they are prevented from doing so by a range of coercive methods such as the use or threat of violence to themselves or their loved ones at home; social and linguistic isolation; fear of exposure and being stigmatized as a prostitute; fear and lack of trust of the police. The existence of any of these characteristics is likely to indicate that the case is one of trafficking.

At the point of the identification stage, any identified victim should be referred to protection or support services including safe housing, medical, psychological and legal assistance and other welfare benefits. If a victim is identified, a period of reflection should be offered to her/him, regardless of her/his immigration status. A reflection period allows the victim to remain in the destination or transit country to recover from their trafficking ordeal and to make an informed decision on whether or not she/he wishes to cooperate with law enforcement officials in their investigations.
The Zambian Anti-Human Trafficking Act:
Guiding Principles for Identifying Victims of Trafficking
(Part III, Section 22)

Part III, Section 22, of the Anti-Human Trafficking Act provides guiding principles when deciding whether a person is a victim of trafficking. The provisions are as follows:

(a) Whether the person is in an exploitative situation through one or more of the following means:
   i. Violence, force, coercion, intimidation or threats;
   ii. Threats of violence against the person’s family members or friends;
   iii. Threats of witchcraft to prevent the person from escaping or to keep control over that person;
   iv. Forcing the person to use drugs or causing the person to be addicted to drugs as a means of controlling that person or to make the person dependent on traffickers;
   v. Photographing or videotaping the person which participating in sexual activities or other illegal activities for the purpose of threatening that person with exposure to friends, family members or the authorities if that person fails to submit to the demands of the traffickers;
   vi. Forcing the person to witness the beating, rape or murder of another person as a demonstration of what will happen to the person if the person fails to obey the traffickers; or,
   vii. Threatening the person with arrest by the police for being illegally in the country or for offences committed by the person as a direct result of the person’s situation as a victim.

(b) Whether the movement of the person is restricted through one or more of the following means:
   i. Keeping the person under surveillance when taken to a doctor, hospital or clinic for treatment;
   ii. Not allowing the person working at a brothel or similar establishment in Zambia or elsewhere to leave the premises unless accompanied by the traffickers or the trafficker’s associates;
   iii. Transporting the person between the person’s place of employment and living quarters under the surveillance of a guard; or,
   iv. Keeping the person behind closed doors, under guard or electronic surveillance;

(c) Whether the person suffers from one or more of the following health conditions:
   i. Signs of rape or other forms of sexual exploitation;
   ii. Emotional distress or psychological manifestations of trauma such as depression, anxiety, post-traumatic stress and self-inflicted injuries;
   iii. Bruises, burns, broken bones or other signs of physical abuse;
   iv. Forced abortions;
   v. Untreated illness or infections; or
   vi. Malnutrition and poor personal hygiene.

(d) Whether the passport, identity document or other travel document of the person has been destroyed by or is in the possession of another person

(e) Whether the person is in possession of fraudulent passport, identity document or other travel document

(f) Whether evidence exists that the person had been forced to lie to the person’s family or friends about the person’s safety, wellbeing and whereabouts:

(g) Whether the person has been subjected to debt bondage;

(h) Whether the person has been forced to work whilst earning little, if any, money; and

(i) Whether the person has been required to do work that is different than originally promised to the person.
Interviewing Victims of Trafficking

CASE STUDY 4d: Precious Busang – Phase II (Referring to Activity 4d)

Wednesday, 20th October 2009 – 08:00hours

You make contact with the shelter and speak to Dr. Sara Malanga who is a psychologist employed by WADA, an NGO that provides assistance to women that have experienced gender based violence. Dr. Malanga tells you that Precious is in a deeply distressed condition and is suffering from exhaustion through lack of sleep. She has been sedated to enable her to sleep and should not be disturbed by the officers until much later that day. Dr. Malanga says that her impression is that Precious does want to co-operate but is seriously concerned about her mother finding out about what she had been doing.

You conduct some preliminary enquiries with the Force Criminal Intelligence Bureau. Enquiries disclose the following details:

The address is most likely to be Number 2 Ash Road, Kabulonga, Lusaka. The occupant is believed to be Mr. Amir Ahmed KHAN, of Anglo-Pakistani origin. He has been resident in Zambia for the past four years and is believed to be the power behind an employment agency named ‘Global Opportunities Incorporated’ which has registered the company offices as being located at 2, Ash Road. The name KHAN does not appear on any of the company registration documents. The sole director and company secretary shown on the registration documentation is a woman named Lottie NKOSO of the same address.

On 3rd November 2008, acting upon an anonymous tip-off, the Immigration Department had executed a search warrant at the address and discovered KHAN and five women in the house. Three of the women originated from Esania and the fourth was a Zambian citizen. The three Esanian women had been detained and subsequently deported as illegal immigrants. All three had refused to explain their activities or to say a word against KHAN, who was clearly in charge of the address. There was insufficient evidence to take any action against him and he was not arrested on this occasion. The fifth woman was named Dorothy MBEKA who was older than the others and seemed to be an associate of KHAN.

KHAN had come to the notice of the Immigration Department and Criminal Intelligence Department before and was suspected to be part of an organised

Activity 4d – Interviewing Victims

Objective: To understand the underlying principles to be followed in the process of interviewing victims of trafficking

Timeframe: 60 minutes.

Facilitator:

- Ask participants to remain in their previous groups. If need be you may exchange a few members among the groups to allow everyone the opportunity to work with new people.
- Each group should appoint a chairperson and a reporter.
- State that the case is a continuation of the story in the previous activity. Ask participants to look at the facts and answer the questions following the case.
- Give twenty minutes for the group work.
- Hear reports from each group and use the opportunity to discuss risks and safety concerns in relation to victims and potential victims.
- Afterwards, conclude by highlighting the underlying principles to be followed by service providers in conducting interviews using the victim centered approach.
- If time permits, you may get participants to do a role play of the interview. See Annex IV for guidance.

Questions:

Working with your team members and based upon the details provided above, discuss the following issues:

1. Who should be at the interview and why?
2. Where should the interview be conducted? What should the setting be like?
3. What skills will the interviewer/s need?
4. What issues would you discuss with Dr. Malanga prior to the interview?
5. What challenges do you foresee during the course of the interview?
network of criminals that traded in women and girls between Africa and the Middle East. To date, nobody has ever been prepared to provide any evidence against him.

Wednesday, 20th October 2009 – 18:30hrs

At her request, you meet with Dr. Malanga at the offices of WADA in central Lusaka. Dr. Malanga tells you that Precious is still in deep sleep and is likely to be so for some hours. She states that she was able to speak with Precious for some time during the morning and that in her professional opinion Precious has clearly been traumatised by her experience.

She goes on to say that she has advised her that, irrespective of whether or not she decides to co-operate with police, she should tell her mother the truth of what has happened to her as any mother would understand the circumstances and that this will remove the power that the man Amir Ahmed appears to hold over. The doctor has explained to her that these things always have a habit of coming out in any event and that it is better that Precious takes the lead and explains her experience to her mother before anyone else might have the opportunity. Precious understands the sense of this and has decided to follow the advice of Dr. Malanga.

Arrangements have been made by WADA with a partner NGO in Laboville to establish telephone contact with Mrs. Busang the following morning so that Precious can reassure her mother that she is safe and also explain what has happened to her.

Dr. Malanga tells you that Precious does want justice and wants to co-operate as a witness against Amir Ahmed and the others. She is prepared to make a witness statement but is worried about her friends in Esania finding out about what she has done and she also remains scared of Amir Ahmed. Dr. Malanga advises that it would help Precious if the requirements of the criminal justice system could be explained to her before any interview begins.

It is agreed that Precious will be available for an evidential interview at 11:00hrs the following day, Thursday, 21st October. Dr. Malanga states that she is available to assist if called upon.

4.5.4 Interview Guidelines

Interviewing a trafficked victim requires a lot of careful consideration and time to gather or establish the full facts of the case from the victim. In particular the needs, safety and well-being of the victim should be a priority at all times. Trafficked victims are vulnerable and should be treated as such. A trained and specialised interviewer should interview them in a sensitive manner.

There are a number of basic guidelines which facilitate a fruitful interview putting the wellbeing of the victim into the centre of interest and which increase the chances of a meaningful outcome:

Conduct the interview in an environment that ensures privacy: While this basic rule is often difficult to follow, depending on the circumstances, every effort should be made to minimise disruptions during the interview.

Put the interviewee at ease: Emotions and stress play a big part in any type of interview. The interviewer will have a difficult time evaluating a nervous person. Starting the interview casually with no threatening conversation can have a calming effect. By defusing negative feelings and reinforcing positive ones, the interviewer can properly handle the emotions exhibited by the interviewee.

Define objective: The interviewer should ask questions carefully in view of the objective of obtaining as much essential information as possible.

Good questioning techniques: Knowing how to ask questions is just as important as knowing what questions to ask. Also making questions easy to understand is critical.

Let the person being interviewed do the talking: One of the biggest mistakes for an interviewer is to talk too much. Accurate evaluations of persons or gathering crucial information regarding a crime depends on letting the interviewee talk under controlled conditions. The interviewer should control the interview, but not dominate it.

Be a good listener: A good interviewer is a good listener. Interviewers must discipline themselves to focus on what is being said and how it is being said. They should not look ahead to subsequent questions or

begin to analyse an answer before the person finishes. Nor should they anticipate what the answer will be.

**Body language:** Reassuring body language is extremely important to gain the confidence of the person being interviewed. Be aware of body language techniques and apply them to circumstances as appropriate.

**Do not challenge answers given:** Interviewers must keep emotional reactions private and should not let personal feelings interfere with the interview. They should not show disgust or disbelief should some of the information be repellent or simply incredible. Victims of trafficking may have lived through situations that are beyond comprehension.

**Do no harm:** Treat each potential trafficked person and the situation as if the risk of harm was extreme, until there is evidence to the contrary. Do not undertake any interview that will make a person’s situation worse in the short or longer term.

**Know your subject and assess the risks:** Learn the risks associated with trafficking and with specific cases.

**Prepare referral information:** Be prepared to provide information about appropriate legal, health, shelter, social support and security services and to help with referral if appropriate.

**Ensure anonymity and confidentiality:** Protect a respondent’s identity and confidentiality.

**Listen to and respect each person’s assessment of their situation and risks to their safety:** Recognise that each person will have different concerns and that the way (s)he views them may be different from how others might assess them.

**Do not re-traumatize the victim:** Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a person’s distress and to encourage/support him/her.

**Be prepared for emergency intervention:** Be prepared to respond if a trafficked person says (s)he is in imminent danger. Contact the specialised units and the necessary support services if the person needs special assistance. If in doubt as to how to address a specific case or in presence of difficult circumstances, the correct action to take is always to call the specialised anti-trafficking unit or if the person is in immediate need of support refer the person to a local NGO or State services supporting trafficked people and inform the specialised unit accordingly.

There are some more specific guidelines, developed by the World Health Organization (WHO), which are particularly important in case of first contact with trafficked persons.

**Guidelines for Interviewing Children:**

The following guidelines are recommended when interviewing children:

- Only staff trained in the special needs and rights of children should question potential victims. When possible and appropriate, children should be interviewed by interviewers of the same sex;
- Create an interview space that is age appropriate, possibly containing toys, books or games;
- Establish a rapport by talking about, or doing things that are not related to the trafficking experience (discuss things that the child is familiar with);
- Keep the atmosphere simple and informal. Communicate with children at their eye level;
- Use appropriate and child-friendly language (pick up the terms that the child uses);
- Explain things in a manner that the child can understand. Questions should be adapted depending on the age and mental capacity of the child;
- Begin with open-ended questions, allowing the child to give their own account;
- Avoid leading questions, for example “did the person abuse you?”;
- Do not pursue and press for details where there are signs that the child has told everything that they know. Keep in mind that children may leave information our, or may give an answer that they believe the interviewer wishes to hear;
- Interviews should take place in the presence of a parent, guardian, or a trained social worker or psychologist;

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114 IOM (2007) IOM Counter-Trafficking Training Modules Victim Identification & Interviewing Techniques 30
End the interview in a way that reassures the child that they have done well and that the interviewer will be available if they need to talk again.

4.6 Security and Confidentiality of Data

It is of critical importance to handle confidential data concerning the victim and the trafficking process with all due regard to security considerations. The sensitive nature of confidential data on trafficking and the importance of handling such data with all necessary care cannot be overemphasized. At all times trafficking case files, including those on victim statements, should be handled with the utmost care and confidentiality. The Zambian Anti-Human Trafficking Act (Section 25, subsection (4)) provides that the identity of a person who makes a report shall be kept confidential.

**Paper Copies of Data:**

Good practice relating to printed material containing confidential data on trafficking includes:

- Keep data secure and in a lockable cabinet
- When in use, data should not be left unattended
- Dispose or shred paper copies when they are no longer required

**Data Protection Principles:**

Victims of Trafficking should be fully informed of the process of the collection of data about them and the uses to which it will be put, as well as to their own rights to access the data.

No personal data relating to VoTs or the trafficking process should be released unless the victim gives written and fully informed consent authorizing the release of personal data for specific purposes and uses.

In the view of the increased risk posed by organized criminal activities to trafficking victims, due diligence should be given to the management and disposal of confidential, personal data.

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5.1 Introduction to Chapter

Anti-trafficking legislation is not only important for the prosecution of traffickers, but is also a valuable mechanism for highlighting victims’ rights. In Zambia, the provisions of Parts III and IV of the Anti-Human Trafficking Act govern protection of victims. Zambian law provides for all victims of human trafficking to receive protective services, including safe shelter and basic material support, counseling, rehabilitation, health and educational services (ref. Part IV, Sections 40 – 47 of the Act). This chapter addresses the provision of direct assistance to victims of trafficking making use of the relevant provisions of the Act and international good practices.

Objectives:
- Being familiar with risk assessment and related safety and security concerns;
- To understand key considerations for the provision of direct assistance to victims of human trafficking, including referrals and addressing the immigration status of victims.

Expected Outcomes:
- Understand the various needs of trafficked persons and how to meet these needs;
- Appreciate the safety and security risks involved during the provision of direct assistance to victims of trafficking and how to manage these risks;
- Recognise the steps followed in preparing a plan for the reintegration of victims;
- Be familiar with the provisions of Part III and IV of the Zambia Anti-Human Trafficking Act no 11 of 2008 as relevant to the provision of assistance to victims of trafficking.


Time frame: 5 hours, 30 minutes in total estimated.

Key references:
- The IOM Counter Trafficking Handbook for Law Enforcement Officers in Southern Africa, 2005;
- The IOM Counter-Trafficking Training Modules Victim Identification & Interviewing Techniques, 2006;
- The IOM Handbook on Direct Assistance for Victims of Trafficking, 2007;
- Anti-Trafficking Training for Frontline Law Enforcement Officers Training Guide ICMPD, 2006;
CASE STUDY 5a: Precious Busang – Phase III
(Referring to Activity 4e)

Summary of Evidential Interview Given By Precious Busang between Thursday 21st October and Saturday 23rd October 2009

Precious Busang disclosed the following evidential details:

She lives at home in the capital city of Esania, Laboville, with her widowed mother and three younger siblings. Her father died around three years ago. Precious received a sound secondary education and always had the ambition of training to become a nurse, just like her mother had been before she had her children. Precious has completed the first year of training to be a nurse and is half way through the second year of her course. She is a practicing Christian and very close to her mother. She is an attractive young woman and although she has had boyfriends in the past, she has never allowed any form of sexual relations with any of them.

Her mother suffers from recurring detachment of the retinas and from glaucoma and has begun to lose her eyesight. Her doctor has estimated that she will go blind within 12 months without surgical intervention. The family does not have the money to pay for the operation and Precious receives only a very small student grant to fund her studies.

On a week day, sometime around the end of September, Precious discussed her family difficulties with some of her student colleagues in the hospital cafeteria, confessing to her anxiety over her mother’s health and stating that she feared she would have to abandon her studies in order to get a better paid job to try to pay for her mother’s operation.

Later that day, when leaving the hospital at the end of her shift, a woman she had not met before who introduced herself as Lottie approached Precious. Lottie was a black Esanian woman, middle-aged and smartly dressed. She stated that she represented a local employment agency named ‘Global Opportunities Incorporated’ and that she might be in a position to help her. Lottie told Precious that she had heard of her predicament and of her mother’s illness through a friend of hers and that she wished to propose a solution to the problem.

Activity 5a – Risk Assessment

Objective:
- To be familiar with risk assessment and related safety and security concerns.

Timeframe: 120 minutes.

Facilitator:
- Begin the session by opening a plenary discussion by asking the following questions:
  - Are there any safety risks that service providers who offer assistance to victims of trafficking may face? If so, what are they?
  - How about victims who receive assistance from service providers?
  - Inform participants that the following exercise will be on how to identify and manage these risks.
  - Ask participants to remain in their previous groups. If need be you may exchange a few members among the groups to allow everyone the opportunity to work with new people.
  - Each group should appoint a chairperson and a reporter.
  - State that the case is a continuation of the story in the previous activity. Ask them to look at the facts and answer the questions following the case.
  - Give sixty minutes for the group work.
  - Hear reports from each group and use the opportunity to discuss risks and safety concerns in relation to victims and potential victims.
  - Afterwards, conclude by emphasizing the importance of the safety of victims and service providers during the provision of direct assistance to victims of trafficking.
Lottie told Precious that her agency was one of a chain of agencies located in Africa and that the company was in partnership with another employment agency based in Ayham that recruited trainee nurses for work in hospitals in the Arabian city. Lottie told her that not only would she be able to earn high wages that she could send home, but that she would be able to continue her studies and qualify as a nurse at the same time as fulfilling her contract.

Precious told Lottie that she wasn’t sure about the proposal and would need time to think about it and to speak with her mother. She also explained to Lottie that she had no money of her own to pay any agency fees, but Lottie reassured her that the agency and travel fees could all be repaid by Precious from her salary after arrival in Ayham and that the terms and costs would all be set out in her contract. Lottie handed Precious a business card that gave Lottie’s full name of Lottie Nkoso, the name of the agency and a mobile telephone number. Lottie told her to ring her on the number shown once she had made her mind up. Lottie told her not to take too long in deciding, as the vacancies were limited and the opportunity too good to miss.

Precious considered the proposal and was attracted by it because it offered a means of getting sufficient money to pay for her mother’s surgery. It sounded credible to her because she had heard of other women going to the Middle East for nursing jobs and she was also attracted by the idea of being able to complete her training.

After consulting with her mother that evening, Precious contacted Lottie on the phone number on the card and agreed to the offer. Lottie asked Precious if she had her own passport and Precious told her that she did not. Lottie told her that this was not a major problem and to meet with her at 10am the next morning outside the Business Centre located in the lobby of the Marriott Hotel in central Laboville to discuss the logistics of the vacancy and to complete the contract and travel plans. Lottie explained that her office was within the hotel business centre and that the hotel was close to the Foreign Ministry so they could make personal application for her passport the next day. Moreover, she explained that it wasn’t possible to get a flight to the Middle East from Laboville, and that she would have to fly from Lusaka on the Emirates Airlines flight that left on Tuesdays and Saturdays from Lusaka to Ayham.

Lottie then took Precious into a photographer’s shop located in the hotel lobby and ordered and paid for four passport photographs of Precious. She then took her to the Passport Section of the Foreign Ministry and assisted her to complete the passport application forms. It was obvious that Lottie was well known to the staff in the Passport Section, as they were able to jump the very long queue and get an immediate interview with a female member of staff that Lottie referred to as Mary. When Precious noticed on the form that her mother’s signature was required as Precious was not yet 18 years old, Lottie made a gesture towards Mary who then said that it did not matter very much in her case as she was nearly 18 anyway and that it could be overlooked on this occasion. Mary told them that the passport would be ready for collection after lunchtime.

Lottie and Precious then took the application receipt slip to the cashier section and Lottie paid the passport fee in cash and was issued with a further receipt in Precious’s name.

Lottie, who had spent a lot of time talking on her mobile phone, then said that they must return to the business centre at the Marriott Hotel to collect a fax confirmation from Ayham of the offer of her nursing contract. They did so and Lottie collected the fax from the business centre staff. She showed it to Precious who saw that it was on headed paper bearing the logo of ‘Global Opportunities Incorporated – Ayham, confirming a job offer for Precious as a trainee at the Al-Jumilla Hospital in Ayham, commencing on the 11th October. She could see that the company logo and address was written in English and what she thought was Arabic and gave the agency address as being care of the Business Centre, The Marriott Samara Hotel, Ayham.
No mention was made on the letter offering the position of the salary or the terms of employment. When Precious queried this, Lottie said that those details would be included in the contract that she would sign in Lusaka before she left for Ayham. She said that her boss, a man called Amir Ahmed, was responsible for drawing up the overseas contracts and that things would all be sorted out the following week at the Lusaka office.

They later returned to the Passport Office and collected Precious’ passport, which Lottie retained. She then took Precious to the Consular Section of the Zambian Embassy which was nearby, to apply for a visa to enter the country. Yet again, Lottie seemed to know the staff very well and they were able to jump the queue. Lottie helped Precious fill out the application form and attached the fax letter of the job offer to the application. They were told that there would be no problem and they should return the next day to collect the passport. As before, Lottie took the application receipt and paid the fee of USD10 at the cashier section and retained the collection slip. Both then left the consular building.

Outside, Lottie told Precious to give in her notice that day, to pack her belongings that night and that she would pick up her passport for her tomorrow and then collect her from outside her house later that evening for the eight hour drive from Laboville to Lusaka.

Precious did as she was told. She packed her clothes, some personal affects, family photographs etc and some nursing study books. At about 10pm that night, Lottie arrived outside her house in a black car that Precious recognised as a Mercedes Benz. Precious remembered that it must have been a Saturday night that she left with Lottie because she recalled that her mother came with her to the car and had been chiding her that she would miss the Sunday service at their local church the following morning.

Lottie drove the car throughout the night and they crossed the Esania-Zambia road border at Mapala Crossing at about 3am. Precious remembered that they had to queue for nearly two hours and that both she and Lottie had filled out embarkation and entry cards on either side of the border. Lottie had given Precious her passport just before arrival at the crossing point. Precious remembered that an immigration official had questioned her about her purpose in entering Zambia and had taken notes and searched the car. He seemed suspicious until Lottie had explained everything on her behalf and produced the faxed letter of the job offer.

After entering the country, Lottie immediately took possession of Precious’s passport, explaining that she would need to retain it in order to apply to get her an entry visa and work permit for Ayham at the Jamāhīriyya Arab Republic Consulate in Lusaka. Precious then fell asleep until woken by Lottie as they drove through the suburbs of Lusaka on the Sunday morning.

Lottie finally stopped the car on the drive of a very large, two-storey house in an expensive suburb that Precious came to learn was named Kabulonga. Lottie told her that the address was the African Head Office of Global Opportunities Incorporated and that she would now meet Amir Ahmed, the boss. Precious took her suitcase of belongings and entered the house with Lottie who let them in with a key.

She was shown into a large lounge area on the ground floor where she was told to wait whilst Lottie went to find Amir Ahmed. A short while later, Lottie returned with a man she introduced to her as Amir Ahmed, the Boss. He was aged about 40 years, heavy build, neither white nor black, more of Arabic appearance and casually dressed. He shook Precious’s hand and introduced himself as Amir Ahmed. He told her that he would take care of all the further arrangements as Lottie had to return immediately to Laboville on urgent agency business. Lottie handed Precious’s passport and the fax letter to Amir Ahmed, said goodbye to Precious and then left the house. Precious did not see her again.

Precious could hear that other people were in the house, but she did not meet anybody at this stage. Amir Ahmed offered her some breakfast which she declined and then told her that he would show her to the room she would stay in for a couple of days whilst he finalised her contract, obtained her visa and purchased her airline ticket. He then showed her to a small bedroom situated on the second floor of the house, at the rear. Once again, Precious could hear other people moving on the second floor. Amir Ahmed left the room and Precious began to unpack her belongings.

After a short while, Amir Ahmed re-entered the room and Precious noticed that this time he shut the door behind him. Amir Ahmed then began to talk about the amount of fees that she already owed to the agency for
securing the job offer and of how much she would eventually owe in total by the time that she had taken up the job in Ayham. He said that he was concerned about getting back all of the money that Precious would owe to the agency. Precious tried to explain that Lottie had said that this was all taken care of because Precious would repay the fees in instalments out of her salary in Ayham.

Amir Ahmed’s demeanour began to change and he said that Lottie wasn’t authorised to make such statements and that the agency could not continue to assist Precious unless a significant amount of money was paid in advance. Precious explained that she didn’t have any money and had explained this to Lottie and would not have agreed to leave home if this was going to be the case. At this point, Amir Ahmed’s tone and manner became threatening towards her. He suddenly told her that he had already invested money in her and that she now owed him. He was prepared to help her in her career but that she had to help him in return. When Precious asked how she was supposed to do this, Amir Ahmed told her that a number of important business clients of his came to the house and that they expected to receive sexual services from the women that Amir Ahmed had staying as guests in the house. Precious laughed at first and said that he could not be serious and that he clearly didn’t know her very well. Without warning, Amir Ahmed then grasped her by the throat and pushed her back against the wall of the room. He then told her that she would do as she was told and that she would service his business clients as he told her to. She began to struggle and tried to break free from him but he was physically too powerful for her. Amir Ahmed became even more threatening and told Precious that he now owned her until the point at which she had cleared her debt to him. He told her that she would become one of his prostitutes – like the other three women in the house -house and that he would decide when her debt was cleared. He told her that she would stay at the house until such time as he decided that she should be sent to Ayham where she would have to continue as a prostitute to clear her travel and contract debts to his agency colleague. Once she finally clears all of her debt to the agency, she would be allowed to take up her post as a trainee nurse in Ayham.

By this stage, Precious was having some difficulty in breathing or to scream out, but continued to try to break free from Amir Ahmed’s hold. She shouted at him that she would never do such a thing and that she was a good girl. At this, Amir Ahmed threw her down onto the floor of the bedroom and began to tear at her clothing, saying that she should regard what was about to happen as the beginning of her training period as a prostitute. Precious begged him to leave her alone, telling him that she was a virgin, and that the whole thing was a dreadful mistake and that she just wanted to go home.

Amir Ahmed pinned her to the floor and told her that if she resisted him, he would seriously hurt her. He then took off the rest of her clothes and began to rape her. Precious continually begged him to stop, and tried to push him off. Amir Ahmed did not stop and continued to have forcible intercourse with her against her will. He did not wear a condom at any stage.

When he had finished, Amir Ahmed stood up over Precious, who by this time was in shock and quietly sobbing on the floor. Her clothing was completely torn and she was visibly bleeding. Having re-fastened his trousers, Amir Ahmed then leant over Precious and once again grasped her by the throat with both of his hands. He then told her to listen very carefully to what he was going to tell her.

He told her that she would do exactly as he told her from that time on and that she would regret it very much if she did not. He told her that he now owned her and that if she disobeyed him and tried to escape, he would make sure through his friends in the police that she would be arrested as an illegal entrant to Zambia for having no permit to be in the country and for being a prostitute, which was illegal in Zambia - she would go to prison for a long time. He also told her that he would instruct Lottie to tell her mother that she was in prison in Zambia because she was caught by the police engaging in prostitution. He told her that provided she did as she was told, she could clear her debts and resume her career as a nurse and earn the money for her mother’s operation. If she did not, she would rot in prison knowing what her mother must think of her for being a prostitute. Amir Ahmed then left the room, locking the door as he did so.

After some time, Precious got onto the bed in the room and used some tissues to wipe away the bleeding. She
felt considerable pain and was unable to stop herself from weeping. She checked her surroundings and found that the single window in the second floor room was barred and locked. She checked the door, which was still locked. She was in shock and struggling to come to terms with her situation. She could not believe what had just happened to her but was even more frightened of the possibility that her mother might find out about what Amir Ahmed had planned for her. Her mother meant everything to her and she could not bear the thought of her mother thinking ill of her. Moreover, she was worried about the effect that such news would have on her mother’s fragile health and, if her mother became too ill, what would happen to her younger siblings.

She eventually fell into a fitful sleep and was awoken later by the sound of the bedroom door being unlocked. She noticed that it must be evening time because it was now dark outside. A woman entered the room. She was about 35 to 40 years, white, with blonde hair and a full figure. She introduced herself to Precious as Dorothy and sat next to her on the bed. She told Precious that she managed the house on behalf of Amir Ahmed and that it was time for Precious to understand her new situation.

Dorothy explained that the businessmen visited the house for sex and that Precious, together with the three other girls that also had rooms on the second floor, were expected to provide them with sexual services. She told Precious that as this was her first day at the house, she would not have to engage in prostitution that night but would start the following day. She took Precious to the bathroom next to her bedroom and supervised her whilst she washed away the blood and cleaned herself up. She took Precious back to the bedroom and told her to get rid of her torn dress and to get some rest. Dorothy then left the room, locking the door behind her. Later the same evening, Dorothy returned with some food for her and again locked her in the room. During the course of the night, Precious heard the sounds of people calling at the house, of different voices and movement on the floor below.

The following morning, Dorothy re-entered the room and took Precious downstairs to the ground floor lounge area where she sat on one of the several sofas. Precious could see Amir Ahmed sitting at a computer in a small room situated off of the lounge area. Dorothy gave her some breakfast and then told her that she was going to explain the rules of the house to her.

She told her that until Amir Ahmed decided it was time for her to go to Ayham, she was not allowed to leave the house and that she would work between 2pm and 4am, together with the other girls. She was to sit with them on the sofas and wait for the clients to come. Dorothy would answer all of the phone calls and would be the only person allowed to open the door to the clients. She would explain the house rules and prices to the clients before they were allowed to enter the lounge area.

There was another member of staff, a black man called Charles who acted as security and driver for the house and he would always be around near the door and lounge area in case there was any trouble. She would get to meet Charles later and she was advised not to upset him in any way and that Charles only took directions from Amir Ahmed or Dorothy.

Dorothy told Precious that she and the other women were to entertain the men and provide them with drinks from the bar area. They were to make sure that some music was playing and that pornographic films were playing on the two televisions situated in the lounge area. Once the client had selected which woman attracted him, he would tell Dorothy and pay her the fixed price, depending on what service the client wanted. Dorothy told Precious that the house provided all forms of sexual services, including unprotected sex if that was what the client asked for. She was not allowed to refuse any clients or any services. Dorothy would keep the money and Amir Ahmed would subtract the amounts required to pay her debt off. Precious was not told what this amount was and was not given any money at any stage.

Later that morning, Precious was introduced to the other three women that were living in the house. They were introduced to her as being Maria, Stella and Adrienne. As far as Precious could tell, they were all older than her but she couldn’t be sure. From their accents, she thought that Maria and Stella were Esanian, the same as her, but she did not know where Adrienne came from. All three women were uncommunicative and seemed suspicious and fearful of Amir Ahmed and Dorothy. Whilst they were together in the lounge area of the house, they didn’t really talk to each other very much. Precious thought that they were
probably nice women but, like her, they were too scared to act normally.

Later that morning, Dorothy supplied Precious with a number of items of white lingerie and told her to wear them whilst the house was open for business, as the clients liked it. She was then taken back to her room where she was again locked in.

Precious felt in turmoil. She was still in pain from the sexual assault of the day before and was terrified of what the clients would do to her. However, she was terrified of her mother finding out and could see no immediate way of escaping from her predicament. With great reluctance and fear, she submitted.

Precious then provided a summary of her experiences at the house. Clients usually started to arrive at the house from mid-afternoon onwards and would continue to arrive until well after midnight. There were three telephones in the house that seemed to ring constantly. The business operated much as described by Dorothy. Only she answered the door and she handled all of the money. Charles was always around in the background and Amir Ahmed was present at different times but he seemed to spend most of his time in the small room off of the lounge where the computers were located. Precious had had a chance to see into the room and she could see that it contained both desktop and laptop computers and a fax machine. She described it as an office.

On average, five or six clients a day had selected her. She has been required to provide a range of sexual services to the clients; about half used condoms. She hated engaging in prostitution and had suffered a great deal of physical and mental pain as a result of engaging in these activities. She had tried to refuse one client because he was so drunk but Dorothy had become very angry with her and made her service the client.

The clients consisted of both local and foreign businessmen and mostly they were smartly dressed men. Some of them were not too bad and one or two didn’t actually ask for sex, even though they had paid for Dorothy for the service. They just wanted to talk to somebody. One client had actually started to cry and say that he shouldn’t have really come but that his wife did not understand his needs. Ahmed Amir didn’t really care one way or the other as long as the clients paid the money.

Charles was always somewhere in the background, either in the kitchen on the ground floor or by the main entrance door. His role seemed to be one of ensuring that there was no trouble. He had never spoken to Precious.

Precious never saw any of the money because Dorothy always took possession of it. It was a normal daily routine that around 8pm Amir Ahmed would see her and she would hand over the first half of the days takings to him. Precious had no idea of the prices that the house charged other than the fact that sexual intercourse was the equivalent of USD 50 – she had discovered this when a client complained about her not showing any enthusiasm and that he didn’t feel she was worth the USD 50 he had paid.

After this incident, Amir Ahmed had taken her to one side and given her a warning. He told her that she would not have any more trouble from him as long as she behaved, but if she wasn’t going to satisfy the clients properly and keep them happy, she would get more of the same treatment from him that he had given her on the day that she arrived – the choice was hers.

Precious had discovered that the house was advertised under the name of ‘Aristocrats High Class Services’ and that it advertised both in the local Lusaka newspapers and also on the Internet. She knew this because she had seen lots of calling cards and book of matches with the name and logo – which was of a ‘pink pussycat’ - lying around in the lounge for clients to take away with them. She has also seen Dorothy and Amir Ahmed checking the newspaper to see if the advert was correct and a client had told her that he didn’t remember seeing her face anywhere on the website.

To her knowledge, she and the three other women all lived in separate rooms on the second floor and the windows of her room were barred. She did not know if Dorothy lived at the house or not. She was definitely there throughout the time that the house was open for business but she could not be sure if she lived there. As far as she knew, Amir Ahmed occupied the basement of the house because he had keys to the basement area and she had seen him go down there on a number of occasions. She had heard him arguing on the telephone during the early hours of the morning on a number of occasions, so she thought he must live in the house. She had never been in the basement because they had all
been told that it was off limits to anybody but Amir Ahmed – even Dorothy wasn’t allowed down there. Precious stated that, after the first occasion, she was not molested again by Amir Ahmed. She had not been kept locked in her room after the first two nights and had not tried to escape before because she was too afraid of Amir Ahmed and the consequences that he had threatened her with. She had thought about it constantly but was too scared of going to prison and of her mother finding out what she had been doing.

The situation had changed for her on Tuesday, 19th October. Before the house opened for business, Amir Ahmed had got her and the two women named Maria and Stella together in the lounge and had taken facial photographs of each of them. He said that he needed them for their visa applications for Ayham because they would be leaving next week with him and Lottie on the Tuesday evening flight. He told them that he would tell them how much they each still owed before they left, so that they would know how much they still had to repay through engaging in prostitution after they had arrived in Ayham.

Precious had become increasingly anxious about this development throughout the day. She could not cope with the thought of leaving Africa for Ayham and was convinced that if she ended up in Ayham, she would be a sex slave for years to come. She no longer believed that she would ever be able to clear her debts to Amir Ahmed or that she would ever be able to get the money for her mother’s surgery. She made up her mind to escape as soon as possible.

She had gone to one of the rooms with a client at about 03:30 hours and after he had his service, he had left the room. After each client, it was part of the duties of the women to clean away used tissues etc and place a fresh paper cover over the bed, so it was normal for there to be a short delay between the client leaving the room and the woman re-appearing downstairs. She knew that the windows in the client rooms were locked but not barred because the bars put the clients off. She panicked and forced one of the windows and climbed out onto the first floor verandah roof and jumped down on to the lawn below. She had then just ran off, not knowing where she was or where she was going, dressed only in her underwear. It was as she was running down a nearby street that the two uniformed officers had found her.

In conclusion, Precious stated that she was horrified about what had been done to her by Lottie, Amir Ahmed and Dorothy and that she wanted them punished for their actions. From the advice of Doctor Malanga, she now realised that the best course of action was to tell her mother what she had been forced to do but she was concerned for her family’s safety and about her story becoming common knowledge amongst her other family members, friends and the public back at home in Esania.

She wants to go home to her mother as soon as possible but is prepared to co-operate with the criminal justice system in any way required and testify against the Amir Ahmed, Dorothy and Lottie, if necessary. She is prepared to come back to Zambia to testify if the investigators want her to do so.

Activity 5a – Continued

Working in your groups, based upon the below summary of the key points of Precious’ interview, and in reference to Section 44 of the Act, answer the following questions:

- Who may be facing risk in terms of safety and security?
- What are the risks?
- What is the source of the risk?
- What events could increase the level of risk?
- What can be done to manage the risk?

5.2.1 Security Issues and Risk Assessment

Providing assistance to trafficked persons is an inherently risky business and no security system, no matter how sophisticated and well equipped, can completely eliminate the element of risk. The capacity of the traffickers to retaliate against victims who have managed to escape and/or have testified against them is well documented. Therefore, the risk posed to trafficking victims by their exploiters cannot be overstated. There have always been risks to the victims of trafficking and, though less so, to those who assist them. That risk may be expected to increase a service

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116 This section is a reproduction of the IOM Handbook on Direct Assistance for Victims of Human Trafficking (2007)Pp.3-7
delivery organizations help more victims to escape from their exploiters and more victims testify against their traffickers. The duty of care to victims and staff incumbent on service delivery organizations is to ensure that the risks are properly identified and assessed at every stage of the assistance process and that, within realistic and reasonable means, appropriate security measures are taken to ensure that the risks are effectively managed. The guidance set out in this section is designed to explain the process of doing so.

Risk Assessment

The first step in confronting this threat is to properly identify and assess the level of risk. Effective risk assessment involves a generic risk assessment conducted in the country, continuous review of the risk assessment, and specific assessment of risk in response to specific events. To facilitate this process, a range of risk indicators to be considered in each case is set out below. However, it should be borne in mind that the list is not exhaustive and, depending on the circumstances in each country and each case, other risks and risk indicators may be present which should be assessed by local staff according to their best knowledge of local circumstances and expertise. Where there is strong cooperation between the service delivery organization and the relevant local or national law enforcement authorities, the process of risk assessment should be conducted in close consultation with them.

Generic Risk Assessment

It will be necessary to conduct a periodic review of the generic risks posed by the activities of traffickers. The process described here is designed to gauge such risks from the outset. The first stage of risk assessment is to evaluate the prevailing circumstances in the country concerned. The following indicators should be considered.

Generic risk assessment indicators:

- The extent and impact of trafficking in the country;
- Is the country concerned one of origin, of transit or of destination, or any combination thereof?;
- How many trafficking victims may be expected to seek the service delivery organization assistance?;
- The extent to which trafficking is controlled by organized criminal groups;
- Their known or estimated capacity to plan and implement reprisals against the victims and/or service delivery organization staff;
- The capacity of the local law enforcement agencies;
- The extent of endemic corruption and how it adds to the level of risk;
- The level of governmental commitment and support to combat trafficking inhuman beings.

Continuous Review of Risk Assessment

It is of critical importance to conduct an on-going process of assessing generic risk. It is not enough to conduct an assessment once, as it will only constitute an effective security measure if it is regularly reviewed and updated. The intervals will vary depending on the prevailing circumstances.

- Conducting risk assessments and having in place a risk management plan is the responsibility of every service delivery organization;
- The risk assessment should be reviewed on a monthly basis, at the least. Depending on the circumstances of a case, risk assessments may have to be reviewed on a weekly or daily basis during periods of high risk.

Specific Assessment of Risks in Response to Specific Events

While a continuous generic review of risk is an essential component of any risk assessment, a specific review is called for whenever specific events pose an additional or increased threat. Each case will present different specific challenges and risks and each case will need to be assessed on the available information and indicators.

The list set out below is an example of a range of specific events that should be the subject of specific risk assessment – please note that this list is a sample and should not be regarded as comprehensive. In addition to each of these examples, the following factors affecting risk should be factored into the assessment:

- All escaped victims are at risk of reprisals from traffickers, irrespective of whether or not they have cooperated with law enforcement agencies;
- These risks are immediately magnified in those cases in which the victims cooperate with law enforcement agencies.
enforcement agencies because the victims then pose a much higher risk to the liberty of the traffickers;

- In any case in which it is established that the traffickers have already become aware that a victim has or intends to cooperate with law enforcement officials, the risk levels increase and become more immediate.

Examples of specific risk events:

- The point at which a victim is first referred to the service delivery organization for assistance, especially if it can be foreseen that the assistance package will include admission to a shelter and or cooperation with law enforcement agencies;

- Any assisted movement of victims in cases where they have already provided evidence to a law enforcement agency and where there is any reason to believe that the traffickers are aware of this fact;

- In relation to victims being cared for in shelters – any planned movements outside of the shelter to attend hospitals, clinics or other welfare or social assistance appointments;

- In relation to any victim in the service delivery organization’s care who is cooperating with law enforcement – any movement to keep appointments in relation to that cooperation, such as attendance at premises to make statements, or attend identification parades, or police medical examinations;

- Attendance at court buildings, especially any planned attendance to provide testimony at the trial of the traffickers – especially as the traffickers will be aware of it because they will have been informed as part of their rights as accused persons;

- Any movement of a victim or member of staff related to transferring the victim from one country to another to enable that victim to testify against traffickers in that other country – again, the risk level will be very high because the traffickers are likely to be able to predict the timing and route of the transfer, either in the origin or destination country, or both;

- Any incident that can be interpreted as attempted intimidation of a victim or member of staff – such as anonymous and threatening phone calls, or repeated calls where the caller hangs up without speaking, the repeated and prolonged appearance outside of shelters of unknown persons or vehicles or the overt following at a distance of a victim or member of staff.

Risk Management Plans and Documentation

Each risk assessment, be it generic, review or specific, must be accompanied by a risk management plan designed to address the areas of risk identified during the assessment process:

- The initial generic review should be accompanied by a risk management plan specifying the minimum level of security standards and the appropriate procedures to ensure that the risk is reduced to a minimum and effectively managed;

- As a risk assessment review is carried out as part of the continuity plan, a new risk management plan will only be necessary if the risk has increased or new risks have been identified;

- Whenever an immediate review was conducted in response to a specific threat or event, it must be accompanied by an updated risk management plan designed to address the new risk. The plans should be fully documented and should comprise the assessment of the fresh risk followed by the plan for implementation of additional security measures designed to effectively manage such new risk.

Conducting risk assessments and developing risk management plans are necessary for service delivery organizations to protect the victims served and the staff who assist them. Each procedure should be fully documented and all documentation, whether electronic or other, must be treated confidentially and in accordance with best practices on the handling and security of confidential personal and trafficking data.

In the case study provided in this chapter, several individuals are exposed to varying levels of risk.

Precious: There are two main areas of risk in relation to Precious:

(i) Her physical and psychological health as a result of the abuse she has suffered;

(ii) Her physical safety from any reprisals that might be taken by Amir Ahmed and his associates.
The other three known victims: There are two main areas of risk in relation to the other women:

(i) Their physical and psychological health as a result of continuing physical abuse, imprisonment and exploitation;
(ii) The abuse continuing if they are moved to another location before police can intervene to rescue them.

Other potential victims: Potential victims face the same areas of risk as the three victims that currently remain at the address where Precious was located.

What is the level of the identified risk?

Precious: The level is currently low in relation to both areas of identified existing risk:

(i) She is in the care of the shelter and beginning to receive psychological counselling for the trauma that she has suffered;
(ii) She is currently physically safe in the care of Dr. Malanga at her NGO premises and there is no information to indicate that Amir Ahmed is aware of her current location.

The three other known victims: The level of risk of continuing physical and psychological abuse is high – from the information provided by Precious and her psychological state, it is clear that Amir Ahmed inflicts psychological harm on his victims and there is no reason to assume that this will stop.

If any specific information is available to indicate that Amir Ahmed suspected that Precious would go to the police, the level of risk will increase.

Other potential victims: Regarding new or possible victims, it is very difficult to quantify the level of risk. However, Precious’s escape may trigger an immediate replacement by Amir Ahmed in order to reinstate his normal level of profitability based upon four females engaged in prostitution. In this instance, the level of risk should be determined as medium, because it is difficult to be more precise but also too serious a risk to be categorised as low.

Increase in identified risks

The risk of physical and psychological harm to the three victims that are still being abused and exploited is increased all the while that police do not take action to rescue them. The same applies in relation to potential victims.

5.3 Direct Assistance to Victims

Activity 5b – Direct assistance

Objective:
- To understand the provision of direct assistance to victims

Timeframe: 120 minutes.

Facilitator:
- Ask participants to remain in their previous groups. If need be you may exchange a few members among the groups to allow everyone the opportunity to work with new people.
- Each group should appoint a chairperson and a reporter.
- Ask them to look at refer back to the facts of the Precious Busang case in the previous activity and answer the questions below.
- Give sixty minutes for the group work.
- Hear reports from each group and use the opportunity to discuss steps that need to be taken to address the needs of victims.

Questions:

Working in your teams and based upon the above summary of the key points of Precious’ interview, discuss the following issues.

- In light of the provisions of Part III and IV of the Act, what steps should be taken to address the short and long-term needs of Precious’?
- How can you address the issue of her presence and or residency in Zambia (assume she is in Zambia)? See Sections 32 to 39 of the Act
- How will you ensure her general well-being and reintegration? See Sections 40 to 47 of the Act
- Who should be involved in the preparation of the reintegration plan?
- What should the reintegration plan cover?
- If Precious wants to go back to her country of origin, what are the steps that need to be taken? See Sections 36 to 39 & Section 45 of the Act
- If Precious had been a refugee, what steps could you take?
5.3.1 Victim Assistance Services: Towards Reintegration

Reintegration: The aim of the reintegration process is to provide for a victim’s safe, dignified, and sustainable reinsertion into society and a normalized life. Accordingly, the reintegration assistance to victims of trafficking can include a full range of services, from shelter assistance or other accommodation, medical and psychological care, social and legal counselling to reintegration grants, school reinsertion, and vocational training. Some assistance will be provided directly by the receiving organization — or the primary organization facilitating the victim’s reintegration. However, many services are likely to be carried out and administered in the victim’s place of residence by other NGO and governmental partners. All services and reintegration assistance should be made available to the victim on a strictly voluntary basis. IOM recommends that service delivery organizations adopt a policy that staff must explain to the victims the possible consequences and implications of all assistance provided. Services should be provided only with the victim’s informed consent, with due regard for his or her privacy, and in the strictest confidence.

Reintegration Assessment and Plan

The reintegration assessment is important for the establishment of a reintegration plan for each and every victim. Two types of assessments should be carried out for each victim:

- Individual assessment, focuses on factors directly related to the victim;
- Situational assessment focuses on the independent situation of the victim’s environment, for example the specific socio-economic situation and reintegration assistance infrastructure in the country and/or region to which the victim has returned.

The unfortunate reality is that the possibilities available for any one assisting organization will not always be sufficient to meet a victim’s needs. Thus, it is essential to give the victim a realistic picture of the options and possibilities available, and not to give rise to unrealistic expectations that could be detrimental to the effective reintegration process.

117This section is a reproduction of the IOM Handbook on Direct Assistance for Victims of Human Trafficking (2007)Pp.80-87

Reintegration plans should be developed only in the receiving country/region and never in the referring one, since the organization in the referring country/region are not in a position to conduct adequate situational assessments in the receiving country/region or to prevent that the victim misconstrues anything said by the referring mission or organization as promising specific reintegration options. Instead, the referring organization should inform the victim that a final reintegration plan would be determined in the receiving country/region. However, the referring organization should conduct a basic individual assessment of the victim’s needs and wants, as described below, and forward it to the receiving organization together with the pre-departure notification. The victim’s immediate well-being should always be the main concern during the reintegration process; therefore, priority is usually given to security and health issues, particularly if there are limited human and financial resources and time available.

Individual reintegration assessment

The person who is most familiar with the victim’s case should conduct this assessment. This could include a service delivery organization staff member, a social worker, a child’s guardian, an NGO staff member, or a psychologist. Such persons should assess the reintegration options aiming for the successful reintegration and reinsertion into society of every victim based on the following four criteria:

- First and foremost, the needs of the victim, which may include physical, psychological, psychiatric, legal, social and economic needs;
- The particular wants of the victim, his or her individual desires for particular reintegration options or services that may or may not be available;
- The possibilities available to a particular victim that may be affected by his or her particular circumstances, for example, age, gender, level of education or work experience;
- The perceived level of victim motivation, for example through engagement and results related to reintegration assistance provided and/or personal circumstances.

In the case of an international referral, the personal assessment should be initiated by the referring
organization, but finalized by the receiving organization in the country of origin.

**Situational reintegration assessment**

The individual assessment must be accompanied by a situational assessment. This assessment should be conducted by persons who are most familiar with the victim’s case, as well as with the victim’s particular home region in the country of origin. This could include a service delivery organization staff member, a social worker, NGO staff or a psychologist. Such persons should assess the reintegration options of every victim based on the following two situational criteria:

- The options available to the individual for reintegration, for instance: certain types of vocational training may not be accessible in the particular region of origin or cannot be provided because of lack of necessary funds. Likewise, shelters, medical services, government welfare or educational programmes may or may not be available in the victim’s place of residence;

- The relevance of proposed reintegration assistance to a victim’s particular situation. For example, vocational training must be relevant to the victim’s region in the country of origin (for example, vocational training as an accountant would be misplaced if there is unemployment among accountants or if accounting is not a typical feature in the victim’s region).

**Reintegration plan**

Building on the individual and situational assessments, a comprehensive reintegration plan can be developed. In developing a reintegration plan, it is important that the receiving service delivery organization, or the relevant NGO partner, helps the victims to set realistic goals suited not only to personal needs, skills and qualifications, but also to the opportunities available in the country, region and place of residence in which reintegration will take place, in accordance with the reintegration assessment. Furthermore, the reintegration plan must be based on actual services that the service delivery organization and/or its partners and current programmes can provide. This should be accounted for during the reintegration assessment. Even if changes may have to be made in future, it is recommended that a reintegration plan is developed as a written plan between the assisting organization (for example, NGOS and government service providers) and the victim. Its specific format will vary from country to country and organization to organization, but would usually include and address the following components, as applicable:

- Family mediation/reunification;
- Medical/Health;
- Financial (reinstallation grants, family or dependant support grants);
- Legal;
- Education/vocational training/apprenticeship;
- Income-generating activities;
- Security.

As noted earlier, it is essential that services be provided only with the victims’ full and informed consent. Therefore, the organization should consider having the victim sign consent forms for each of the components above, as applicable. In the case of minors, they, as well as their parent or official guardian, should sign the consent forms. The actual reintegration plan also functions as a tool for monitoring and evaluation purposes, as seen below.

**The Reintegration Process**

After a reintegration plan has been determined, the actual process of reintegration can begin.

**Mechanisms for the provision of reintegration assistance**

Direct assistance to victims of trafficking may include a broad range of services from shelter assistance, medical and psychological care to social and legal counselling and vocational training. Some assistance may be provided directly by the receiving service delivery organization. However, for practical reasons, many services may need to be provided by other organizations or by the State. In some cases one organization may not have the ability to provide all services or the organization may not have a presence in the victim’s place of residence and must therefore rely on other organizations for assistance. Similarly follow-up treatment and monitoring will need to be handled by an organization with a presence near the victim’s place of residence. The three main mechanisms to provide reintegration assistance to victims of trafficking are:

- Initial support by the receiving service delivery organization;
• Longer term reintegration support by the receiving service delivery organization or referral to other organizations or the State;
• Government support to the victim.

Initial support by the receiving service delivery organization

Such support may include arrival assistance, immediate and comprehensive medical/psychological examination and treatment, short-term housing and help with various other social, legal and economic needs of the victim. The receiving service delivery organization should make every effort to take steps to avoid that a dependency situation occurs through its reintegration programmes, and should aim at helping the victim to achieve a normalized life and self-reliance. Long-term support, however, must be provided by either non-governmental or governmental support structures.

Longer-term reintegration support

Longer-term support for victims is necessary for their effective reintegration. If the receiving service delivery organization has appropriate services, they may provide the bulk of services directly. Otherwise, services may be provided through one or more local NGOs. NGOs are well positioned not only to provide direct assistance to victims, but also to conduct, or assist in conducting, the reintegration assessment and preparation and implementation of the reintegration plan. Furthermore, NGOs can play a critical role in the ongoing task of monitoring a victim’s reintegration progress. Activities for ensuring the safe and humane reintegration of victims into society may include:

• Medical/psychological examination and treatment/counselling to victims of trafficking in their place of residence;
• Family mediation/counselling;
• Monitoring of the reintegration process in the victim's place of residence;
• Monitoring accommodation and care arrangements for child victims of trafficking;
• Assistance with school reinsertion;
• Development of vocational programmes;
• Vocational counselling and training for victims;
• Job placement and employment counselling;
• Grants for resettlement and for vocational training for victims;
• Assistance for the retrieval of lost documents, such as IDs and passports;
• Legal assistance regarding civil issues (divorce, retrieval of property, civil liability);
• Legal consultation and representation for victims acting as witnesses in criminal cases;
• Maintaining emergency and informational telephone hotlines;
• Ensuring the security of the victim by maintaining regular contact;
• Accompanying victims for emotional support as well as assisting them in accessing needed services and ensuring their rights are respected;
• Providing safe transportation.

The receiving service delivery organization should support and work in close collaboration with a network of local and international NGOs. This support and collaboration plays an important role not only for the effective reintegration of victims but also for the sustainability of reintegration mechanisms. It is helpful if organizations formalize their cooperation through memorandums of understanding and/or other agreements in order to ensure that both organizations understand their own and the other’s roles and responsibilities.

The receiving service delivery organization should monitor the activities of the organizations to which they refer victims for assistance in order to ensure the effectiveness and the quality of the services provided.

Government support to victims

Sometimes reintegration assistance to victims of trafficking is provided directly through government structures. As with all assistance, a memorandum of understanding with the government, which clearly outlines agreed functions and responsibilities and the services to be provided, is helpful. The reintegration support provided by the government to victims of trafficking often takes the form of social and job counselling, vocational training, health-related assistance, protection and various forms of educational reinsertion.

Types of Reintegration Assistance

While the assistance provided to each victim will depend on the individual needs of the victim, the
assistance described below has generally been found to be of interest to victims of trafficking:

- Medical/Health Care Services;
- Counselling;
- Financial Assistance;
- Legal Assistance;
- Reinsertion into the Educational System;
- Vocational Training;
- Micro-Enterprise and Income-Generating Activities;
- Job Placement, Wage Subsidies, Apprenticeship Programmes;
- Housing and Accommodation.

5.3.2 Assistance to Victims under the Provisions of the Act

The Zambia Anti-Human Trafficking Act contains several provisions that are aimed at ensuring the provision of adequate protective services to victims of trafficking. These services include shelter; medical care; legal services; regularization of stay and return as well as reintegration support.

a. Shelter and related services (Sections 40-44)

The Act mandates the Ministry of Social Welfare, using State funding, to establish and operate centers for victims and ensure they are appropriately spread throughout the country. The centers are required to comply with national standards and guidelines. Child centers for victims of human trafficking in Zambia will provide safety, temporary basic material support, counseling, rehabilitation services and education. A centre for adult victims will provide safety for victims at risk of retaliation, counseling and rehabilitation services, re-integration of adult victims into their families and communities, skills development and education.

b. Medical care (Section 47)

The Act entitles all victims of human trafficking to the same public health care services as a Zambian citizen.

c. Family Tracing (Section 45)

The Act also requires the police to assist a social welfare officer to trace the victim’s family.

d. Legal Services (Sections 58-62)

The Act provides for a victim of trafficking to receive appropriate compensation from the convicted trafficker. This compensation will be for damages to or destruction of property including money, for physical, psychological or other injury, or for loss of income or support.

e. Regularization of stay (Sections 31-35)

Where the victim is a foreign child who is in the country illegally, the child may be placed in temporary safe care, pending determination of the case and the victim’s status. Following the outcome of this determination, the child may be brought before a court and the court may order that the child be assisted to apply for asylum in Zambia. Provided that the foreign victim is in a place of safety, regardless of whether the person is a child or an adult, the Chief Immigration Officer may grant the victim a non-renewable stay in Zambia of no more than 60 days. This stay is not contingent on the victim’s willingness to cooperate with law enforcement or prosecutors in the investigation or in the prosecution of a case. An immigration officer, labour inspector, social worker, medical practitioner or nurse who has identified a person as a victim of trafficking shall inform the victim of his or her right to apply for this 60-day stay. Depending on circumstances, a victim may be granted a temporary or permanent residence status.

f. Repatriation (Section 36)

Furthermore, the law requires the Ministry of Social Welfare working with the Ministry of Home Affairs to conduct an assessment to ascertain the risks to the safety of a victim of trafficking who may be repatriated to Zambia. Where the assessment shows that the person may return safely, the Ministry of Home Affairs will facilitate the person’s safe return and entry into the country. The Ministry will also refer the person to a place of safety.

The Ministry of Social Welfare shall by law not return a foreign child victim to the child’s country of origin or the country from which the child has been trafficked without considering whether care arrangements are available and suitable, and if the child will be safe during and after the repatriation process. An adult victim shall not be returned without ascertaining the victim’s safety and security during and after the repatriation process.
g. Reintegration

The Act mandates the Ministry of Social Welfare to ensure that rehabilitation programmes and mechanisms are made available to victims of human trafficking. The Ministry is also responsible for administering the Human Trafficking Fund and for granting eligible victims of trafficking financial assistance to aid their reintegration into their community. The Ministry of Social Welfare is also responsible for identifying a victim assistance organization that is willing to provide the foreign victim with assistance in the country in which the victim is being returned.
CHAPTER 6

COOPERATION WITH LAW ENFORCEMENT AGENCIES: OVERVIEW

6.1 Introduction

 Trafficking victims have a right to judicial redress for the crimes committed against them. Service delivery organizations should discuss these rights with victims to ensure that victims can make an informed choice about how to proceed. As well, trafficking in human beings shows continuing high global growth rates as a high-profit/low-risk international organized criminal activity that causes grave physical, sexual and psychological harm to its victims. Owing to their expertise in assisting victims of trafficking, service delivery organizations are well placed to becoming increasingly involved in closer strategic and practical operational relationships with law enforcement agencies that might have an influence in combating the crime.

Objectives:
- Appreciate the need for cooperation between service providers and law enforcement agencies;
- Recognize the risks involved in cooperation with law enforcement and how to mitigate same;
- Become familiar with issues for consideration in sharing information with law enforcement agencies.

Expected Outcome: By the end of the module, participants will.
- Understand the importance of cooperating with law enforcement agencies;
- Recognize the risks involved in cooperating with law enforcement agencies and factors that might increase these risks;
- Understand the primacy of informed victim consent in the process of sharing information with law enforcement agencies;
- Be able to design and put in place prevention strategies;
- Familiarize themselves with the provisions of the Zambia Anti-Human Trafficking Act no 11 of 2008 pertaining to disclosure information.

Resources: This Toolkit, flip chart, marker, the Anti-Human Trafficking Act No. 11 of 2008 Sections 25-30.

Time frame: 2 hours

Key references:
- The IOM Counter Trafficking Handbook for Law Enforcement Officers in Southern Africa, 2005;
- The IOM Counter-Trafficking Training Modules Victim Identification & Interviewing Techniques, 2006;
- The IOM Handbook on Direct Assistance for Victims of Trafficking, 2007;
- Anti-Trafficking Training for Frontline Law Enforcement Officers Training Guide ICMPD, 2006;

All notes in this Chapter except those under section 6.10 are excerpts from the IOM Handbook on Direct Assistance for Victims of Human Trafficking, Chapter 6, Cooperation with Law Enforcement Agencies (2007))Pp. 273-302
6.2 Perspectives on Cooperation

Cooperation from the Law Enforcement Perspective

From the law enforcement perspective, victim cooperation as well as service delivery organizations’ experience and operational capacity is important in various respects:

- As a first contact for law enforcement officials seeking to secure the immediate safety of trafficking victims;
- To facilitate and provide accommodation and assistance to victims of trafficking, who, in turn, may assist in the investigation into the criminal activities by testifying in court proceedings;
- Provide access to trafficking intelligence that is not usually available to police officers because victims may not trust them sufficiently to talk to them (note: there are risks involved in sharing trafficking intelligence which are described in detail in this chapter);
- To deliver technical assistance and support to strengthen the capacity of law enforcement bodies to combat trafficking.

Cooperation from the Service Delivery Organization Perspective

As organizations committed to curtail trafficking and to protect its victims, service delivery organizations may receive trafficking intelligence from trafficked victims or the relatives and friends of trafficked victims. This intelligence can be of vital importance to law enforcement agencies to locate and rescue trafficking victims. The intelligence can also lead to the identification and investigation of traffickers. Rescue of victims and identification of traffickers are two important components of a comprehensive strategy to counter trafficking. Cooperation between service delivery organizations and law enforcement agencies may help to further these objectives. As well, current field experience shows that significant numbers of trafficked victims in the care of service delivery organizations wish to pass trafficking intelligence to law enforcement agencies. In some cases where the law enforcement capacity is professional and secure, it is possible for the victims to be able to do this directly with the police, on a face-to-face to basis. In other cases, the victims may not wish to meet with police officials.
officers and instead ask the service delivery organization to pass on the intelligence on their behalf. By exchanging intelligence with police agencies in a responsible manner, the service delivery organization may be able to:

- Assist the victim in feeling that s/he has in some way reported his or her case and that the information may lead to penalties against the trafficker or will assist other potential victims; and,
- Contribute effectively towards the rescue of victims and/or the identification of traffickers.

As always, the informed, written consent of the victim and the fact that the organization will, at all times, act in the best interests of the victim, should remain central to any exchange of intelligence.

6.3 Strategic Risks for Service Delivery Organizations

At the strategic level, cooperation with law enforcement agencies may represent a relatively new dimension for many service delivery organizations and sensitive policy issues and risks arise as a result. A careful balance has to be struck regarding the extent and nature of the cooperation and assistance provided by the organization. The extent of such assistance and cooperation depend on the nature and quality of the treatment and protection available to trafficking victims under the criminal justice system of the country concerned, and the extent to which international standards are being observed.

The potential ramifications of law enforcement cooperation are unlikely to be confined just to the relationship between the organization and law enforcement agencies. All interventions must also take into account the wider aspects involved in the organizations’ relations with governments and intergovernmental and non-governmental organizations. In many cases the potential risks can normally be managed through prior consultation and negotiation on the basis of a mutually beneficial partnership. Cooperation with law enforcement authorities, however justified by the prevailing circumstances and the particular issues concerned, should never compromise the impartiality of an organization dedicated to assist victims of trafficking.

The key to reducing this concern lies in the professional management of the relationship with law enforcement agencies within the terms of an unequivocal commitment to human rights, victim-first philosophy as the foundation of the organizations’ response to the trafficking phenomenon.

6.4 Operational Risks for Service Delivery Organizations

As service delivery organizations further develop their services to victims of trafficking, it becomes increasingly difficult to avoid closer involvement with the criminal justice system of the country concerned. The more comprehensive the help to trafficking victims becomes, the greater the value and importance of the organization’s role and the greater the interest of the local police in closer cooperation to enable them to identify and prosecute traffickers. Closer cooperation brings greater risks for victims and staff alike. Such risks arise from a common source: the threat to victims and staff posed by highly organized and ruthless traffickers. For traffickers, each rescue and rehabilitation of a trafficking victim that goes unpunished by the traffickers, either against the victim or family members or other persons close to the victim, is “bad for business” as it undermines their power over other victims who might be similarly planning to escape. Moreover, when a rescued victim goes on to become a witness, the risk to the trafficking business becomes even greater as the challenge to traffickers’ liberty and profitability increases.

It is a fact that traffickers have taken reprisals against their victims who were rescued and who subsequently testified against them in legal proceedings, and they can be expected to continue to do so as their business comes under increasing threat from a concerted international effort to stop it. By the same token, the risk for service delivery organization staff will also grow as the traffickers become increasingly aware of the organization’s role in the rescue and rehabilitation process. Closer cooperation with the police, particularly to ensure that trafficking victims have access to information and protection when acting as witnesses will inevitably raise the level of risk for service delivery organization staff.
6.5 Liaison with Counter-trafficking Units

The need for service delivery organizations to cooperate with law enforcement agencies will normally arise in relation to one of the following areas of activity:

- Technical cooperation or capacity building, e.g., seminars, specialist training or legislative review;
- Intelligence exchange concerning victim rescue, victim interviews or referrals.

In order to ensure that the cooperation in such areas is managed in a secure and consistent manner, it will be necessary to identify and establish an agreed method of liaison between the service delivery organization and the law enforcement agency. The practical liaison arrangements should be set out in the Memorandum of Understanding. It is recommended that a focal point be assigned from the organization for liaison with law enforcement. The MOU can then clearly stipulate that law enforcement officers must contact the service delivery organization only through the designated focal point or a deputy. Having a unique contact point for law enforcement agents to contact will allow the organization to be consistent in its approach and limit the potential for misunderstandings that may arise when different staff give conflicting or inaccurate advice or commit the organization to an inappropriate course of action.

While not seeking to discourage close working relations between all staff and local law enforcement officials, to ensure the necessary continuity and consistency it is recommended that all operational and technical cooperation contacts be coordinated through the designated focal point. The designated focal points form both the service delivery organization and law enforcement should operate on a 24-hour basis. Combating human trafficking is a 24-hour activity, and experience shows that urgent matters of cooperation, particularly in relation to victim rescue or victim assistance, may arise at various times during the day and night. The liaison mechanism will therefore be most effective between the service delivery organization and the law enforcement agencies if it has a 24-hour response capacity. Both the service delivery organization and law enforcement agencies should designate an official who can be contacted at any time of the day or night, and who is equipped with a dedicated mobile phone line for that purpose.

6.6 Technical Cooperation and Capacity Building

Cooperation with law enforcement agencies in the context of technical cooperation and/or institutional capacity building will normally not involve the same degree of complexity or sensitivity as intelligence exchange or victim assistance. However, there may be risks involved in cooperating with a law enforcement agency whose counter-trafficking response does not correspond to international standards on the subject. Participating in technical cooperation or capacity-building training projects with law enforcement agencies that make little or no attempt to comply with international standards on victim treatment and protection could expose the organization to criticism. On the other hand, limited and regularly monitored cooperation with noncompliant law enforcement agencies may provide the organization with an opportunity to exert influence and to move them to review and improve their level of compliance with international standards. Limited cooperation in such circumstances can be a valid and justifiable method of securing improvements in victim treatment as required by the fundamental principles.

6.7 Key Points to Note

The role of service delivery organizations in recording, managing and disseminating trafficking information and of cooperating with law enforcement agencies in general, is an area that causes concern and debate amongst counter-trafficking professionals. In some quarters, there is understandable unease about the possibility of service delivery organizations becoming agents of the police and of the impartiality of the organization becoming compromised as a result. Moreover, there is understandable concern about the additional responsibilities and skills required by staff in dealing with these issues. The following are some issues that organizations may want to take into consideration as they develop their own position and policies in regard to disseminating trafficking intelligence to law enforcement agencies.

- The protection, safety and the respect for the human rights of actual or potential victims of trafficking as the guiding principles to be followed at all times;
Cooperation with law enforcement agencies may assist the organization in achieving its goals of protecting the rights of trafficked persons and of reducing and ultimately preventing the incidence of human trafficking;

As a fundamental human right, victims are entitled to access to mechanisms of justice and redress. In cases where, through fear or other reasons, victims are unable to exercise their right to act as a witness against those that have abused and exploited them, victims may be given an option to provide the police with intelligence about their traffickers, other trafficked victims and trafficking modus operandi. Experience has shown that victims may wish to exercise this option of passing intelligence to police as a way of allowing them to gain access to a measure of justice against their traffickers, without having to face the risks associated with becoming a witness. As a fundamental criminal justice system option open to all trafficked victims, organizations should try to provide legal counselling on this issue as part of its overall support package to protect the rights of trafficked victims;

Staff should not proactively seek victim cooperation to disclose information to the police. Rather a policy should be in place to manage those circumstances in which the victim, having been counselled by the organization about her or his legal rights and options, elects to exercise the option to provide intelligence.

### 6.8 Two-Way Exchange Process

It must always be remembered that the exchange of intelligence with law enforcement agencies should not be a one-way process – it should be conducted as an exchange partnership between two organizations that share a common goal of reducing and ultimately preventing trafficking. Like the police agencies, service delivery organizations have a vital role to play in preventing trafficking and in assisting trafficking victims; that is indeed the reason why the police increasingly seek cooperation and support from service delivery organizations. Therefore, while service delivery organizations will frequently be the partner possessing the highest-grade intelligence (because victims will normally talk to service delivery organizations staff rather than to the police, whom they may not yet fully trust), this form of cooperation should always take the form of an exchange, where the police provides intelligence derived from their sources that can be of assistance to service delivery organizations in the orientation and content of prevention campaigns, research, analysis and strategic responses. As well, it is vitally important that victims be kept informed about any developments that result from information they have provided. They should be made aware about any arrests or convictions of persons involved in their case, and especially need to be informed if any persons questioned or arrested are subsequently released, so that steps can be taken to protect the victim from such persons.

### 6.9 Direct Provision of Intelligence to Police by the Victim

As part of ensuring that victims receive full advice and access to their legal rights and criminal justice system options, victims should receive legal counselling that includes the option to provide intelligence to the police. In cases in which the victim indicates that s/he wants to meet with police investigators in order to provide them with an intelligence briefing, the organization assisting him or her will need to be in a position to advise the victim as to whether this is an appropriate course of action and this will depend upon the assessment of the capacity, professionalism and security of the police unit concerned. Issues arising in this assessment will be whether or not the police unit is able to manage the intelligence properly and whether the confidentiality of the identity of the victim will be guaranteed at all stages up to and including any criminal proceedings that may arise as a result of the passing of the intelligence. These are the issues that the legal counsellor will need to have knowledge of in advance when providing the legal counselling to the victim in the first instance. Where the assessment is that the police are capable of acting professionally and confidentially, the next step is straightforward; the service delivery organization should organize a meeting with a member of the counter-trafficking unit of the police or other appropriate department so that the victim can provide
whatever intelligence material s/he decides that s/he wishes to disclose. Ideally, this type of arrangement should be made with an investigator who is known to the organization and should take place at a safe, neutral venue. The meeting should not take place at a shelter for security reasons.

The victim should be asked in advance whether s/he wishes for the legal counsellor to be present at the meeting. If s/he does not, then the organization need take no additional part in the process. If the victim does request the attendance of the counsellor, the counsellor should be advised to attend, but to take no active part in the meeting, beyond observing and ensuring that the victim is treated in accordance with her or his rights. The contents of the discussions should remain strictly confidential between the victim and the investigator.

The situation becomes much more complicated in locations where the assessment of the capacity and probity of the law enforcement counter-trafficking response precludes the organization from advising the victim from cooperating with them in the provision of intelligence. For example, if it were known that on a previous occasion, the police leaked the identity of a victim to the media, it would clearly be appropriate to alert the victim to this fact and to advise of the risks associated with talking to the police in such circumstances. In such cases, the victim should be advised of the potential risks. If the victim, in full knowledge of all the facts, still wishes to exercise this option, the organization should not seek to prevent the victim from doing so, but should try to ensure that the victim has sufficient information to establish contact with the appropriate police office or counter-trafficking unit. As above, a legal counsellor may be provided, if the victim wishes, to ensure that her or his rights are protected.

### 6.9.1 Assessing the Risks of Disclosing Specific Intelligence

The level of risk involved in disseminating intelligence data must be properly evaluated if the law enforcement agencies are to appropriately evaluate the importance of the data and to respond to it in the most effective manner. This very real risk is likely to occur if and when a victim or other interviewee discloses factual data falling within the following three categories:

- Sensitive case history intelligence;
- Personal data;
- Other data concerning the crime itself, other victims or the traffickers that can only have been known to that victim or other interviewee.

The information below provides some guidance as to how and why dissemination of specific intelligence could elevate risk.

#### Sensitive case history intelligence

The intelligence concerning the nature and operational characteristics of trafficking is not without its problems. When a victim is prepared to tell the whole story, there is a risk that this will include data that may betray the victim’s cooperation with authorities to the traffickers, irrespective of whether personal data is disclosed or not. For example, if a victim provides full details of the false travel documents used, the dates and routes of the itinerary and the time and locations where exploitation occurred, the trafficker may be able to identify the source of the intelligence without difficulty. Many victims will be aware of this risk and, where they do agree to provide intelligence, they will regard some facts as more sensitive than others. If they ask to do so, they may be allowed to specify which data can be released and which should not. Others may not be aware of the risk associated with the information they have disclosed; the organization assisting them should bring this to their attention in order to jointly evaluate the risk.

#### Personal data

It is unlikely that the victim will ask for his or her personal data to be passed on to law enforcement agencies, and it is not recommended that service delivery organizations encourage them to do so. However, there may be occasions when victims want their details given to the police because they may wish to cooperate at a future date. In such cases, the service delivery organization staff should discuss with the victim the potential risks involved in disclosing personal data to ensure that the victim is fully aware of the situation and is informed that, if personal data is disclosed, this clearly increases the risk that his or her cooperative role could be inadvertently or corruptly disclosed.
Intelligence known only to the victim or other interviewee

The third risk category may arise when, for example, a victim or other interviewee provides a detailed description of a trafficker, including personal details such as a scar, mark or tattoo, or details of his private telephone number or banking affairs that are only known to the victim or interviewee and, even more importantly, the trafficker knows that, besides himself, only the victim or interviewee knows such details. If the service delivery organization discloses this intelligence to the police who, on the strength of it, take action against the trafficker, this may well alert the trafficker to the source of the intelligence, and that the resulting police action was made possible only because the victim or interviewee disclosed the data to the service delivery organization, who then passed it on to the police.

Other evaluation considerations

Other issues to consider in evaluating the risk of disseminating the intelligence are highlighted below:

- From what is known from the available intelligence – how dangerous are the people who have trafficked this individual? Within the limits of the available intelligence, this assessment should consider a number of factors, many of which are likely be mentioned by the victim, such as:
  - The degree of violence demonstrated by the traffickers;
  - Their numbers and degree of organization;
  - The possession of any weapons;
  - Any previous indicators of reprisals carried out against others;
  - Threats against the interviewee if s/he escaped and spoke about his or her experiences;
  - Any other information that may assist in making the assessment.

- The organization should then review the contents of the interview and consider each of the factual data in turn, and then ask:
  - Apart from the interviewee and the trafficker, who else could be aware of this particular fact? The organization should never lose sight of the fact that the evaluation can only be carried out on the basis of the available intelligence, nor should it be forgotten that the management of even a small trafficking network is likely to involve multiple traffickers, victims and various other intermediaries such as drivers, corrupt officials, forgers of documents and more and that, as a result, many of the facts will also be known to others and not only to the interviewee;
  - Is the data particularly sensitive? It will quickly become apparent that some facts will be more sensitive than others. Data such as the names appearing on false travel documents, or intimate personal details are obvious examples, but others may exist.

Because of the very real risks involved, the organization should attempt to evaluate the intelligence together with the victim before it is passed onto the police. It has to be remembered that after disclosing sensitive intelligence to law enforcement authorities, neither the organization nor the victim will be able to control or influence the manner in which the law enforcement agencies may decide to act on it. In the final analysis there should be no dissemination of intelligence to police in cases where either the sensitivity of the intelligence or the potential danger posed by the trafficker(s), or both, would create a real and high level of risk to the victim, interviewee, family, service delivery organization staff or others, even in cases where the victim or interviewee has provided written authority for dissemination to law enforcement agencies.

6.10 Disclosure under the Provisions of the Act

The Zambia Anti-Human Trafficking Act provides for reporting of a case of human trafficking. A victim or any person with information about human trafficking may report such a case to the Police and have their identity remain confidential unless it is in the interest of justice to reveal it.\(^{119}\) The Law also provides for an

\(^{119}\) Sec.25 (2) and (4) of the Anti-Human Trafficking Act No. 11 of 2008.
immigration officer, labour inspector, social worker, medical practitioner or nurse who has reasonable grounds to believe that a person is a victim to report the case to a police officer. A child may be assisted to file a report to the police by a relative or friend. By law, a member of the public may conduct a citizen’s arrest where another person has in fact trafficked a victim.

The Police are obliged to respond to a request for assistance by a victim of human trafficking. They will interview the parties involved and make an initial assessment. The victim is entitled by law to receive a copy of the written police report. Furthermore, the Police must assist the victim to obtain medical treatment and/or a place of safety, if necessary. They will also inform the victim of his or her rights and in the case of a child, will refer the child to a designated social worker; adult victims should be referred to adult centers.

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120 Sec. 25 (1) of the Anti-Human Trafficking Act No. 11 of 2008.
121 Sec. 26 (2) of the Anti-Human Trafficking No. 11 of 2008.
122 Sec. 30 of the Anti-Human Trafficking No. 11 of 2008.
123 Sec. 27 of the Anti-Human Trafficking Act No.11 of 2008.
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ANNEX I:
THE PALERMO PROTOCOL

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME
UNITED NATIONS
2000
PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,
Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,
Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,
Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,
Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,
Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

Article 1
Relation with the United Nations Convention against Transnational Organized Crime
1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2
Statement of purpose
The purposes of this Protocol are:
(a) To prevent and combat trafficking in persons, paying particular attention to women and children;
(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3
Use of terms
For the purposes of this Protocol:
(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
(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 18 years of age.

Article 4
Scope of application
This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5
Criminalization
1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of trafficking in persons
1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
(a) Information on relevant court and administrative proceedings;
(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
(a) Appropriate housing;
(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
(c) Medical, psychological and material assistance; and
(d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7
Status of victims of trafficking in persons in receiving States
1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.
**Article 8**

*Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

**III. Prevention, cooperation and other measures**

**Article 9**

*Prevention of trafficking in persons*

1. States Parties shall establish comprehensive policies, programmes and other measures:

   (a) To prevent and combat trafficking in persons; and

   (b) To protect victims of trafficking in persons, especially women and children, from re-victimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, which leads to trafficking.

**Article 10**

*Information exchange and training*

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

   (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

   (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

   (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from
the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

**Article 11**

**Border measures**

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

**Article 12**

**Security and control of documents**

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

**Article 13**

**Legitimacy and validity of documents**

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

**IV. Final provisions**

**Article 14**

**Saving clause**

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

**Article 15**

**Settlement of disputes**

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this
Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

**Article 16**

**Signature, ratification, acceptance, approval and accession**

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

**Article 17**

**Entry into force**

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

**Article 18**

**Amendment**

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier
amendments that they have ratified, accepted or approved.

**Article 19**

**Denunciation**

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

**Article 20**

**Depositary and languages**

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.
ANNEX II:  
ZAMBIA ANTI-HUMAN TRAFFICKING ACT NO. 11 OF 2008 (SIMPLIFIED)

The law relating to human trafficking in Zambia has been enacted recently, and is yet to undergo judicial scrutiny. The interpretation of legal provisions therefore cannot be categorically asserted. However, law enforcement officers can appreciate the provisions of the legislation and the essential requirements for enforcement. A simplified understanding of the law is therefore essential as a supplement to the understanding of the technical nuances of the Anti-Human Trafficking Act No. 11 of 2008. This chapter provides a popular or simplified version of the Act for ease of understanding but this does not act as a substitute for an intimate knowledge of the actual enactment.

The simplified version of the Anti-Human Trafficking Act below has attempted to incorporate all the relevant provisions of the Anti-Human Trafficking Act. Nevertheless, it is advisable that law enforcement officers refer to the actual Act for full reference. The Anti-Human Trafficking Act is available at a fee, from government printers and can be downloaded from the National Assembly website at www.parliament.gov.zm.

The Anti-Human Trafficking Act No. 11 Of 2008
Date of assent: 24 September 2008
Enacted by Parliament: 26 September 2008

PART I
PRELIMINARY

Section 1: Short title
The Act is called the Anti-Human Trafficking Act.

Section 2: Interpretations
The words commonly used in the Act are explained. (Also see the Glossary section.)

“Abuse of vulnerability” in relation to trafficking means such physical or psychological abuse that leads a person to believe that the person has no reasonable alternative but to submit to exploitation, and is not limited to taking advantage of the vulnerabilities of that person resulting from:
the person having entered Zambia illegally or without proper documentation;
pregnancy;
any disability of the person;
adoption to the use of any substances; and
reduced capacity to form judgments by virtue of being a child.

“Centre for victims” means a facility for the provision of temporary accommodation in accordance with a programme referred to in Sections 42 and 43 suited for the needs of victims admitted to the facility.

“Child” means a person under the age of 18 years.

“Child labour” includes all forms of slavery or practices similar to slavery such as:
the sale of a child;
trafficking of a child for the purpose of engaging the child in work away from home and care of the child’s family, in circumstances within which the child is exploited;
debt bondage or any other form of bonded labour;
serfdom; and
forced or compulsory labour, including forced or compulsory recruitment of a child for use in armed conflict.

“Coercion” means violent psychological coercion and other forms of non-violent psychological coercion such as:
a threat of serious harm to a person or another person;
any scheme, plan or pattern; or
the abuse or threatened abuse of the legal process, intended to cause a person to believe that, if the person does not perform labour or provide a service, the person or another person will suffer serious harm;

“Committee” means the Committee on Human Trafficking established under Section 100.

“Debt bondage” means the status or condition that arises from a pledge by a person:
of the person’s personal services; or
of the personal services of another person under that person’s control as a security for a debt owed, or claimed to be owed, including any debt incurred or claimed to be incurred after a pledge is given, by that person if:
the debt owed or claimed to be owed is manifestly excessive;
(ii) the value of those services as reasonably assessed is not applied toward the liquidation of the debt or purported debt; or
(iii) the length and nature of those services are not respectively limited and defined.

“Director of Public Prosecutions” means the person appointed as such under the Constitution.

“Exploitation” includes:
all forms of slavery or practices similar to slavery, including debt bondage or forced marriage;
sexual exploitation;
servitude;
forced labour;
child labour; and
the removal of body parts contrary to the Human Tissue Act.

“Forced labour” means labour or services obtained or maintained through threats, the use of force, intimidation or other forms of coercion or physical restraint.

“Fund” means the Human Trafficking Fund established under Section 102.

“Guardian” in relation to a child, includes any person who has, for the time being, charge of or control over the child.

“Immigration officer” has the meaning assigned to it under the Immigration and Deportation Act.

“Labour inspector” has the meaning assigned to it under the Employment Act.

“Legal practitioner” has the meaning assigned to it in the Legal Practitioners Act.

“Medical practitioner” means a person registered as such under the Medical and Allied Professions Act.

“Parent” includes the guardian.

“Person” includes a partnership.

“Police officer” has the meaning assigned to it under the Zambia Police Act.

“Practices similar to slavery” include:
debt bondage;
serfdom;
any institution in which, or practice under which:
a woman who does not have the right to refuse is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person;
the husband of a woman, his family or his clan has the right to transfer her to another person for value received or otherwise; or
a woman, on the death of her husband, is liable to be inherited by any other person; or
any institution in which, or practice under which, a child is delivered by either one or both of the child’s natural parents or by the child’s guardian to another person, whether for reward or not, for the purpose of the exploitation of the child.

“Premises” includes a vehicle, an offshore installation and any other structure or shelter that is movable.


“Public officer” means a person serving in the Public Service;

“Public service” has the meaning assigned to it in the Public Service Pensions Act.

“Servitude” means a condition in which the labour or services of a person are provided or obtained through threats of serious harm to that person or another person, or through any scheme, plan or pattern intended to cause the person to believe that, if the person does not perform such labour or services, that person or another person would suffer serious harm.

“Sexual exploitation” means the participation of a person in prostitution or other sexual acts, or the production of pornographic material as a result of being subjected to threat, force, intimidation or other forms of coercion or any practice in terms of which it cannot be said that the person participated voluntarily.

“Slavery” means the exercise of any or all the powers attaching to the right of ownership over a person.

“Smuggling” means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or permanent resident.

“Traffic” means to recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, by means of:
any threats or use of force or other forms of coercion; abduction; fraud or deception; false or illegal adoption of a child contrary to the Adoption Act or any other written law; the destruction, concealment, removal, confiscation or possession of any passport, immigration document or other official identification document of a person; the abuse or threatened abuse of the law or legal process or any other form of abuse of power or of a position of vulnerability; or the giving or receiving of payments or benefits to achieve the consent of the person; for the purpose of exploitation.

“Victim” means a person who has suffered harm, including mental and physical injury, emotional suffering, economic loss or substantial impairment of the person’s fundamental human rights through acts that are a violation of this Act.

“Welfare officer” means a social welfare officer employed in the public service.

“Worst forms of labour” has the meaning assigned to it under the Employment of Young Persons and Children Act.

PART II

PROHIBITION OF HUMAN TRAFFICKING

Section 3
A person who deliberately traffics another person or traffics a person for the worst forms of labour or child labour commits an offence and is liable on conviction to imprisonment of 20 to 35 years. If a victim of trafficking dies or suffers grievous bodily harm, a trafficker is liable to life imprisonment.

A person is liable to imprisonment of 25 to 35 years if the victim is a child; the victim is abducted; the trafficker is a biological parent or guardian, or exercises parental control over the child; the trafficker is a public officer and uses that public office for trafficking; the trafficker is convicted of five or more counts of trafficking; the trafficker manages an organized criminal group; or the victim is trafficked for removal of body parts.

A person who traffics another for sexual exploitation is liable to imprisonment of 25 years to life. Where a person is acting in the course of employment or as an agent, an employer or principal also commits an offence and the licence or registration of such a person may be revoked by a court.

Section 4
A person who illegally and deliberately causes another into debt bondage commits an offence and is liable on conviction to imprisonment of 15 to 25 years.

Section 5
A person, who illegally and deliberately hides, tampers with or deprives another person of his/her real or supposed identification document or travel document or passport commits an offence and is liable on conviction to imprisonment of 15 to 25 years.

Section 6
A person who illegally and deliberately benefits from another person’s exploitation commits an offence and is liable on conviction to imprisonment of 10 to 25 years. If the exploitation is sexual or a worst form of labour, the offender is liable to imprisonment of 15 to 25 years.

Section 7
A person who illegally and deliberately transports a victim; controls something that transports a victim; allows premises to be used to keep a victim; advertises or facilitates advertisement of information that suggests trafficking by any means commits an offence and is liable to imprisonment as if the person had trafficked the other person. A person will not be liable if they prove that they did not know that the premises were used for enabling the offence.

Section 8
An Internet service provider operating in Zambia which notices a site that advertises or facilitates advertisement of information that suggests trafficking by any means shall report to the police or else they commit an offence and are liable on conviction to a fine of up to three thousand penalty units or to imprisonment up to three years or both.

Section 9
A person who takes part in smuggling of another person into or out of Zambia or agrees to be smuggled, commits an offence and is liable on conviction to
imprisonment of 15 to 25 years and where death
results, is liable to life imprisonment.

Section 10
A person who hides another person who has done
something contravening this Act commits an offence
and is liable on conviction to imprisonment of two to
five years.

Section 11
An accessory to a contravention of this Act commits an
offence and is liable to the same punishment as if they
had committed the contravention.

Section 12
An attempt to contravene this Act is an offence and a
person who has done so is liable to imprisonment of 10
to 20 years.

Section 13
If an institution commits an offence and an officer from
the institution knew or consented to the offence, or
the institution was negligent, the officer and institution
commit an offence. An officer includes a director,
manager, secretary, partner, member or another
person who manages the institution, partnership or
corporate body.

Section 14
A person directing the activities of an offending
institution commits an offence and is liable on
conviction to penalties as if he or she had personally
committed the offence.

Section 15
A person who deliberately solicits or provides money or
property to facilitate a contravention of this Act
commits an offence and is liable on conviction to the
same penalties as for the offence. Providing money or
property means making it available, whether or not for
reward.

Section 16
A person who deliberately uses or allows the use of
money or property to facilitate a contravention of this
Act commits an offence and is liable on conviction to the
same penalties as for the offence. A person
possessing money or property for facilitating a
contravention of this Act commits an offence and is
liable on conviction to the same penalties as for the
offence.

Section 17
A person who knowingly moves or facilitates the
control of funds, including proceeds of offences,
connected with contravention of this Act on behalf of
another person commits an offence and is liable on
conviction to imprisonment for 10 to 20 years. A
person who did not know or reasonably suspects the
illegal nature of the funds may raise this defence in
court.

Section 18
A person who offers or provides access to financial
services, false documentation, premises, vehicles,
vessels, places, communications equipment or logistics
of any kind to facilitate a contravention of this Act,
commits an offence and is liable on conviction to the
same penalties as for the offence.

Section 19
A person who knowingly directly or indirectly launders
or deals with property obtained through a
contravention of this Act commits an offence and is
liable on conviction to 15 to 20 years imprisonment.

Section 20
A person has a defence if the person freely discloses
involvement in a transaction involving money or
property suspected to be connected with
contravention of this Act as soon as possible to a police
officer, stating the basis for the suspicion. This applies
even where the person is an employee and follows the
employer’s procedures for making disclosures.

A person has no defence if the police officer tells them
to stop the transaction and they continue.

A person has a defence if they fail to report the
transaction and can show that the failure was
reasonably justified. A person shall have absolute
immunity from sanction for any disclosure made under
any circumstances and it shall not constitute breach of
any confidentiality obligations.

Section 21
It is not a defence to a charge under this Act for a
person to say that the victim consented to the action;
had previously been a prostitute or has a sexual or
criminal history; the exploitation did not happen; the
action was a customary practice; or where the victim is
a child, that the parent or person exercising parental
control consented to the action.
PART III
IDENTIFICATION AND PROTECTION OF VICTIM

Section 22
When deciding if a person is a victim, all circumstances of the case shall be taken into account.

The following principles particularly apply:
(a) whether a person is in an exploitative situation through use of violence, force, coercion, drugs, sexual and other blackmail, witchcraft threats or threats of any kind against the person or family members, subjecting the person to witness violence or threatening arrest;
(b) whether a person’s movement is restricted through surveillance generally or not allowing movement without being accompanied when leaving place of work/residence, or forced enclosure;
(c) whether a person shows signs of rape or other sexual exploitation; emotional distress; bruises or other injuries; untreated illness; malnutrition or poor personal hygiene;
(d) whether travel documents are destroyed or kept by someone else or the person has false documents;
(e) whether there is evidence that the person has been forced to lie to family and friends about their welfare and location; or
(f) whether the person is under debt bondage; has been forced to work for little or no money or is doing different work from the work originally promised.

Section 23
The Minister may, by statutory instrument, declare a country as a country of origin or destination. The Minister shall also develop a screening mechanism to determine if persons going to or coming from these countries are victims of trafficking.

Section 24
The DPP shall decide whether or not to prosecute a victim of trafficking for an offence committed directly as a result of being trafficked. A victim of trafficking may only be prosecuted with the written authority of the DPP.

Section 25
A person, immigration officer, labour inspector, social worker, medical practitioner or nurse who reasonably believes that a person is victim of trafficking shall report to a police officer. A police officer, upon receiving a report, shall assess it and investigate where reasonable grounds exist and if trafficking is confirmed, refer the victim to a centre or designated social worker in the case of a child. A person who fails to report suspected trafficking commits an offence and is liable on conviction to a fine of up to 200,000 penalty units or imprisonment up to two years or both. The identity of the person reporting shall be confidential unless justice requires disclosure.

Section 26
A victim or person with information on trafficking may file a complaint with a police officer at a place where the offender or victim lives, where the offence is or was the victim’s temporary residence. A next friend may help a child file a complaint. Where a victim is unable to file a complaint, a family member or person knowing of the offence may do so. Where a person who could have complained dies, a person knowing of the offence may file a complaint.

Section 27
A police officer shall assist a person reporting an offence who requests assistance, whether or not the person is the victim. An officer who fails to assist is liable to disciplinary action.

Section 28
A police officer who receives a complaint shall interview all parties and witnesses to the offence; record the complaint and give the victim copy; help the victim get treatment where necessary; help the victim to a place of safety; and inform the victim of his/her rights and available basic support.

Section 29
A police officer may arrest a person for an offence under this Act with or without a warrant, where the offence is committed in the officer’s presence or the person obstructs the officer or attempts to escape from lawful custody. An officer may arrest without warrant where the officer reasonably believes an offence under this Act has or is about to be committed.
Section 30
A person may arrest without warrant another person committing in the presence of such person an offence under this Act. A person may also arrest without warrant another person who he reasonably suspects of committing such an offence. A private person who effects an arrest shall immediately hand the person over to the police.

Section 31
A child victim may be placed in temporary safe care pending investigations, and, in the case of a foreign child brought to court, the court may order assistance to the child for asylum application. Where a finding is that a foreign child is in need of care, the child may stay in Zambia for the duration of the court order.

Section 32
A victim shall not be deported summarily.

Section 33
The chief immigration officer may allow a victim of trafficking to remain in Zambia for an unconditional non-renewable period up to 60 days. An adult victim shall be placed in an adult centre or other authorized place and a child shall be placed in the care of a social worker or other authorized person or institution. A medical or public officer who identifies a victim shall inform them of the non-renewable 60-day stay period.

Section 34
A visitor’s permit may, subject to prescribed conditions, be issued to a victim present in Zambia, if cooperating with law enforcement, or is an adult victim in an adult centre or other authorized place, or a child in the care of a social worker or other authorized person or institution.

Section 35
A victim may apply for permanent residence after five years of continuous stay in Zambia from the date of grant of a visitor’s permit, if the victim proves to the Chief Immigration Officer that he/she may be harmed, killed or re-trafficked if he/she goes back to the country of origin or trafficking.

Section 36
The ministry responsible for social welfare shall not return a foreign adult or child victim to a country of origin or trafficking without considering the victim’s safety during repatriation and in the country of return; in the case of a child, the availability and suitability of care arrangements and the possibility of harm, death or re-trafficking. An adult victim may be returned if he/she agrees to do so.

Section 37
The minister in charge of social welfare shall reasonably endeavour to find an institution that assists victims that is willing to assist a returned victim and shall provide such information relating to the victim.

Section 38
The ministry responsible for foreign affairs shall quickly and in cooperation with the ministry in charge of social welfare assess the risks to the safety and life of a returned victim who is a citizen or permanent resident of Zambia; facilitate and accept the return of such a person and advise on measures for the safe reception of the victim at a Zambian entry port. The Minister shall facilitate and accept the return of a victim and issue necessary travel documents and authorizations and, at the request of another State Party to the protocol, verify that the victim is a citizen or permanent resident of Zambia and place the victim in an adult centre or other authorized place and a child in the care of a designated social worker for investigation.

Section 39
The minister responsible for social welfare may, in the best interests of a child victim, authorize an adult to escort the child at State expense from the place the child was found to the place the child was trafficked from and such authorization may only be made if the minister is satisfied that a parent, guardian or person exercising parental control does not have the money to travel to the place where the child is in order to escort the child back.

PART IV
CENTRES FOR VICTIMS

Section 40
The minister responsible for social welfare shall establish and operate victim centres from money appropriated by parliament and ensure appropriate spread of such centres throughout Zambia.

Section 41
The minister may, by statutory instrument, prescribe standards and norms to be followed by victim centres.
Section 42
A centre for child victims shall secure the physical safety of the child; provide temporary basic material support; offer counselling and rehabilitation services to child victims and, in cooperation with the ministry responsible for education, offer educational programmes for child victims.

Section 43
A centre for adult victims shall secure the safety of adult victims at risk of retaliation; offer counselling and rehabilitation services to adult victims; reintegration into their families and communities; and, in cooperation with the ministry responsible for education, offer educational programmes for adult victims and, in cooperation with the ministry responsible for labour, offer skills development training to adult victims.

An adult victim centre that accommodates a victim with a child shall offer a programme aimed at the reception, care and development of such a child and the child may be cared for at any other premises with the explicit consent of the adult victim. A designated social worker may investigate whether a child is in need of care and protection.

Section 44
Upon admission of a victim to a victim centre, a social worker shall assess the risks to the life and safety of the victim, and the immediate and long-term needs of the victim.

Section 45
A police officer or another person may help a welfare officer trace the family of a trafficked person. A person with information shall provide it to a welfare officer, the police or a non-governmental organization.

Section 46
The ministry responsible for social welfare shall provide mechanisms and programmes for the rehabilitation of trafficked persons and they may receive financial assistance from the Fund and the best interest of the child shall be paramount.

Section 47
A victim is entitled to the same public health care which a citizen has access to.

PART V
FORFEITURE OF PROCEEDS OF HUMAN TRAFFICKING

Section 48
“Forfeited property”
This means money or property subject to a forfeiture order;
“Receiver”
This means a person acting as an official receiver under applicable bankruptcy and insolvency law.

Section 49
The Attorney-General may make an ex parte application to the High Court for an order temporarily suspending dealings relating to any money or property connected to a suspect charged or about to be charged with an offence under this Act or a trafficking offence, whether or not the suspect belongs to a trafficking organization; or any other specified person.

An order may prohibit a person from making other property available for the benefit of an organization or a suspect; grant authority to make money or property conditionally available to a suspect or require a person to provide information or produce documents reasonably required for investigation of an offence under this Act; or any additional court-imposed conditions.

The court may appoint an asset manager while an order is in force.

The Attorney-General shall have a notice of the order issued in the next Gazette and two daily newspapers of general circulation in the area and give notice to any bank, financial institution or business person or any other person the Attorney-General knows or suspects may have connections with suspect property.

An order is valid for 30 days unless extended by the High Court after hearing the parties. An aggrieved person may bring an action against the Attorney-General for damages or other legal remedies.

Section 50
Where the Attorney-General reasonably suspects that a person has committed, is committing or is about to commit an offence under this Act or possesses property connected to an offence, the Attorney-General may, for investigation purposes, apply for a
High Court order for surrender of any document or record identifying, locating or quantifying suspect property or requiring a bank or other financial institution to surrender documents and records regarding transactions done by or on behalf of a suspect. An order may authorize search and seizure, and a person who delays, interferes with or obstructs officers commits an offence and is liable on conviction to imprisonment up to 20 years.

**Section 51**
An authorized officer may seize money being imported into or exported outside Zambia or brought to Zambia for export, which the officer suspects is for use in contravening this Act. An authorized officer may seize an entire quantity of money, if part of it is suspected to be for use to contravene this Act and it is not possible to seize only that part of the money. Seizure may be effected whether or not proceedings are pending. An officer shall, as soon as possible but not later than seven days after seizure, apply to the High court for a detention order.

The Court shall not grant an order unless there is reasonable justification. An order is valid for 60 days and renewable for a further 30 days at a time, unless the money is sooner required for proceedings related to it.

Seized money shall be deposited in an interest-bearing account and released on order of the High Court to a person entitled to it if the court determines or if no proceedings commence within six months of seizure.

An authorized person is the Commissioner of Customs and Excise; the Director-General of the Anti-Corruption Commission; the Commissioner of the Drug Enforcement Commission; the Inspector-General of Police; the Attorney-General or a person delegated by any of these.

Money means coins or notes in any currency; postal orders; traveller’s cheques; banker’s drafts; negotiable instruments and bank deposits.

**Section 52**
The court before which a person is convicted may order the forfeiture of anything which the court considers was in the person’s possession or control for reasons connected with the offence. Before making a forfeiture order, the court shall afford any person who is not a party to the proceedings and who claims ownership or some other interest in the subject property a chance to be heard.

**Section 53**
Where a court makes a forfeiture order, it may make other provisions necessary to give effect to the order, including requiring forfeited property to be paid or handed to the Registrar of court; appointment of a receiver to take possession on conditions stated by the court or direct a specified part of forfeited money or proceeds of sale, disposal or realization of forfeited property, to be paid to the Registrar of the court to the Fund. A reference to proceeds is after deduction of costs of sale disposal or realization.

**Section 54**
A receiver appointed pursuant to a court order shall be paid remuneration and expenses out of the proceeds of the realized property paid to the registrar of the court. Where the funds are not enough, the receiver shall be paid from the Fund. A receiver shall not be liable for loss or damage resulting from action which the receiver takes in relation to property which is not forfeited but the receiver reasonably believed to be, which the receiver would be entitled to take if the property were forfeited. A receiver is liable for negligent actions.

**Section 55**
The Registrar of a court that makes a forfeiture order shall issue a certificate relating to the order upon application by the prosecutor or defendant in proceedings.

**Section 56**
No property which is the subject of a forfeiture order shall be finally disposed of within six months of the date of the order.

Where the commencement of insolvency occurs or has occurred in the course of any proceedings, or where during the period of six months following a forfeiture order, a receiver gives notice to register of the court executing the forfeiture order, any function that would be exercisable by a receiver acting in those proceedings shall be exercisable as if the order had not been issued.

Property subject to a forfeiture order shall cease to be subject to the order and shall be dealt with in the insolvency proceedings. The minister shall be taken to be a creditor in insolvency proceedings to the amount or value of the property and the debt shall rank after the debts of all other creditors.
Any property ceasing to be subject of a forfeiture order as a result of a bankruptcy order or award of sequestration, which is order becomes subsequently annulled, shall resume being subject to the forfeiture order or any ancillary order and in the case of property being converted to money, the court shall make an order specifying the property comprised in the estate of the debtor to the amount of the value of the property in question.

Commencement of insolvency means the making of a bankruptcy order or in the case of a company, the passing of a resolution or a court order for winding up.

Final disposal of money means the payment to the Fund.

Section 57
A receiver shall not be liable for loss or damage to seized property, except in the case of negligence, resulting from action which the receiver takes in relation to property which is not forfeited but the receiver reasonably believed to be; which the receiver would be entitled to take if the property were forfeited. A receiver shall have a lien on the property or proceeds of its sale for expenses incurred in connection with insolvency proceedings affecting seized property and so much of the receiver’s remuneration as may reasonably be assigned for the receiver in connection with these proceedings.

PART VI
COMPENSATION

Section 58
The court may, in addition to any other punishment, order a convict to compensate a victim for damage to or loss of property, including money; physical, psychological or other injury or loss of income or support resulting from the commission of the offence. The court shall assess the means of a convict in ordering compensation.

Section 59
The court may, in addition to any punishment and order for compensation, upon the application of a prosecutor, make an order for payment of compensation to the State for expenses incurred for care, accommodation, transportation or repatriation of the victim.

Section 60
Where compensation is payable, the court may enforce payment by allowing the convict to pay compensation in instalments or at determined intervals or, if the money is in the form of wages or salary, the court may order deduction of a specified amount to be paid to the clerk or registrar of the court. The court may vary the conditions for payment and may, upon proof of good reason, review its decision.

Section 61
The court may order the issue of a warrant to the sheriff to recover the compensation amount by attachment and sale of property belonging to the convict. The amount recovered shall include the costs and expenses of the warrant and of attachment and sale of the property.

Section 62
Where compensation is not paid in full, a sentencing court may warn the convict to appear before it or issue a warrant for that person to be arrested and brought before court and the court may impose such other sentence as would have been imposed if the court were considering sentence after conviction and shall take into account part payment of the compensation.

PART VII
INVESTIGATIONS

Section 63
Where an order has been given under this part, a police officer of or above the rank of inspector named in the order may require a bank, financial institution or service provider to give customer information for the investigation. The information shall be provided according to the order. Customer information held by a lawyer for a client is not subject to an ex parte order. A bank, financial institution or service provider that fails to comply with a requirement in an order commits an offence and is liable to a penalty of up to 500,000 penalty units. The institution ordered may raise a defence that the information required was not in its possession or that it was not reasonably practicable for the institution to obey the requirement.
Section 64
An order under this part shall be made by the High Court on application of a police officer above the rank of inspector or by the Attorney-General.

Section 65
An order shall only be given where a court is satisfied that the order is needed for investigating an offence under this Act and that tracing of property that has been used for the furtherance of an offence is necessary for the purpose of an investigation and the order will enhance the effectiveness of the investigation.

Section 66
An institution which stops operating as a bank, financial institution or financial service provider shall continue to be treated as a bank, financial institution or financial service provider for the purpose of any requirement under this part to provide customer information relating to a time when the institution was still operating.

Section 67
Customer information means information as to whether a business relationship exists or existed between a bank, financial institution or financial service provider and a particular customer; a customer account number; full names; date of birth; current and former addresses; date of beginning of the business relationship; evidence of a customer’s identity obtained by the bank and the identity of a person sharing an account with a customer.

A business customer relationship exists if there is an arrangement between them designed to facilitate the carrying out of frequent or regular transactions between them and the total amount of payments to be made in the course of the arrangement is neither known nor capable of being ascertained when the arrangement is made. Classes of customer information may be determined by rules made under this Act.

Section 68
A person who knowing or reasonably suspecting that an authorized officer is conducting an investigation of an offence under this Act or that a person is cooperating with the police and deliberately discloses to another person anything which is likely to prejudice the investigation or interferes with material likely to be relevant to the investigation commits an offence and is liable on conviction to 10 to 15 years imprisonment.
A person has a defence if he/she satisfies the court that he/she did not know or reasonably suspect that the disclosure or interference was likely to affect the investigation.
A disclosure by a legal practitioner to a client or the client’s representative, in connection with the provision of legal advice by the legal practitioner to the client or for actual or contemplated legal proceedings and not with a view to furthering a criminal purpose, shall be exempt from this section.

PART VIII
PORT AND BORDER CONTROL

Section 69
This part gives powers to examine persons arriving in or leaving Zambia and for related purposes. These powers shall be used despite any right given by the Immigration and Deportation Act.

Section 70
An examining officer in this part means a Police officer; an Anti-Corruption Commission officer; a Drug Enforcement Commission officer; an Immigration officer; and a Customs officer designated by the Commissioner of Customs and Excise.

A port means a port of entry or exit that is Gazetted and a port manager is a person who has custody, control or management of a port. A ship includes a vessel or hovercraft and a vehicle includes a train.

Section 71
An examining officer may question a person who has arrived in or who is trying to leave Zambia for the purpose of determining whether there is reason to suspect that a person is a trafficker or involved in trafficking or whether the person is subject to a deportation order.

Section 72
A person questioned under this part shall give the examining officer any information or documentation he/she has which the officer requests and produce to the examining officer on request a valid passport which includes a picture or another document establishing the person’s identity and citizenship.
Section 73
An examining officer may stop a person or vehicle or detain a person in order to get information. The authorized officer may remove a person from a ship, aircraft or vehicle in order to detain him/her.

Section 74
An examining officer can search a ship, aircraft or transport which is reasonably believed to be carrying or harbouring a trafficker or trafficked person or thing likely to be used for trafficking.

Section 75
An examining officer who questions a person may search the person, anything belonging to or in possession of the person which is on a ship or aircraft, or anything which belongs to the person and the examining officer believes has been, is or is about to be, on a ship or aircraft and may search it.

Section 76
An examining officer may examine goods in order to decide whether they have been used in connection with an offence under this Act. This section applies to goods coming into or leaving Zambia and goods include property of any description and containers. The officer may also board any shop or aircraft or enter a vehicle for the purpose of exercising any powers under this Act.

Section 77
An examining officer may detain anything which may be required in any criminal proceedings or in connection with a decision by the minister whether to deport someone or not, in order to examine it for a period not longer than three days from the day it is detained.

Section 78
The minister may, by notice in writing to an owner or agent of any ship or aircraft, designate control areas in any port in Zambia and set conditions on embarking and disembarking passengers in a control area. A person who receives a notice from the minister shall ensure that passengers do not embark or disembark outside the control area and that conditions specified are met.

Section 79
The minister may, by notice in writing, designate control areas in the port and require a port manager to provide, at their own expense, specified embarking and disembarking facilities or for examination and set conditions relating to embarking and disembarking and requiring a port manager to display notices about the provisions of this part in the prescribed form. The port manager shall take all reasonable steps to comply with any requirement in the notice.

Section 80
The minister may, by order, provide that a person who disembarks in Zambia, if required to do so by an examining officer, complete and produce to the officer a card containing that information in a form specified in the order. The order may require an owner or agent of a ship or aircraft that carries people commercially to supply the passengers with cards in the prescribed form.

Section 81.
An examining officer may request an owner of a ship, vehicle or aircraft which arrives or is expected to arrive in Zambia for information required for the purposes of this Act and the owner or agent shall obey the request made within the time stated in the order. The request may be general or specific and a person requested for information shall give the captain information needed to obey the request.

Section 82.
The minister shall, at the request of another state party to the protocol or an agreement relating to trafficking, verify in reasonable time the originality and validity of travel or identity documents issued or purportedly issued by the immigration department and suspected of being used for a trafficking offence.

Section 83.
A person who fails to obey a duty under this part or contravenes a prohibition connected with this part commits an offence and is liable on conviction to imprisonment up to two years or a fine up to 200,000 penalty units or to both.

PART IX
DEPORTATION ORDERS

Section 84.
The minister may make a deportation order against a person where the minister is satisfied that the person has been involved in the commission, preparation or
instigation of an offence under this Act in Zambia or attempting to enter Zambia in order to be involved in the commission, preparation or instigation of an offence. The minister, in deciding to make an order against a person ordinarily resident in Zambia, shall consider whether that person’s connection with any country or territory outside Zambia justifies the order. A deportation order shall not be made against a Zambian citizen. This section shall operate despite any provision of the Immigration and Deportation Act. A person subject to a deportation order may apply to the High Court for review of the order.

Section 85.
The minister may revoke a deportation order by a further order and this shall not prevent the making of a further order against the person.

Section 86.
A notice of the deportation order shall be served on the person named in the order within 14 days, but there is no obligation to take stops to serve notice on a person at a time when the person is against Zambia. If a person named in a deportation order is not detained because of this Act, notice of the order may be posted to the person’s last known address or by publication of notice in the Gazette.

Section 87
The minister may direct the removal from Zambia of a person named in a deportation order. A person who without proper reason fails to obey deportation directions commits an offence and is liable on conviction to imprisonment up to two years or a fine up to 80,000 penalty units.

Section 88
A person named in a detention order may be detained pending the giving of directions and removal pursuant to the directions. An examining officer may arrest a person liable to detention with or with a warrant.

A ship or aircraft captain shall prevent a person to board the ship or aircraft or disembark in Zambia if an examining officer requires this and a failure to reasonably comply is an offence where a person upon conviction is liable for up to two years imprisonment or a fine of up to 80,000 penalty units or both.

Section 89
A magistrate may issue a search an arrest warrant to any police officer for a person named in a detention order where a person is reasonably believed to be on premises to which the warrant relates. A person detained under this part is deemed to be in legal custody when in police custody except on board a ship, vehicle or aircraft. An examining officer may take reasonable steps to identify a detained person.

Section 90
A person named in a deportation order who fails to obey the order at a time the person is or has been liable to be excluded under this Act commits an offence and is liable on conviction to imprisonment of 10 to 20 years. A person who deliberately secures or facilitates the entry into Zambia of a person known or reasonably believed to be named in a deportation order, commits an offence and is liable to imprisonment of 10 to 20 years.

PART X
MUTUAL LEGAL ASSISTANCE AND EXTRADITION

Section 91
At the request of a competent authority of a foreign state, the Attorney-General may disclose any information connected with an offence under this Act, in the Attorney-General’s possession relating to actions or movements of trafficking suspects; use of false or falsified travel papers; use of communications technologies or commission of offence by a person if the disclosure is not prohibited by law or harmful to national security or public safety.

Section 92
Where a foreign state makes a request for assistance in investigating or prosecuting an offence under this Act or in connection with suspect property, the Attorney-General may execute the request or decline to execute the request, or delay its execution and inform the foreign state the reasons why.

Where the Attorney-General decides to execute a request for assistance, the Attorney-General shall authorize a police officer in writing to apply ex parte to a magistrate for a search or seizure warrant or a tracking, attachment or forfeiture order. The High
Court may make an order on conditions it finds appropriate. For the purposes of a High Court order, the provisions of this Act relating to tracking, attachment and forfeiture of property shall apply with necessary modification in respect of any act done or allegedly done outside Zambia which constitutes an offence under this Act or which would constitute an offence if committed in Zambia. Power to inspect electronic records shall be understood to include full and free access to the record storing devices of the premises. Power of seizure in relation to electronic records includes power to seize storage devices.

Section 93
The Attorney-General may request a foreign state to provide evidence or information relevant to an offence under this Act or for the tracking, attachment or forfeiture of property used in connection with an offence under this Act and located in that state.

A request required to be signed by an appropriate competent authority shall be signed by the Attorney-General who shall, for the purposes of making a request, be considered as the appropriate competent authority.

The Attorney-General may, in respect of proceedings under this Act, apply to the High Court for an order to a person resident in a foreign state to surrender oneself or deliver any document, record, material or thing in their possession or control to the jurisdiction of the court or, with the foreign state’s consent, the court of the foreign state for giving evidence. Evidence taken in a foreign state if authenticated may be admitted as evidence in any proceedings to which it relates. Authentication means signing or certification by a judge, magistrate or officer in or of a foreign state and purported authentication by oath or affirmation of a witness or sealed with official or public seal of a minister, department of state or officer in or of the government of the foreign state.

Section 94
A request shall be in writing, dated and signed by or on behalf of the person making the request and transmitted in writing or by fax or other electronic means. A request shall confirm either current investigation or proceedings in relation to an offence or that a person has been convicted of an offence under this Act; state grounds for investigation, prosecution or conviction; particulars of identity of the person; particulars of sufficient identity of any bank, financial institution or financial service provider or other person with relevant information and documents and request assistance to obtain these; specify the manner in which and person to whom any information, document, record or material obtained through the request is to be produced; state whether an attachment or forfeiture order is required to identify the subject property of the order and contain such other information as may assist the execution of the request.

Section 95
The Extradition Act applies to a person who commits an offence under this Act, for an act or omission which if done in Zambia would be an offence under this Act; who has committed an offence against any anti-trafficking law of a foreign state or who committed an offence against the Convention or trafficking Protocol whether committed or alleged to have been committed before or after the commencement of this Act, or who is wanted by a state for the carrying out of a sentence imposed pursuant to a conviction under this Act or the Convention.

PART XI
PREVENTION OF TRAFFICKING IN PERSONS

Section 96
The minister may, in consultation with the ministers responsible for education and social services, establish public awareness programmes or measures designed to inform and educate people at risk of becoming victims; explain common recruitment techniques and methods used to keep victims exploited; forms of abuse and organizations, institutions and law enforcement agencies that offer help; victims rights, legal or other measures for victims safety, recovery and repatriation. The ministers may put measures and programmes to discourage trafficking demand especially for women and children. The measures shall include a rural education component and a two yearly review mechanism.

Section 97
Where a court reasonably believes that a parent, guardian or person exercising parental authority over a child has trafficked the child or allowed the trafficking,
the court may suspend all the parental rights and responsibilities of the person and place the child in temporary safe care pending court inquiry. This action does not exclude a person’s liability for committing the offence of trafficking in persons.

Section 98
The president may on determined conditions enter an agreement with a foreign state that is not a state party to the Protocol on any matter relating to human trafficking and enter into an agreement with a state party to the Protocol regarding any matter concerning trafficking in order to supplement the Protocol or facilitate application of the principles there. An agreement made shall not conflict with the Protocol. The president may agree to any amendment or revocation of an agreement and a revocation or amendment shall not have any effect until it has been approved by Parliament.

Section 99
A Zambia court has jurisdiction in respect of any act committed outside Zambia which would be an offence under the Act if done in Zambia, whether or not the conduct amounts to an offence where it is done if the person to be charged is a citizen of Zambia; is ordinarily resident in Zambia; was arrested in Zambia or in its territorial waters or on board a ship or aircraft registered or required to be registered in Zambia at the time of the act; is a person or partnership registered in Zambia or the victim is a Zambian. A person charged with an offence under this Act is liable on conviction to the penalty provided for that offence.

PART XII
COMMITTEE ON HUMAN TRAFFICKING

Section 100
A Committee on Human Trafficking is established and the schedule applies to its administration.

Section 101
The Committee shall coordinate activities of all relevant institutions and make recommendation for a national plan of action against trafficking; monitoring and progress reporting; policy advice; investigation and prosecution advice; strategic planning; government liaison; guideline preparation; international best practice monitoring and incidental matters.

PART XIII
HUMAN TRAFFICKING FUND

Section 102
There is established a human trafficking fund consisting of voluntary contributions from any person; monies appropriated by parliament and grants from any source within or outside Zambia. The Fund money is used for basic material support for victims; skills training; locating victim families; and any other matter related to rehabilitation and reintegration of victims.

Section 103
The Fund is vested in the minister responsible for finance and is managed and administered by the minister responsible for social welfare. The task force shall develop disbursement guidelines.

Section 104
The minister shall have books of accounts kept relating to the fund.

Section 105
Both ministers responsible for finance and social welfare shall have annual statements of income and expenditure prepared and presented to the National Assembly.

PART XIV
GENERAL PROVISIONS

Section 106
A power to search premises includes power to search a container; a power to stop a person includes power to stop a vehicle and a search on a suspect shall be done by a person of the same sex.

Section 107
A document purporting to be signed by the minister or the Attorney-General or on their behalf shall be receivable in evidence and valid until the contrary is proved. A document bearing a certificate purportedly signed by the minister or Attorney-General saying that a document is a true copy shall be evidence of the document in legal proceedings. These provisions do not restrict the operation of the evidence Act.

Section 108
The chief justice may make rules of court for procedures on applications and particularly for giving
notices to people affected under this part and joinder of those persons as parties to proceedings.

Section 109
Proceedings for an offence under this Act may be held in camera.

Section 110
The minister may make regulations to give effect to this Act, including the manner of reporting trafficking; manner of investigating trafficking; manner of victim identification and treatment; victim referrals; victim and witness safety measures and circumstances for consultation with the prosecuting authority for guidance on getting evidence and witness identification.

SCHEDULE
COMMITTEE ON HUMAN TRAFFICKING
1. The Committee is composed of a representative from the ministry responsible for social welfare; gender; children; local government; health; home affairs; labour; information and a representative from Immigration; Zambia police; the Attorney-General and a non-governmental organization dealing with children.
2. The term of office is three years from the date of appointment and subject to a further term. Members select a chairperson.
3. The Committee may regulate its own procedure and meet at least once every three months and two thirds membership shall form a quorum.
4. The Committee may constitute subcommittees for better functioning and may delegate such functions as are necessary for the subcommittees work.
5. The Committee may be members such allowances as are approved by the minister.
6. A member shall disclose any direct or indirect interest that they or their spouse may have in their private capacity in a matter which is subject of consideration.
7. Members are immune from prosecution for exercising their functions under the Act in good faith.
8. A person shall not disclose any information on behalf of the Committee without the written consent of the Committee in the course of their duties. A person who makes an unlawful disclosure commits an offence and is liable to a fine of up to 200,000 penalty units or imprisonment up to two years or both.
9. The Committee shall appoint a Secretariat comprising such staff as the Committee determines with the approval of the minister and the Secretariat will be at the ministry.
ANNEX III: VICTIM IDENTIFICATION CHECKLIST

Proper victim identification ensures that victim rights are upheld and that victims have access to justice and support services. When deciding whether a person is a victim of human trafficking, the following should be considered:

- Is the person confined, under constant surveillance or have restricted movement?
- Is the person in possession of their own identity or travel documents?
- Are the travel or identity documents authentic?
- How was the person moved, voluntarily or involuntarily?
- How did the person travel from their point of origin?
- Who paid for the travel expenses (and accommodation)?
- Is the person in debt bondage, compelled labour or labour with no pay?
- Was any money paid to the recruiter in advance?
- What was the person promised?
- What activities has the person been engaged in since he or she arrived?
- How soon after arrival did the activity begin?
- What were the working conditions?
- How much did the person earn and where is the money worked for?
- Has the person had any contact with family or friends?
- Has the person been forced to lie about their whereabouts to their family or friends?
- How was the person recruited? Was contact established by:
  - The victim
  - The trafficker
  - A family member, relative or friend
  - An agent or other third party
- Is the person’s exploitation as a result of:
  - Violence or threats to themselves or their family or friends?
  - Threats of witchcraft preventing the person escaping?
  - Threats of exposure or humiliation by photographing or videotaping the person in a compromising position?
  - Threats of arrest or deportation?
  - Forcing the person to witness the beating, rape or murder of another person in order to intimidate them?
- Does the person show signs of:
  - Rape, burns, bruising or some other physical?
  - Emotional distress, depression, anxiety, post traumatic stress or self inflicted injuries?
  - Forced abortions, malnutrition and poor personal hygiene?
For further information, please contact:
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