

TRAINING MANUAL: ***(FACILITATORS GUIDE)***

PROTECTION ASSISTANCE FOR VULNERABLE MIGRANTS IN ZAMBIA



IOM Development Fund
*Developing Capacities in
Migration Management*



ACKNOWLEDGEMENTS

This Manual has been developed to facilitate capacity building of first line officials to establish and/or implement 'protection-sensitive processes, procedures and systems', with the aim of effectively responding to the protection needs of vulnerable migrants in Zambia.

The Manual was developed as part of a Joint Programme that is being implemented by the International Organization for Migration, United Nations High Commission for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF), supporting the Government of the Republic of Zambia to build the capacity of national actors in responding to mixed migration. This Manual was developed in close collaboration with a Technical Working Group convened specifically for the purpose (see composition of Technical Working Group overleaf) and through consultations with migration experts in various government ministries and departments, as well as UNHCR, UNICEF and IOM, who were extensively consulted during the development process. The Manual was written by Ms. Chana Chelemu-Jere in close consultation with Ms. Annie Lane, Programme Officer IOM Zambia, and the IOM Zambia Migration Management Team, including: Mr. Most Mwamba, Ms. Bertha Nguvulu, Ms. Margaret Chirwa and Ms. Chibalani Katongo. IOM Zambia is also grateful to Mr. Yitna Getachew, Regional Thematic Specialist, IOM Pretoria for the provision of technical guidance during the drafting of the Manual.

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LIST OF ACRONYMS

BIA	Best Interests Assessment
BID	Best Interest Determination
COR	Commissioner for Refugees
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
DJOC	District Joint Operations Committee
DSW	Department of Social Welfare
FLO(s)	First Line Official(s)
GRZ	Government of the Republic of Zambia
HRBA	Human Rights Based Approach
ILO	International Labour Organization
IOM	International Organization for Migration
ICRC	International Committee for the Red Cross and Red Crescent
NEC	National Eligibility Committee
NRM	National Referral Mechanism
PIs	Prohibited Immigrants
PJOC	Provincial Joint Operations Committee
UASC	Unaccompanied and Separated Children
UDHR	Universal Declaration of Human Rights
UNCTOC	United Nations Convention against Transnational Organized Crime
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
UNJPHT	United Nations Joint Programme on Human Trafficking
UPR	Universal Peer Review
SOP(s)	Standard Operating Procedure(s)
SWOT	Strengths, Weaknesses, Opportunities and Threats
VoT(s)	Victim(s) of Trafficking

GLOSSARY: WORKING DEFINITIONS AND TERMINOLOGIES

The terms detailed in the Glossary are presented in alphabetical order and are intended to be used for the purpose of these Guidelines. Sources of the definitions provided are indicated in footnotes, with the exception of definitions contextually developed and/ or adapted by the Technical Working Group for the Zambia context. In a different context, the definitions may vary.

Asylum seeker: A person who is seeking protection from a foreign country and is still waiting to have his/her claim assessed.

Best Interests Assessment (BIA): Part of a continuous process in which the best interests of the child are pursued continuously as the overall goal of any interventions made on behalf of an unaccompanied or separated child throughout the displacement cycle.¹

Best Interest of the Child: Involves evaluating and finding the balance between all the necessary factors which must be taken into account when making a decision in a specific situation, for a particular child or group of children.

Best Interests Determination (BID): A formal process with specific procedural safeguards and documentation requirements that is conducted for certain children whereby a decision-maker is required to weigh and balance all the relevant factors of a particular case, giving appropriate weight to the rights and obligations recognized in the CRC and other human rights instruments, so that a comprehensive decision can be made that best protects the rights of children.²

Child: Defined as a person below 18 years old³.

Detention: For the purposes of these Guidelines, detention refers to the deprivation of liberty or confinement in a closed place in which a migrant is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed referral or holding centres or facilities.

First line officials: This term is used broadly to encompass immigration officials, police officers, social welfare officers, prison officials, other civil servants and civil society organisation personnel who have “first contact” and also follow up contact with vulnerable migrants in need of protection. The words “first line official” and “official” are used interchangeably in these Guidelines.

Gender mainstreaming: Considering the implications of an intervention on males and females, and addressing these implications with a view to supporting the achievement of gender equality, and ensuring the respective needs of males and females are addressed through an intervention.

Human Rights Based Approach (HRBA): A human rights based approach is an approach that directly seeks to empower target groups (both the rights holders and the duty bearers) to ensure the fundamental human rights of beneficiaries are met.

Irregular migration: Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international

¹ UNHCR Guidelines on Formal Determination of the Best Interests of the Child, 2006

² Ibid, UNHCR 2006

³ This definition should not limit protection rights, at the discretion of the service provider, vulnerable migrants aged 18 to 21 years may be considered

boundary without a valid passport or travel document or does not fulfill the administrative requirements for leaving the country.⁴

Local integration: A durable solution for refugees, asylum-seekers and victims of trafficking that involves their permanent settlement in a country in which they have been granted protection.

Migration: The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.⁵

Mixed Migration (also referred to as mixed flows): Complex migratory population movements that include refugees, asylum-seekers, economic migrants and other migrants, as opposed to migratory population movements that consist entirely of one category of migrants.⁶

National Referral Mechanism (NRM): A co-operative framework through which State actors fulfill their obligations to protect and promote the human rights of migrants in mixed flows, coordinating their efforts in a strategic partnership with civil society.⁷

Non-refoulement: The principle of non-refoulement states that no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion. This principle should be extended to include any other migrant who is in danger of being persecuted or tortured if returned."⁸

Potential victim of trafficking: Any person intercepted before exploitation occurs and is considered to be at risk of exploitation by traffickers should they reach their final destination.⁹

Presumed victim of trafficking: Any person who may reasonably be presumed under the circumstances to be a victim of trafficking¹⁰.

Reception Centre: A facility that receives and assists migrants upon arrival in a host country, prior to their return home, or upon return to their home countries following either a voluntary departure or deportation from their host countries.¹¹

Refugee: Any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country.¹² The term "refugee" shall also apply to every person who, owing to external aggression,

⁴ UNHCR Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012

⁵ IOM, 2011, Glossary on Migration, Second Edition, International Migration Law N°25.

⁶ Ibid, IOM 2011.

⁷ Adapted from the definition in the following publication: Trafficking in Human Beings: Identification of Potential and Presumed Victims - A Community Policing Approach, SPMU Publication Series Vol. 10, (OSCE, 2012)

⁸ 1951 Refugee Convention

⁹ UNJPHT Service Providers, Manual – Training Toolkit and Minimum Standard Guidelines on Protection of Victims of Human Trafficking (2012).

¹⁰ IOM/Government of the Republic of Zambia, National Policy to Combat Human Trafficking, 2007.

¹¹ Definition expanded as provided for in the UNHCR, Summary Report of the Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa, Dar es Salaam, Tanzania, 2010.

¹² 1951 Convention Relating to the Status of Refugees (and its 1967 Protocol)

occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.¹³

Rejected asylum seeker: An asylum seeker whose application for asylum was unsuccessful.

Risk Assessment: Process of identifying and assessing risks associated with a given situation or event.¹⁴

Separated children: Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.¹⁵

Stateless person: A person who is not considered as a national by any State under its law.¹⁶

Stranded migrant: The term 'stranded migrant' has no generally accepted definition. In practice, migrants become legally stranded where they are caught between removal from the state in which they are physically present, inability to return to their state of nationality or former residence, refusal by any other state to grant entry. They may also be stranded where there are practical or humanitarian reasons that prevent them from returning home. Many of those who become stranded – including rejected asylum seekers, migrant workers, or other economic migrants – entered a country irregularly, assisted by smugglers or transported at the hands of traffickers. Some are legally stateless.¹⁷

Trafficking in Persons: 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.¹⁸

Unaccompanied children (also called unaccompanied minors): Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from one and/or both parents and other relatives and not being cared for by an adult who, by law or custom, is responsible for doing so.¹⁹

Victim centered approach: The systematic focus on the needs and concerns of a victim of migration-related crimes to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner. In a victim centered approach, the victim's wishes, safety and wellbeing take priority in all matters and procedures.²⁰

Victim of trafficking/trafficked person: A person who has been exploited and has suffered loss of fundamental rights and psychological or physical harm as a result of being trafficked.²¹

¹³ 1969 Organisation of African Unity Convention

¹⁴ IOM, 2011, Glossary on Migration, Second Edition, International Migration Law N°25.

¹⁵ Convention on the Rights of a Child: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, General Comment No. 6 (2005)

¹⁶ Article 1 of the UN Convention relating to the status of stateless persons, 1954

¹⁷ Grant, S, *The legal protection of stranded migrants - International Migration Law: Developing Paradigms and Key Challenges*, 2007

¹⁸ Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Palermo Protocol)

¹⁹ Convention on the Rights of a Child: Treatment of Unaccompanied and Separated Children Outside their Country of Origin, General Comment No. 6 (2005)

²⁰ NJDCJ, Standards for Providing Services to Survivors of Sexual Assault, 1998.

<http://www.njdcj.org/standar2.htm>

²¹ UNJPHT Service Providers, Manual – Training Toolkit and Minimum Standard Guidelines on Protection of Victims of Human Trafficking (2012).

I. INTRODUCTION AND BACKGROUND TO MANUAL

I.1 Introduction to Manual

This Manual is a training tool that facilitates the operationalization of the ‘Guidelines: Protection Assistance for Vulnerable Migrants in Zambia’. For the purposes of this Manual, the term “first officials” is used broadly to encompass immigration officials, police officers, social welfare officers, prison officials, other civil servants and civil society organisation personnel who have “first contact” or follow up contact with vulnerable migrants in need of protection. The words “first line official” and “first official” are used interchangeably in this Manual.

The Manual has been developed to build the capacity of first line officials to establish and/or implement ‘protection-sensitive processes, procedures and systems’ that provide an effective response to vulnerable migrants in need of protection within mixed migration flows. This Manual is intended to be used as an informational tool by first line officials involved in the protection of vulnerable migrants. It provides information on the context of mixed migration movements and the rights of migrants in need of protection. The Manual aims to develop awareness and knowledge on the protection of vulnerable migrants, and to help officials to effectively identify and refer migrants who may need protection to competent authorities.

It is important that training facilitators become familiar with the work carried out by the various institutions that the respective training participants are representing to ensure that the material provided in this Manual is adapted to their specific functions and learning needs.

I.2 Purpose of the Manual

This Manual has been developed in the framework of international and national regulatory frameworks. It is developed to assist first line officials in Zambia to provide services that ensure that vulnerable migrants’ protection needs are recognized and appropriately addressed in situations of mixed migration. The Manual will be used for training first line officials, to help them understand the needs of vulnerable migrants and to assist them in becoming conversant with international and national standards to be upheld in meeting the needs of such migrants.

In light of the different functions and tasks performed by the targeted first line officials, as well as the different systems in place to protect vulnerable migrants in Zambia, this Manual does not aim to put forward “standard operating procedures” for the protection of these migrants, but is designed to achieve the following objectives:

- Strengthen first line officials’ awareness of the international, regional and national legal instruments for the protection of vulnerable migrants, in the context of mixed migration;
- Foster reflection on the measures, including identification procedures, protection mechanisms and referral systems, required to secure the full enjoyment of rights reflected in international, regional and national legal frameworks;
- Ensure that first line officials are able and committed to implementing such measures in their day-to-day work.

In view of the potentially wide range of functions and levels of expertise amongst first line officials as well as the different geographical contexts in which they may operate, it is advisable, where possible to undertake a learning needs assessment carried out by the facilitators prior to the delivery of training. The results of the learning needs assessment should help the facilitators adapt the different activities proposed in this Manual in order to:

1. Facilitate action oriented learning as the key approach to the training;
2. Adjust the level and complexity of the sessions, according to the participants' academic background and responsibilities;
3. Modify the profile of the case studies, based on the participants' exposure to mixed migration management on the ground and their field of responsibility;
4. Ensure that relevant national legislation and, where available, guidelines are integrated and contextualized in the training methodology;
5. Review the key messages of each exercise to ensure that they meet the local needs and realities including:
 - i. Outlining procedures, including existing gaps and challenges to identification of persons who may wish to seek protection at the participants' specific duty stations;
 - ii. Outlining procedures, including existing gaps and challenges in referring cases with protection needs that need to be met;
 - iii. Identifying referral gaps and the potential new links with relevant referral institutions that could be established.

1.3 How to use this Manual

This training aims to assist facilitators in the preparation and delivery of training on the protection of vulnerable migrants in Zambia. The expected duration of the entire training is three days. Inside the Manual, each activity or tool has been associated with an icon to assist facilitators in finding the relevant sections. Generally, sessions are presented using the following ten icons.

Icon	Representation	Icon	Representation
	<i>Objectives</i>		<i>Role Play</i>
	<i>Session Outline</i>		<i>Practical Exercise</i>
			<i>Timeframe</i>
	<i>Presentation</i>		<i>Key Messages</i>
	<i>Movie</i>		<i>Facilitation Tips</i>

2. APPROACH TO THE TRAINING

2.1 Session Outline



This session aims at providing facilitators with the general objectives and expected outcomes of the training. It further guides the facilitators on the training methodologies and provides activities that set the stage for the smooth facilitation of follow up sessions.

Training Objectives



- Set up an atmosphere of trust, respect and collaboration;
- Lay the ground rules to be adhered to throughout the training sessions;
- Get acquainted with one another and state expectations.

Training materials:

Projector
Laptop
Coloured Cards
Flip chart paper
Markers
Blu tack/ press-stick

Expected outcomes

First line officials' knowledge, skills and attitudes:

As a result of the training first line officials will:

- Be conversant with key provisions of the international, regional and national legal instruments related to protection in the context of mixed migration;
- Be able to distinguish the mandates, roles and responsibilities of different national and international actors involved in the field of mixed migration;
- Strengthen their knowledge and understanding of the specific situations faced by migrants in need of protection, including those related to age, gender and cultural aspects;
- Be able to outline their specific functions in relation to the identification, referral and protection of persons who may seek protection assistance;
- Be able to impart general information on other officials regarding the relevant procedures in providing protection to vulnerable migrants in need of assistance.
- Identify vulnerable migrants in need of protection with special needs, including rejected asylum seekers, victims of trafficking, presumed trafficked persons, 'potential' trafficked persons (before exploitation has taken place), unaccompanied and separated children (UASC), stranded vulnerable migrants, stateless migrants and other vulnerable migrants requiring referral to appropriate services, in co-ordination with relevant governmental and non-governmental actors;
- Facilitate effective referrals of vulnerable migrants to other service providers for protection;
- Provide assistance to vulnerable migrants in need of protection in line with international human rights standards and with the appropriate use of cultural, age and gender-sensitive behaviour and attitudes;
- Apply relevant international, regional and national human rights standards to provide protection services, including durable solutions to vulnerable migrants in need of protection;
- Collect and communicate relevant data to the competent authorities with full respect for confidentiality.
- Be able to apply cultural, age and gender-sensitive approaches and attitudes in their day-to-day contacts with vulnerable migrants, in full compliance with international law and standards;
- Become aware of and mitigate challenging situations in their day-to-day contacts with vulnerable migrants in need of protection.

2.2 Learning methodology and training facilitation

This Manual employs the term “facilitator” instead of the more commonly used term “trainer”. This reflects the learning methodology applied by this Manual where the facilitator assists the group of participants to identify learning needs on the basis of their profile, experience and knowledge taking into consideration the complexity of the diversity of participants, whilst appreciating the principles of adult learning. It is worth noting that participants have local context information that will be relevant to the training regardless of their varying education level or professional experience.

The facilitation goal is to create an environment that encourages free and open discussions delivered through an ethical, respectful and participatory approach. Training facilitation tips are meant to guide facilitators towards effective ways of achieving learning objectives. The following guidelines support ethical education practice²²:

- **Use effective questioning techniques:** Avoid questions that suggest a predetermined answer to allow participants develop independent thoughts;
- **Avoid open-ended questions:** A good example is asking each participant how an issue affects them, rather than asking the group “who is affected by this issue?” or “what do you think about this issue?”;
- **Record responses that require follow up during the training:** 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 everyone to participate:** Use pairs, small groups and one-person-at-a-time interviewing techniques to maximise participation;
- **Avoid required participation:** Allow learning through listening and indicate that a response of “I pass” is acceptable when a participant wants time to think, prefers to listen, or has no response for the moment;
- **Provide thinking time in exercises:** Set up a time for reflection in an exercise before taking any responses;
- **Check-in with participants:** Ask specific and direct questions to assess how the training can meet the needs of participants. This is important throughout the sessions, from questions during activities (“do you need more time?”) to checking in with the group on planned activities and outcomes (“anything else you hope to achieve during this three day training?”).

The methodologies used throughout this Manual have accompanying facilitation tips²³ outlined in Annex I to assist facilitators in maximizing the learning value of the different methodologies, and fostering confidence and communication.

Where resources permit, **a team of facilitators** will ideally be composed of facilitators, preferably from Department of Immigration, Office of the Commissioner for Refugees, Department of Social Welfare and at least one from IOM, UNHCR or UNICEF. Other national authorities or organizations responsible for assisting with protection-related issues may also be included in the team of facilitators. Such a multifunctional team provides a comprehensive overview of all relevant protection aspects in the context of mixed migration, as well as the required expertise in their specific areas of responsibility.

²² Section adopted from the IOM “Manual for Law Enforcement Officers and Prosecutors on the Implementation of the Zambia Anti-Human Trafficking Act (No. 11 of 2008), pg. 4, 2013.

²³ Facilitation tips adopted from the OSCE *Training Guide for Anti-Trafficking Trainers*, 2005.

2.3 Training basics

This Manual provides a unique approach to setting the basis for follow up sessions of the training. The sequencing of start-up activities breaks away from the norms and provides a stage for early interactions that introduce participants to the topic at hand and various themes and concepts. The introduction of participants (activity 2c) is a key activity that sets the tone for subsequent sessions and is therefore undertaken after expectations (activity 2a) and ground rules (activity 2b) are shared and agreed upon.

See Annex I for [Facilitation Tip 1: Facilitating the discussion](#)



Activity 2 a: Rules of interaction

The facilitator will ask participants to set ground rules to ensure effective participation of participants. These set of rules will be tied to penalties. It is important that a chairperson and timekeeper are selected for the training. The facilitator should ensure that these rules are clearly written and projected to ensure compliance by participants.

Activity 2 b: Setting the stage: Defining expectations

- ✓ The facilitator should **distribute a card to each participant and ask them to write down one expectation** they have regarding the training. The expectation should have some kind of relation with each participant's field of responsibility in the context of providing assistance to vulnerable migrants;
- ✓ The facilitator should put the expectations on the wall so that participants can look at them during coffee break;
- ✓ The **co-facilitator** should **group the expectations into sets** based on similar objectives, and note them down. These will be important at the end of the training to present them to the participants and ask whether the training has met these expectations.

2.4 Plenary discussion

Activity 2 c: Introductions through story-telling

This Session aims to set the tone for the training. As such, it intends to bring the human aspect of situations encountered when providing protection assistance to vulnerable migrants in need of assistance. The session helps ensure that the training's discussions go beyond theoretical questions and look into:

- ✓ The situation of vulnerable migrants and make participants aware that migrants are bearers of rights;
- ✓ The role of first line officials with regards to ensuring the respect of migrants' rights;
- ✓ How first line officials can be effective and make a difference based on their own personal commitment and understanding of the situation.

Story telling is an excellent training tool, which allows for relating the experiences of participants of the training, bringing to light values, beliefs and assumptions, and fostering engagement.

To achieve this, the facilitator invites participants to introduce themselves, not with their real names but using a fictitious **name** of a migrant they may have come across in the course of their duties, and who may have had a particular impact on them. The participants will speak as if they were **the fictitious migrant**. The migrant **then introduces the first line official**. Each participant will have five minutes for their introduction.

In taking the role of a migrant, participants should describe:

- ✓ The name of the migrant;
- ✓ The origin of the migrant;
- ✓ The situation in which the migrant met the first line official and the first line official's position and function in relation to protecting vulnerable migrants;
- ✓ What the first line official did in that situation;
- ✓ What the consequences were for the migrant.

Example:

"My name is Amran, I come from Kenya. I met Mr. Banda three years ago at the Nakonde border. He was at passport control and he noticed that I was carrying a false passport. He started asking me questions but he realized that I did not understand anything he said. Later, he came back with an interpreter. I was able to explain that I was in my fourth month of pregnancy and needed help. Then other people came and helped me."

Note: To 'break the ice' and encourage participation, the facilitator should kick-start the Session by taking up the role of a migrant. Facilitators can also refer to a migrant's frustrating experience to avoid giving the impression that participants should portray themselves as "heroes" or only share positive experiences. If participants are reluctant to speak out, the facilitator could invite a selection of participants to present their stories.

It is important that a co-facilitator notes down on a flipchart the different kinds of functions carried out by the different participants in their day-to-day jobs for reference later in the training.

In the plenary discussion that follows the story telling, the facilitator should raise the following questions with the participants:

[Facilitation Tip 2: Asking participants questions to induce learning or commitment](#) in Annex I



QUESTIONS	POSSIBLE ANSWERS
Organizing the facts mentioned in the stories	
<ul style="list-style-type: none"> ▪ “What are some of the aspects of these stories that caught your attention?” 	<ul style="list-style-type: none"> ▪ “The people arriving at the border have human needs” ▪ “There are lots of children among the vulnerable migrants in need of protection assistance” ▪ “Sometimes they look really exhausted and frightened”.
Triggering personal reflection	
<ul style="list-style-type: none"> ▪ “Have you had similar experiences related to the stories that you have never shared with colleagues?” ▪ “Did you personally identify with some of the stories?” 	<ul style="list-style-type: none"> ▪ “I feel helpless when I see the needs of these people when they arrive” ▪ “Why should entry officials carry the burden of helping these people?” ▪ “It makes me feel good to know that it is possible to help vulnerable migrants in need of protection assistance”.
Identifying the relevance of the exercise to the training	
<ul style="list-style-type: none"> ▪ “What is the significance of these stories for our training?” 	<ul style="list-style-type: none"> ▪ “It shows that entry officials can make a real difference to people’s lives” ▪ “This indicates that it is important for entry officials to work closely together with other institutions that have experience in helping people with difficulties.”
Encouraging further interest	
<ul style="list-style-type: none"> ▪ “What conclusions of the stories should we put on the wall as a reminder throughout the training?” 	<ul style="list-style-type: none"> ▪ “Vulnerable migrants in need of protection assistance are human beings” ▪ “Many people may have gone through a difficult journey”.

The **co-facilitator should put the answers to the last question²⁴ on a flipchart** and place the paper on the wall of the training room. This will constitute an important point of reference throughout the training, to recall the kind of scenarios where both facilitators and participants need to apply their knowledge and experiences.

Finally, the **facilitator should go through the compiled list of the day-to-day functions** of the participating first line officials and other possible participants to the training. Participants should confirm whether the list includes their main functions and correct it as appropriate. The facilitator should then brainstorm with participants on the main **tasks and responsibilities** involved under each of the listed functions.²⁵

²⁴ This is a “decisional question”, it may lead a person to take a decision for the future and encourages commitment to take action.

²⁵ Adopted from the UNHCR, Protection Training Manual for European Border and Entry Officials, Session 1 Manual, p. 4-6, 2011.

3. MIXED MIGRATION: THE GUIDING LEGAL FRAMEWORK AND MIGRANTS OF CONCERN

3.1 Session Outline

This session provides an understanding of mixed migration and provides an overview of the international and regional legislative frameworks related to mixed migration as provided for in **Section 1.3 of the Guidelines**. This session also highlights the need for respect for and protection of international human rights norms highlighted in **Section 1.4 of the Guidelines**. Participants are also introduced to mixed migration terminology and protection issues for vulnerable migrants.

Objectives

- To define mixed migration and to identify the categories of vulnerable migrants that require protection;
- Outline the provision of key international, regional and national legislative frameworks and their application;
- To understand the key elements that define the various categories of vulnerable migrant;
- To understand the fundamental human rights as they apply to vulnerable migrants.

Training materials:

Projector

Laptop

Video: 'Being a Refugee'

International, regional and national legal standards (see section 3.2 for full list)

Flip chart paper

Markers

Blu tack/press-stick

Expected outcomes

First line officials' knowledge, skills and attitudes:

As a result of the training first line officials will:

- Understand mixed migration and the importance of international and regional law, as relevant to mixed migration;
- Become familiar with the basic human rights of vulnerable migrants in need of protection;
- Understand the principle of *non-refoulement* in the context of both the 1951 Convention Relating to the Status of Refugees and international and regional refugee and human rights law instruments.
- Understand the complexity of "vulnerable migrants in need of protection assistance" and state obligations in their protection;
- Learn how understanding the human rights of vulnerable migrants in need of protection changes the officials' approach in responding to vulnerable migrants in need of protection;
- Gain awareness of the situation of other categories of vulnerable migrants in need of protection assistance, with particular focus on the special case of victims of trafficking.

3.2 Mixed migration and protection (30 minutes)

[Facilitation Tip 3: Delivering effective presentations](#) 

Remember! You may need to adjust the content of this presentation to the level and background of participants, as a result of your learning needs assessment.

Key messages



Key messages corresponding to the presentation

Introduction

The objective of this presentation is to provide an overview of the following: the nature and scope of mixed migration movements for Zambia; the categories of mixed migrants requiring protection in Zambia; as well as international, regional and national protection standards for the different categories of migrants. This presentation also aims to provide an introduction to **the role of each stakeholder** to ensure that persons in need of protection have access to adequate procedures and responses.

Mixed Migration

Mixed migration is defined by IOM as the complex migratory population movements that include refugees, asylum seekers, economic migrants and other migrants, as opposed to migratory population movements that consist entirely of one category of migrants.²⁶ For the purpose of these Guidelines, the population movements comprise refugees, asylum-seekers, victims of trafficking, unaccompanied and separated children (UASC), and other persons travelling internationally, often in an irregular manner. This group also includes those that fall into the categories of stranded migrants in need of protection assistance and stateless persons. In essence, mixed flows concern regular and irregular movements, frequently involving transit migration, where persons often move without the requisite documentation, crossing borders and arriving at their destination in an unauthorized manner, but many of whom have protection needs.²⁷ For the purpose of these Guidelines, the vulnerable migrants in mixed flows requiring protection assistance within the Zambian context are shown in Box 1, Section 3.1 of this document.

Mixed movements usually represent a wide spectrum of nationalities, gender or age groups, as well as religious, social and political backgrounds and legal status. While migration routes vary, a recent study²⁸ conducted by IOM revealed that for migrants from East and the Horn of Africa en route to South Africa, the cities of Lusaka and Ndola and the town of Nakonde are the main transit point in Zambia. The towns/ provinces of Chipata, Chirundu, Kazungula and Muchinga are also part of the route, which is characterised by criss-crossing routes (between unmanned or unofficial border posts) between Malawi and Zambia for migrants making their way south. Many migrants also end up in detention facilities for immigration violations, which expose them to health risks and other vulnerabilities.

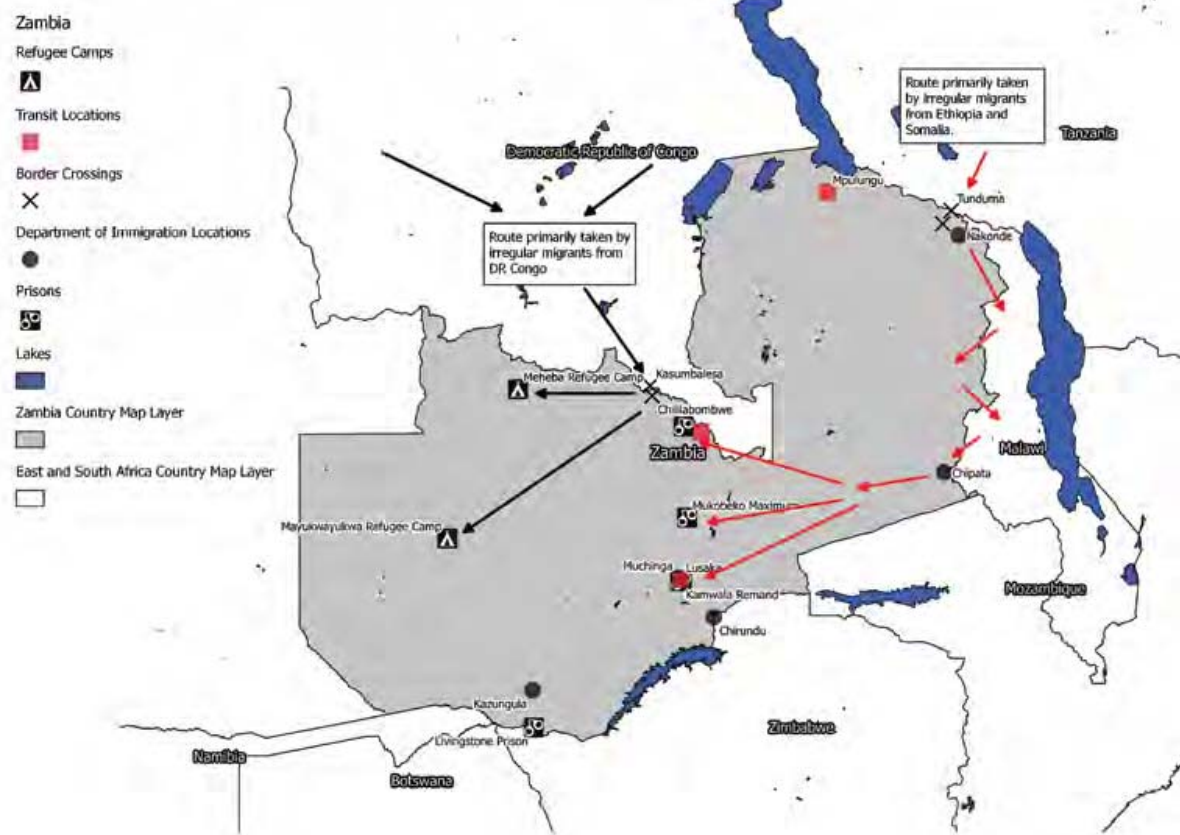
It is this variety of complex and mixed migration patterns that requires the development of a migration management system that deals with different situations and people in a different manner, including taking into consideration the human rights and needs of vulnerable migrants. It should be noted that Zambia exercises its sovereignty to differentiate between persons who have the required documentation to cross their borders and those who do not.

²⁶ Ibid, IOM 2011.

²⁷ IOM, Ninety-Eighth Session, Irregular Migration and Mixed Flows: IOM's Approach, MC/INF/297, 2009.

²⁸ IOM, Health Vulnerabilities Study of Mixed Migration Flows from the East and Horn of Africa and the Great Lakes Region to Southern Africa, 2013

Figure 1: Map of Mixed Migration Routes - Zambia



International, regional and national legal frameworks

The international and regional legal framework, in particular, international human rights law, highlights a range of obligations that states have in responding to vulnerable migrants in need of protection. With the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, Zambia has ratified most of the international instruments relevant to effective management of mixed migration and protection of the rights of vulnerable migrants in need of protection assistance, including:

- 1948 Universal Declaration of Human Rights;
- 1951 Convention Relating to the Status of Refugees;
- 1954 UN Convention relating to the Status of Stateless Persons;
- 1966 International Covenant on Civil and Political Rights;
- 1989 Convention on the Rights of the Child;
- 2000 United Nations Convention against Transnational Organized Crime (UNTOC);
- 2003 Protocol to Prevent, Suppress & Punish Trafficking in Persons (the Palermo Protocol);
- 2004 Protocol on the Smuggling of Migrants by Land, Sea & Air; and
- 2006 UN Convention on Persons with Disabilities.

Regional statutes that Zambia has ratified include the following:

- 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugees Problems in Africa;
- 1986 African Charter on Human and People's Rights; and
- 1999 African Charter on the Rights and Welfare of the Child.

Zambia has in place legislation that provides a framework for mixed migration management. The legislation includes: the Constitution of the Republic of Zambia; the Refugee (Control) Act, 1970; the Anti-Human Trafficking Act No. 11 of 2008; the Immigration and Deportation Act No. 18 of 2010; and the 2010 Disability Act.

International and regional law obliges Zambia to make an important differentiation that goes beyond having the required “documentation” to enter the country, including the obligation to refrain from returning individuals to any place where they may face persecution as well as inhumane or degrading treatment or punishment, including torture, even if they are in an irregular migratory situation. It is amongst this category of persons that we find persons in need of protection.

In this context it becomes vital that authorities familiarize themselves fully with the implications of protection and human rights obligations. The authorities will need to find effective methods to ensure Zambia abides by its obligations in different situations that are presented as they respond to the needs of vulnerable migrants in need of protection assistance.

3.3

migrants in need of assistance

Rights of vulnerable

Background on human rights²⁹

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

Inherent, inalienable and universal

Human rights are inherent; we are simply born with them and they belong to each of us as a result of our common humanity. Human rights are not owned by select people or given as a gift. They are inalienable; individuals cannot give them up and they cannot be taken away — even if governments do not recognize or protect them. They are universal; they are held by all people, everywhere — regardless of age, sex, race, religion, nationality, income level or any other status or condition in life. Human rights belong to each and every one of us equally.

²⁹ <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

Equal, indivisible, interrelated and interdependent

All rights are equal and no right is superior to any other; there are no 'small' rights. Human rights are indivisible and interrelated, with a focus on the individual and the community as a whole. States are bound by commitments in human rights conventions and protocols that they ratify, as well as by customary international law norms. Most human rights are guaranteed irrespective of an individual's immigration status: they are a function of a person's status as a human being, not as a citizen of a particular state. In other words, a person's status as an irregular migrant, 'alien' or non-national does not exclude him or her from the protection of human rights law. However, some rights only relate to citizens of a State, such as the right to vote.

The International Bill of Rights, which is composed of the Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1966 International Covenant on Civil and Political Rights, and its two additional protocols, forms the cornerstone of international human rights law. Most of these related provisions have been translated into national legislation and policies as enshrined in the Zambian Constitution.

Non-citizens, like citizens, are entitled to rights that are absolute or not subject to derogation or limitation. They are also entitled on equal terms with citizens to those rights whose denial would never be justifiable. These include, for example, the right to life, prohibition against torture and cruel, inhuman, and degrading treatment or punishment, rights guaranteed in the criminal process, freedom of thought, conscience and religion, the right to leave a country, the prohibition of retroactive criminal penalties and the right to marry.

Basic Human Rights

The right to life: Unreasonable force should not be used to prevent the entry of non-nationals into Zambia. The authorities must also endeavour to save those whose lives may be in danger in seeking to enter into Zambia; this includes refraining from sending them to a place where their lives may be in danger.

Prohibition against torture and inhuman or degrading treatment or punishment: First Line Officials and other actors must ensure that nobody is sent to a place where they could face torture or inhumane or degrading treatment or punishment. This includes the obligation to refrain from sending vulnerable migrants in need of protection assistance back to their home country if they could be subject to such acts. Additionally, the return process of vulnerable migrants in need of protection assistance should be carried out with full respect for the inherent dignity of returnees, taking into account, inter alia, their age, sex, state of health and disabilities. Force during expulsion should be kept to an absolute minimum.

Freedom from slavery and forced labour: Victims of trafficking should be protected in line with the provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol (referred to as the "Palermo Protocol"). The Palermo Protocol provisions on freedom from slavery and forced labour have been domesticated in Part 1 and 2 of the Anti-Human Act No. 11 of 2008.

Right to non-discrimination on grounds of race or ethnicity in granting or refusing admission, in authorising the stay or an expulsion of a migrant.

Freedom of movement: Detention of vulnerable migrants should be used only as a last resort and not for an excessive period of time. In this context:

- Where detention is necessary, migrants should be held in special detention facilities and separate from convicted prisoners;
- Children should only be detained as a measure of last resort and then for the shortest possible period of time;
- Detention or the holding of other vulnerable persons (pregnant women, mothers with young children, older persons and persons with mental or physical disabilities) should, whenever possible, be avoided.

Right to a hearing, with the assistance of an interpreter, to facilitate effective communication when entering a foreign country that uses a language the migrant does not understand.

Right to an adequate standard of health care: Emergency health care should be available to vulnerable migrants in need of protection assistance taking into account, in particular, the situation of persons with specific needs, such as children, older persons, single parents, pregnant women, as well as persons with mental or physical disabilities.

3.4 Movie – Being a Refugee



This session aims at assisting participants to understand the concept of a ‘human rights based approach’ by assessing both the rights holders and the duty bearers approach to claiming and upholding the rights respectively. The session allows for participants to identify the key human rights that vulnerable migrants are entitled to. It also attempts to use a human rights based approach to highlight the fundamental human rights that need to be met for vulnerable migrants to have comprehensive assistance.

The group will watch a film called “*Being a Refugee*” (15 minutes). It is also advised that facilitators identify any other short films related to vulnerable migrants as appropriate. Before the movie, the facilitator should emphasize that participants should focus on identifying the positive aspects and negative aspects of the movie in relation to protection assistance of vulnerable migrants.

After watching the film, the facilitator should invite the participants to reflect on the key messages that one can draw from it. The way to ask the questions to allow for sharing of experiences can be as follows:

- 1) **Questions to help organize the facts mentioned in the stories:**
 - i. “From a human rights perspective, what are some of the positive and negative aspects of these story line(s) in the film?”
- 2) **Questions on the impact of the exercise for the training:**
 - i. “What is the significance of the story for our training?”
- 3) **Questions that may open the way for some kind of inner commitment:**
 - i. “What key human rights considerations can you highlight from the story that can be carried as a reminder throughout the training?”

The facilitator should steer the discussion towards human rights issues, including the issues raised above. If the issues do not come up spontaneously, the facilitator may raise them at an appropriate point in the discussion.

Key messages

Highlight issues from the movie by summarizing the participants' contributions and highlighting key issues.

Migrant categories of concern

For the purpose of this Manual, the vulnerable migrants that may require protection assistance within the Zambian context are shown in the box below.

Figure 2: Migrant Categories of Concern

1. Rejected asylum seekers
2. Victims of trafficking (including 'presumed' trafficked persons and 'potential' trafficked persons)
3. Unaccompanied and Separated Children (UASC)
4. Stranded vulnerable migrants
5. Stateless migrants
6. Other vulnerable migrants

3.5 Activity: Defining Migration Terminology and Legal Provisions

Activity 3a: Defining migration terminology relevant for the protection of vulnerable migrants (1 hour)

The facilitator should divide the participants into 4 groups. Each group will be provided with a matrix showing mixed migration terminologies and the participants are expected to use international, regional and national Instruments to define the terms in the matrix attached in Annex IV.

3.6 Mixed migration and protection (continuation)

The Guidelines on Protection Assistance for Vulnerable Migrants in Zambia provide guidance and procedures for the provision of protection assistance to the categories highlighted in Box 1. It should be noted that there are already standardized procedures and mechanism in place to ensure the protection of refugees and asylum seekers in Zambia. It is however important that the Manual clearly defines the term refugee, particularly given that rejected asylum seekers are among the categories of concern in this document.

3.6.1 Refugees

The most important obligation of States in relation to refugees is that states cannot return refugees to countries where they are likely to face persecution.

A refugee is: "A person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his

nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

Key elements in the definition:

1. The element of fear of persecution;
2. That the law foresees five possible grounds for persecution; and
3. That the person is outside the country of nationality (or residence) and unable or unwilling to return to it because of that fear.

This definition is contained in the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa further states that the term "refugee" shall also apply to *"every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."*

The refugee definition provided in the 1951 and 1969 Conventions is important because States are obliged to grant 'protection' to those who qualify for refugee status on the basis of criteria laid down therein.

As the refugee definition suggests, most persons fleeing persecution are confronted with life-threatening situations of violence, which rarely give them the opportunity to gather the requisite documentation to be granted access into a country through legal channels and hence most asylum-seekers or refugees often find themselves forced to resorting to smuggling networks in a desperate attempt to reach protection. It is for this reason that border control mechanisms need to be sensitive enough to recognize those who may wish to seek protection, amongst those attempting to cross the border, often through irregular means.

Figure 3: The principal of non-refoulement

The right not to be returned to the place of persecution is generally known as *non refoulement*. As below, the term *refoulement* is used in international human rights law, in reference to the expulsion or return of any persons who may face a risk of being subjected to torture or inhuman or degrading treatment or punishment. The 1951 Convention clearly states in Article 33. 1 that:

"No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

n.b. this principle should be extended to include any other migrant who is in danger of being persecuted or tortured if returned.

Furthermore, major human rights treaties prohibit the **forcible return** of persons to countries where they may be exposed to torture or cruel, inhuman or degrading treatment or punishment. The UN Convention against Torture (CAT) states in Article 3 that *"No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."*

What happens when a person is recognized as a refugee?³⁰

Once recognized as a refugee, a person is granted protection by Zambia, which includes the right not to be sent back to his/her country of origin or any other place where they may fear persecution. The term 'protection' points to the fact that refugees do not have the protection of their own governments and national institutions.

In Zambia, the Office of the Commissioner for Refugees (COR), in collaboration with UNHCR has the mandate to provide protection to refugees who fall within the extended refugee definition. Zambia has established asylum procedures to determine refugee status and has in place response mechanisms to address the needs of refugees.

3.6.2 Rejected asylum seeker

"An asylum-seeker whose application for asylum has been unsuccessful³¹."

To fully understand who a rejected asylum seeker is, it is important to first define who an asylum seeker is. The box below provides a conceptual definition of an asylum seeker.

Figure 4: Asylum seekers

Asylum seekers are: "Persons who request protection, but whose claims have not yet been definitively evaluated through national asylum systems." Source?

Protection can only be provided if individuals have access to the territory of States where their protection needs can be assessed properly. This means that an asylum-seeker needs to:

1. Gain access to the territory of the State;
2. Apply for asylum;
3. Access the national asylum procedures.

What happens to rejected asylum seekers?

When an asylum seeker's refugee claim has been unsuccessful, the Office of the Commissioner for Refugees writes to the individual informing him/her that his/her claim has been rejected. The applicant is advised to contact the Department of Immigration for exit formalities. Should the rejected asylum seeker comply with the advice to report before immigration authorities, he/ she is usually given notice to leave Zambia (using Form 39 – Notice to PI to Leave Zambia Form). This notice is valid for a period of not less than 48 hours, and the migrant may appeal against the notice within seven days from the date of its issuance. In effect, this notice renders the rejected asylum seeker a "prohibited immigrant" in Zambia and failure to comply with the notice can put the migrant at risk of penalties such as a fine or detention.

The Department of Immigration also has an option of using a Report Order. The Report Order temporarily regularizes the unsuccessful asylum seeker's stay in Zambia until exit formalities or other actions as stated on the Report Order are taken. Another advantage of the Report Order to rejected

³⁰ The procedures detailed in this section are based on contributions from the TWG

³¹ They are entitled to international protection as they await return

asylum seekers is that the rejected asylum seeker is not considered a “prohibited immigrant”, unless he/she fails to comply with the conditions of the Report Order. Furthermore, a rejected asylum seeker with a Report Order may also be able to access support from the Department of Social Welfare or other service providers until they have the opportunity to present themselves to the nearest border for exit formalities, as may be required in the Report Order.

However, in many cases rejected asylum seekers do not avail themselves before the Department of Immigration for exit procedures and are therefore fall into the category of “prohibited immigrants”. The Department of Immigration has the responsibility for “removing” all prohibited immigrants in Zambia. In circumstances where forced removal has not been initiated, IOM can consider providing return assistance to stranded rejected asylum seekers.

3.6.3 Victims of Trafficking

An important category of persons who should be identified by the authorities for protection purposes are victims of trafficking. Sometimes, victims of trafficking qualify for temporary or permanent residence, since they cannot return to their country of origin for safety reasons in the form of e.g. reprisals by members of the trafficking networks that exploited them. While this is not always the case, victims of trafficking still have the right to specific forms of protection by the State that receives them. It is also worth noting that asylum seekers, refugees and/or rejected asylum seekers can also become vulnerable to trafficking.

Zambia has acknowledged that trafficking in persons is a “transnational crime”, and has adopted the Anti-Human Trafficking Act No. 11 of 2008. The Act provides for the prevention of human trafficking, protection for the victims, prosecution of offenders and encourages partnerships amongst actors to ensure an effective and comprehensive response to trafficking.

Figure 5: Definition of Human Trafficking

The Zambia Anti-Human Trafficking Act No. 11 of 2008 definition of Human Trafficking

Zambia has domesticated the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children by enacting the Anti-Human Trafficking Act. The Act defines human trafficking as follows:

“Recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, (ACT)

by MEANS of:

- *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;*
- *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.”*

**Exploitation is defined as all forms of slavery or practices similar to slavery, including debt bondage or forced marriage*

The Elements of Trafficking

The definition can be broken down into **three key elements**, namely the **Act, Means and Purpose (always exploitation)**. Table 1 highlights the element provided for by the Anti-Human Trafficking Act No. 11 of 2008. It however provides elements of “exploitation” included in the Palermo Protocol. As shown in Table 2, according to the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol), only the ACT and PURPOSE are relevant in cases where the victims are 18 years and below i.e. children. For children, the means need not be present for trafficking to occur. In other words, for children, it is not necessary that there be “threat or use of force, or other forms of coercion, of abduction, or fraud, or deception” for trafficking to occur.

Presumed Victim of Trafficking: Any person who may reasonably be presumed under the circumstances to be a victim of trafficking shall be treated as a “presumed trafficked person” and afforded the rights and protections available to “victims of trafficking.” Particularly at the early stages of identification and referral, doubts should be resolved in favour of the victim³².

Potential Victim of Trafficking: Any person intercepted before exploitation occurs and is considered to be to be at risk of exploitation by traffickers should they reach their final destination. Potential VoTs are also provided the rights and protection afforded to VoTs to prevent reprisals and exposure to the possibility of being re-trafficked.

Table 1: The Elements of Human Trafficking

ACT (What is done)	+	MEANS (How it is done)	+	PURPOSE (Why it is done)
The Act of:		By means of:		For the Purpose of Exploitation, including:
Recruitment, or Transportation, or Transfer, or Harbouring or Receiving or Obtaining a person		Threat or Use of force or other forms of coercion or Abduction or Fraud or Deception or False or illegal adoption of a child or Destruction, concealment, removal, confiscation or possession of any passport, immigration document or other official identification document or 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 Giving or receiving of payments or benefits to achieve the consent of a person.		All forms of slavery or Practices similar to slavery, including debt bondage or Forced marriage. <i>Note: Additional forms of exploitation as defined by Palermo Protocol include the following:</i> Prostitution of others or other forms of sexual exploitation or Forced labour or services or Servitude or Removal of organs.
So long as at least one condition from each category is met, the result is TRAFFICKING.				

³² GRZ, Ministry of Home Affairs: National Policy to Combat Human Trafficking, 2007, pg. 28

Table 2: Elements of Child Trafficking (no 'Means' required) – (Palermo Protocol definition)

ACT	+	PURPOSE
(What is done)		(Why it is done)
The Act of:		For the Purpose of Exploitation, including:
Recruitment, Or Transportation, or Transfer, or Harbouring or Receiving or Obtaining a person		All forms of slavery or Practices similar to slavery, including debt bondage or Forced marriage. <i>Note: Additional forms of exploitation as defined by Palermo Protocol include the following:</i> Prostitution of others or other forms of sexual exploitation or Forced labour or services or Servitude or Removal of organs.
So long as one condition from each category is met, the result is TRAFFICKING.		

What happens when a person is suspected to be a potential VoT or presumed or identified as a VoT?

Presumed/potential and actual victims of trafficking (VoTs)³³ should be referred to Police, as provided for under Section 25, sub-sections (1) and (2) of the Anti-Human Trafficking Act No. 11 of 2008. Sections 32 to 34 of the Anti-Human Trafficking Act No. 11 of 2008, provides for the regularization of stay of presumed/potential and actual VoTs by the Department of Immigration. The Police will assess the migrant's case, and will refer to other actors for protection assistance. Section 25 of the Anti-Human Trafficking Act No. 11 of 2008 also specifies that adult VoTs should be referred to shelter and children to the Department of Social Welfare for protection assistance, as well as ensuring safety during return and upon arrival, as well as options for sustainability of care upon return.

Figure 6: Definition of Migrant Smuggling

The Zambia Anti-Human Trafficking Act No. 11 of 2008 defines migrant smuggling as:

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. *(See Annex V for more information on the difference between trafficking in persons and migrant smuggling).*

3.6.4 Unaccompanied children

Unaccompanied children are also called unaccompanied minors. These are children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from one and/or both parents

³³ Possible VoTs also requiring RSD should be referred to COR. COR will take the lead, working in collaboration with UNHCR, IOM and other actors as appropriate, to ensure provision of the best available protection, including any specialized assistance that may be available through existing programmes and/or any national or regional protection mechanisms.

and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.³⁴

3.6.5 Separated children

Children, as defined in Article 1 of the Convention on the Rights of the Child, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.³⁵

What happens when a person is recognised as an unaccompanied or separated child?

Unaccompanied and separated children will be referred to Department of Social Welfare. The Department of Social Welfare (DSW) may provide basic needs to the UASC, such as food, clothing, medical care, shelter, empowerment and counselling. Service provided will be based on an assessment report conducted by the DSW. The DSW may also conduct family tracing for unaccompanied and separated minors and will act as guardian for the unaccompanied or separated minor, in absence of legal guardian, or will appoint an appropriate guardian for the interim period.

3.6.6 Stranded migrants³⁶

The term 'stranded migrant' has no one internationally accepted definition. However, in practice, migrants become stranded where they are caught between removal from the state in which they are physically present, inability to return to their state of nationality or former residence, and refusal by any other state to grant entry. They may also be stranded where there are practical or humanitarian reasons that prevent them from returning home. Many of those who become stranded – including rejected asylum seekers, migrant workers, or other vulnerable migrants in need of protection assistance – entered a country irregularly, assisted by smugglers or transported at the hands of traffickers. Some are legally stateless.³⁷

What happens when a person is recognised as a stranded migrant?

Stranded migrants in need of return assistance may be referred to Department of Immigration for regularization of stay, the Department of Social Welfare for possible provision of shelter, family tracing and other forms of protection, as well as IOM for considered return assistance. IOM also assists with family tracing and facilitation of protective care, particularly for UASM, in coordination with Social Welfare.

3.6.7 Stateless migrants

"A person who is not considered as a national by any State under the operation of its law."³⁸

What happens when a person is recognised as a stateless migrant?

Stateless migrants should be referred to the Department of Immigration to determine their immigration status. Cases may also be referred to the Citizenship Board for restoration of citizenship and naturalization where parents are Zambian; or may be requested to apply for citizenship if the parents are not Zambian. Thereafter, they may be referred to UNHCR for assistance if all other options have been exhausted.

³⁴ CRC, General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin

³⁵ 2005, Ibid

³⁶ Other vulnerable migrants in need of protection assistance such as those stranded in detention (particularly those with health or other urgent protection issues)

³⁷ Grant, S, 2007: The legal protection of stranded migrants - International Migration Law: Developing Paradigms and Key Challenges

³⁸ Article 1 of the UN Convention relating to the status of stateless persons, 1954

3.7 Activity 3b - Quiz & Answers: The legal framework and protection assistance to vulnerable migrants (60 minutes)

[Facilitation Tip 2: Asking participants questions to induce learning or commitment](#)



Activity 3 b:

This exercise aims to consolidate some concepts introduced during the presentation on legislative frameworks. The exercise also helps the participant to better understand the categories of vulnerable migrants referred to in Box 1. It also intends to help participants integrate new knowledge through reflection and open discussion.

a) Preparation:

1. Depending on group size, the facilitator should place four tables across the room for five or six persons each;
2. On each table, there should be a flipchart paper and one marker;
3. On each table, the facilitator should place copies of the relevant international instruments highlighted in section 3.2 above.

b) Methodology:

1. The facilitator will present and explain the instructions for the Quiz, by using a two-slide power point presentation with **the basic instructions**, along with the questions for the **Quiz itself**;
2. Once all possible queries have been dealt with, the facilitator will project the first question of the quiz and the groups will have three minutes to discuss amongst themselves and write their response on their respective flipchart. The questions cannot be answered with a yes or no: the replies need to be justified. The participants may consult the documents made available to them on the table. The reason for asking them to write down their response is to ensure that the group agrees on one single reply and does not modify its response as the plenary discussion evolves;
3. As soon as one group finishes writing its reply on the flipchart, it must call the attention of the facilitator by shouting "STOP"!! At that point, the other groups must stop writing;
4. The group who called first will present its reply. If the answer is correct, the group will receive 5 points. The questions and their respective Answer Key for facilitators can be found below. The assessment of the given replies, however, will ultimately be a judgment call of the facilitator. There is often more than one way to reply to a question. This makes the exercise more interesting for the participants, as they will see that their efforts to explain or expand on certain issues can be acknowledged and rewarded;
5. Prior to moving on to the following question, the facilitator will give the other groups the possibility to challenge or improve the response given by the first group. This could be done, for instance, by referring to additional legal instruments that sustain the reply, or qualifying the reply by mentioning specific circumstances where it would not apply, etc.;
6. If the facilitator considers that the group who challenged the initial response indeed managed to provide a better reply, that group will receive 10 points. But if the group who challenged the initial response gets it wrong, it will lose five points!

The Answer Key below contains a set of key messages for discussion.

Activity 3 b:
c) Answer Key:

Question 1:

"A person attempting to cross a Zambian border by means of a false passport only applies for asylum at the point where he is stopped by the border authority. He is refused entry into Zambia and detained as he is found in possession of fraudulent personal documentation, as established in national legislation".

- ✓ **Is this statement correct or incorrect?**
- ✓ **Which international legal provisions are relevant in this context?**

Key messages for question 1: 

This statement is incorrect: asylum-seekers attempting to cross the border with false documents should be granted access to the asylum procedure and not penalized because of their irregular entry. According to Article 14 of the Universal Declaration of Human Rights, the right to seek and enjoy asylum is recognized as a basic human right. In exercising this right, asylum-seekers are often forced to arrive at, or enter, a territory 'illegally'. The drafters of the 1951 Convention on Convention Relating to the Status of Refugees acknowledged that refugees may have justifiable reasons for using fraudulent documentation to travel abroad to seek asylum. UNHCR's Executive Committee has dealt with this issue in a similar manner and has stated that their reasons for such actions are mainly based on their fear of persecution as such, or danger to their safety or freedom.

Article 31 of the 1951 Convention states: *"The Contracting State shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, present themselves without delay to the authorities and show good cause for their illegal entry or presence"*.

This is called the **principle of non-penalization for illegal entry**:

- It applies not only to recognized refugees but also to asylum-seekers pending determination of their status. This is because the Convention provides a person with a number of rights (including this one) once they are under the jurisdiction of a country, even before they are lawfully present and potentially later recognised as being a refugee;
- The fact that an asylum-seeker chooses to apply for asylum only after being identified by the authorities as using fraudulent documents at the border, should not negatively affect his/her possibility to apply for asylum, nor the analysis of the asylum claim as such;
- The circumstances which lead asylum-seekers to flee their country may also make them apprehensive about approaching persons in position of authority;
- The reference to *penalties* appears to include prosecution, fines and detention. However, in some cases states may place the asylum-seeker under *administrative detention*. The issues around the detention of asylum-seekers will be dealt with in more depth later on in the Manual.

Activity 3 b:

c) Answer Key:

Question 2:

A person found not to be in need of protection is someone who has been found not to qualify for refugee status or subsidiary protection after undergoing national asylum procedures. As any foreigner in an irregular migratory situation (i.e. no residence permit, pending expulsion order, etc) asylum-seekers whose applications have been unsuccessful should be returned to their country of origin.

✓ **Is this statement true or false? Please, justify your reply.**

Key messages for question 2:



The principle of *non refoulement* is not only expressed in the 1951 Convention, but its application is wider than that. It is also part of other universal and regional instruments: the Convention against Torture (CAT) and the OAU Convention

The CAT (Art 3), for example, expressly prohibits States from removing an individual in any manner whatsoever where there are substantial grounds for believing that doing so would **expose him or her to a danger of being subjected to torture**. A general principle of refuge, based on humanitarian law and human rights law, has also emerged in State practice, protecting those who flee civil war or generalized violence. Africa has incorporated such situations as grounds for granting refugee status in international treaties such as the 1969 OAU Convention. These other forms of the *non refoulement* principle are called “complementary forms of protection” or “subsidiary protection”.

To conclude, a person who undergoes refugee status determination and is found not to be a refugee, might still have the right not to be returned to his or her country of origin if that would be the cause for serious harm (torture, inhuman, cruel or degrading treatment, etc)

Activity 3 b:

c) Answer Key:

Question 3:

"A young woman working on a farm in DRC agrees to board a containerized truck which is supposed to take her to South Africa, where she has agreed to work in a nightclub. An old friend of hers was the one who gave her the idea. He has been in contact with the owners of the nightclub in South Africa and has received money in advance to make the necessary arrangements for her trip, including sorting out her travel documents. When she arrives in Zambia and as she is in transit, awaiting for her onward journey to South Africa, she is told that she has to work in a nightclub which turns out to be a brothel and she is forced to engage in prostitution to pay back for her travel costs."

- ✓ **Is this woman a victim of trafficking? Please, justify your reply using the Anti-Human Trafficking Act.**

Key messages for question 3:

In principle, looking at the limited information available, the woman could indeed be a victim of trafficking. What happens to her meets the definition of trafficking provided by Art. 3 of the Palermo Protocol and Part 1, Section 2 of the Anti-Human Trafficking Act; she was *recruited and transported by means of deception* *Exploitation includes the exploitation of the prostitution of others*. The text in italics corresponds generally to an excerpt from the definition of trafficking in the Palermo Protocol and the Anti-Human Trafficking Act. The fact that the woman had **agreed** to travel to South Africa to work in a nightclub can trigger some discussion with regard to the element of *consent* by the potential victim of trafficking; yet, in this context, there are key considerations to be taken:

- ✓ The Palermo Protocol states that *"the **consent** of a victim of trafficking in persons to the intended exploitation set forth in subparagraph a) [the one providing the above definition of trafficking] shall be **irrelevant** where any of the means set forth in subparagraph a) have been used*. The Anti-Trafficking Act states 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 history of a sexual or criminal nature"*;
- ✓ If we look at the country of origin i.e. DRC, we will see that the country's political situation has resulted in challenges with the national economy with most of the population affected socially and economically. Therefore, it is most likely that the woman was in a position of *vulnerability* that made her an easy target for trafficking networks;
- ✓ A thorough understanding of the phenomenon of trafficking in human beings among entry officials would lead to a higher identification of victims, as well as to adequate treatment following identification. Consequently, it would reduce the victims' risk of remaining in the trafficking cycle. Awareness about the facets of human trafficking is the way to avoid victims being treated simply as irregular migrants, criminalised and re-victimised, and forcibly returned without being offered appropriate assistance and protection. Entry officials and other first line officials should also be aware that some victims of trafficking are also in need of asylum procedures and ensure this possibility is factored into their identification processes, so that while receiving care as needed, such victims of trafficking are also given access to an asylum procedure.

Victims of trafficking should be viewed as *victims or survivors* of a crime, rather than as mere irregular migrants (particularly trafficked women and children for purposes of sexual exploitation).

4. IDENTIFICATION OF VULNERABLE MIGRANTS IN NEED OF ASSISTANCE

4.1 Session Outline



This session provides practical exercises for operationalizing the provisions of **Section 6 of the Guidelines**. A simulation exercise of an influx of mixed migrants at a border is used to provide hands on experience with protection of vulnerable migrants. Cards of case studies (Annex V) will be used to inform the role play characters of vulnerable migrants in need of protection assistance. The first line officials (immigration officers, in this example) in the simulation will use the Profiling Form (Annex II) to undertake the initial interview of the vulnerable migrants in need of protection assistance. The session includes a discussion on how other first line officials (social welfare officers, prison officers, police and other organisations that may come into contact with vulnerable migrants in need of protection assistance) will administer the Profiling Form. The session concludes with highlights on the importance

The Profiling Form is an assessment form meant to provide indicators for the initial case determination of vulnerable migrants within mixed migration flows. The Profiling Form provides a basis for the identification and referral of vulnerable migrants for assistance and follows a victim-centered and human rights based approach that considers the best interest of the child. The assessment form is intended to be used by FLOs and is not intended for actual case-type determination.

of identifying vulnerable migrants in need of protection assistance.

Objectives



- To become aware of the major indicators for identifying the various categories of vulnerable migrants;
- To acquire hands-on experience in administering the Profiling Form for vulnerable migrants;
- To understand the key considerations during the process of interviewing vulnerable migrants;
- To appreciate the added value of the initial interview

Training materials:

Projector
Laptop
Masking tape to mark out border lines
Migrant Cards (see Annex V)
Handouts with instructions
Profiling Forms
PowerPoint with messages or sound effects during for use during activity
Flip chart paper
Markers
Blu tack/ press-stick

Expected outcomes

First line officials' knowledge, skills and attitudes:

As a result of the training first line officials will:

- Become familiar with the main duties and obligations of first line officials undertaking initial identification of vulnerable migrants in need of protection;

- Gain insight into the rights of vulnerable migrants in need of protection, with special consideration of issues related to age, gender, religion and culture among others.
- Administer the Profiling Form for identifying vulnerable migrants in need of protection assistance;
- Gain awareness of the psychological effects and complexities related to providing protection assistance to persons in need, victims of trauma and victims of human rights violations in general;
- Understand specific mechanisms to overcome some of the above mentioned psychological effects to ensure an effective delivery of their responsibilities, particularly with regard to protecting the rights of vulnerable migrants in need of protection assistance;
- Gain familiarity with international norms on protection of vulnerable migrants in need of protection assistance and human rights;
- Learn to rely on their common sense and personal judgment to increase their ability to take quick and appropriate decisions with respect to different categories of vulnerable migrants in need of protection assistance that they come into contact with.

4.2 Activity 4a - Simulation Exercise (1 hour)



Refer to [Facilitation Tip 4: Maximizing the learning potential of a role play](#)

Preparation for the simulation

- As early as possible in the training, the facilitators should identify and invite five participants in the training to play the role of the 6 categories of vulnerable migrants approaching the border;
- Four additional participants are selected to play the role of border officials, including a representative from Department of Immigration, Department of Social Welfare or an NGO providing assistance to vulnerable migrants, Prisons and Police or Office of the Commissioner for Refugees³⁹;
- The 5 migrants are given the migrants cards, presented in Annex V;
- The participants playing the role of the migrants will approach the Immigration desk one at a time and role play the character on the migrant card to provide the officers with the information on the migrant;
- The other participants sit in and take note of the way the interaction between the migrant and the Immigration officers and their observations will be shared in the Debriefing session Part 1 in section 4.4.1 below;
- At the beginning of the session, the facilitator will explain that they are now going to do a simulation of a border official's day at the border;
- Before starting with the simulation, the facilitator will project and explain the following instructions for the simulation using a Power Point slide. The instructions are printed out for the participants as handouts.

Instructions to Border Officials

1. You are staffing a border post between two countries, namely A (neighbouring country of exit) and B (Zambia), you have been assigned to the Zambian post;

³⁹This facilitates for all key stakeholders to familiarize themselves with the profiling form. This familiarisation is important for the questions they will have to answer in the discussion in section 4.5 below.

2. This is a very busy day at the border and you need to get organized at your border post as there will be a lot to do and many decisions to be taken;
3. There needs to be one Senior Border Official in command of your border post. You have 5 minutes to choose the officer in command and assign different tasks amongst the other border officials;
4. You will be “on duty” for 45 minutes, that is, receiving people approaching the border and taking the appropriate decisions related to crossing the border, initial reception conditions and any other action needed;
5. You and your group will have **45 minutes for the simulation** and **one hour** to allow for *filling in of the Profiling Forms* for all migrants who approach the border post and granted protection assistance;
6. A Profiling Form will be provided to you at the beginning of your deployment at the border. It is important that two officers are tasked to attend to the migrant when they approach the desk, whilst the other two will be at a “reception centre” where they will fill in the form when the first two officers have completed the information gathering (see section 4.3 below on instructions for filling in the form).

Facilitators’ roles during the simulation:

- Each of the participants is allocated a category of vulnerable migrant in need of protection assistance for the following profiles:
 - asylum-seeker
 - victim of trafficking
 - unaccompanied child
 - separated child
 - stranded migrant
- Each migrant will approach the border post and try to communicate with the officials. However, only half of the migrants speak the language of the destination country. The others speak a different language (and thus cannot make themselves understood). Others do not speak at all, they use body language;
- The migrants will carry a “migrant card” that reads some basic information on their case, which they will hand to the border officials. He/she will then wait to see the reaction of the border officials. Border officials have different choices at their disposal (e.g. rejecting people at the border, bringing them to a transit centre, interviewing them in order to make an informed decision and any other action they may deem fit). These migrant cards will be made available by the session facilitator and should be prepared in advance of the simulation exercise;
- The officials should indicate on the card in the boxes whether the migrant has been granted protection or not.

After all the Profiling Forms have been filled in, the facilitators will inform the border officials that the officials will communicate the final decision they have made for each migrant to the rest of the group.

4.3 Initial interview of vulnerable migrants in need of protection assistance

(1hour) 

Refer to [Facilitation Tip 4: Maximizing the learning potential of a role play](#)



Activity 4 b - Administering the Profiling Form

- Facilitators need to make sure that border officials receive as many **Profiling Forms** as persons approaching the border;
- At the reception centre, the two officials will fill out one form for each vulnerable migrant who has been granted protection as indicated on the migrant card;
- The Profiling Form allows border officials to initially categorize the vulnerable migrants in need of protection assistance and recommended follow up actions.

4.4 Debriefing Sessions

The debriefing will be undertaken in three parts:

- Debriefing on feelings and emotions arising during and after the simulation;
- Presentation on the impact of working in a complex border environment;
- Debriefing on decisions made and action taken.

4.4.1 Debriefing Part I: Discussion on feelings and attitudes (45 minutes)

[Facilitation Tip 5: Debriefing on feelings and emotions](#)



The debriefing after this simulation exercise is one of the most important activities in this training. It involves expressing and sharing very strong personal emotions that arise in the day-to-day work of officials and also involves recognizing attitudes and reactions that may weaken or even obstruct access to protection. The debriefing contributes to higher awareness on how personal attitudes affect the realization of protection standards and norms.

Start by asking the participants who played the role of border officials and those who played the role of vulnerable migrants in need of assistance the following question:

“How did you feel throughout the exercise”?

Possible answers of the border officials may include:

- ✓ “I got really stressed because of all the information that we were bombarded with”
- ✓ “I did not know what to do with those people who did not speak”.

Possible answers of the vulnerable migrants in need of assistance may include:

- ✓ “I felt completely ignored by the border officials”
- ✓ “I got angry when I realized that they did not make any effort to find out my story”
- ✓ “I was afraid that they would send me back”.

4.4.2 Debriefing part II: The impact of working with mix vulnerable migrants in need of protection assistance”



A brief presentation on the effects of working with victims of trauma and in stressful environments in the mixed migration context helps participants understand some of their reactions during the simulation and make the respective associations to their day-to-day challenges. In addition, the presentation

facilitates “shared understanding” by both the facilitator and the participants as challenges are acknowledged and incorporated into a constructive learning experience.

Key Messages of the Power Point Presentation (45 minutes)



The complexity of protection assistance to vulnerable migrants

The challenges that surround the work of first line officials can have an impact on their own psychological well-being. In turn, this can affect the effectiveness and quality of their work. In the discharge of their duties, officials can experience varied emotions, ranging from compassion, through to indifference in relation to the individuals they deal with on a daily basis. As a result, this will also have an impact on their ability to respond objectively and empathetically to the different situations they are faced with.

Extensive research on the work of institutions dealing with victims of trauma or human rights violations as well as more generally with people in need, has shown the kind of psychological strain that such kind of work may place on staff, particularly those working on the ground in daily or regular contact with people in need.⁴⁰ First line officials, particularly border officials are no exception. Not only are these officials exposed to people’s suffering and trauma on a recurrent basis; they are also given the immense task of guarding the borders against irregular crossings and criminal threats, whilst at the same time protecting the fundamental rights of all involved and ensuring the efficient flow of legal cross-border transit. In addition to such vast responsibility, border officials operate with several constraining factors including:

1. **Border control versus the right to protection** - border officials are responsible for stemming the irregular migratory movements of people and at the same time need to provide certain vulnerable migrants in need of protection assistance with protection;
2. **International human rights versus national legislation** - border officials are caught in a dilemma while trying to balance the need for respecting fundamental human rights provided for by international and regional standards and norms to those provided for in national legislation. Border officials are therefore bound by international human rights standards which are not always articulated in detail in their procedural rules or protocols, despite the need for effective responses to the situations of vulnerable migrants in need of protection assistance they service. These challenges also affect other first line officials providing protection assistance to vulnerable migrants in need of protection;
3. **Criticism on service provision** - As a consequence of the above complexity, it is often the case that first line officials face criticism by the media, humanitarian organizations and migrant organizations among others, on the services they provide;
4. **Institutional regulations** - First line officials usually operate within set structures, and are required to act in accordance with established rules, internal instructions and protocols. Due to these

⁴⁰ This presentation is greatly based on two articles on the psychological effects on humanitarian workers assisting refugees and those in conflict situations. The articles are Mark Walkup, *Policy Dysfunction in Humanitarian Organizations: The Role of Coping Strategies, Institutions and Organizational Culture*, Journal of Refugee Studies, 1997, Oxford University Press and the article by Barbara Harrell-Bond, *Can Humanitarian Work with Refugees be Humane?*, Human Rights Quarterly 24 (2002) 51-85, The John Hopkins University Press.

complexities, first line officials may seem to look complacent and “unprofessional” in the context of internationally agreed norms and standards related to the protection of vulnerable migrants in need of assistance;

5. **Logistical challenges** - including the unpredictability of arrivals, complex migrant travelling routes, clandestine networks of human smuggling and trafficking, drug trafficking and the difficulties of communication and cultural differences. Thus, there is an inherently contradictory function in the task of first line officials as they are expected to be able to adhere to institutional procedures and functions and at the same time protect those in need.
6. **Language barriers** – One of the key challenges in providing assistance to vulnerable migrants is linguistic differences that often exist between first line official and/ or service providers and the migrants, as many migrants are not able to speak local languages. This can be particularly challenging when working in remote areas where access to translation services and interpreters is limited.

What can be done to maintain a healthy approach and professional attitude?

In order to overcome the challenges highlighted above and to meet the tremendous protection needs of some vulnerable migrants, the first line officials need to undertake their tasks with a healthy attitude. This normally requires specific measures to maintain a balanced and equitable approach to the work of first line officials. Such measures include:

- Cooperation by all relevant actors who need to be involved. It is vital to maintain close links with national referral institutions to complement the actions of key actors and ensure that appropriate solutions are found for each particular case. Such institutions can be governmental or non-governmental;
- Focusing attention on the specific needs of the migrant and providing a differentiated approach or response on a case to case basis as not all vulnerable migrants in need of protection assistance have the same needs even when they fall within the same category;
- Effective communication with the vulnerable migrants in need of protection in order to find the best ways to assist them and to also help them comply with existing laws and procedures. A better understanding of the situation of vulnerable migrants in need of protection guarantees a more effective response;
- Finally, very simple but essential measures include rotation of officials working in stressful environments; receiving ongoing psychological support; participating in peer support networks; or taking annual leave regularly, instead of accumulating leave days.

4.4.3 Debriefing part III: Review of decisions made on individual cases during the simulation

Key Messages table (only for facilitators)



- Based on the categorization of the vulnerable migrants in need of protection assistance and recommended follow up actions, the border officials will be required to inform the training on the initial case determination by stating the migrant category determined and the recommended action;
- The border officials have to justify their decision and recommended action by highlighting some indicators on the “migrant card” that informed their decision. Similarly, the officers will justify why certain migrants were not considered for protection assistance;

- This activity is relevant for follow-up sessions as it sets the stage for facilitators to discuss ways to identify protection needs, common signs of distress, possible victims of trafficking and other protection assistance issues.

4.5 Discussion: Other first line officials' role in identifying vulnerable migrants in need of assistance

This discussion may be prompted by the following questions:

- Which other FLOs may come into contact with vulnerable migrants requiring protection?
- For each FLO identified, which categories of vulnerable migrants in need of protection assistance do they provide assistance to?
- What are some of the challenges they face in identifying vulnerable migrants in need of protection assistance?
- How can the Profiling Form address some of these challenges?
- How can they operationalise the Profiling Form in the course of their duties?

4.6 Presentation: Key protection messages



Key Messages



This session exposes participants to some of the protection needs that vulnerable migrants may have. It also takes into consideration the main challenges encountered by first line officials in the discharge of their duties and allows for a reflection of issues raised in the simulation exercise, as well as providing guidance on how to make the right decisions. It facilitates institutionalization of effective responses in providing protection assistance to vulnerable migrants in need, based on the skills and knowledge gained.

Principles guiding profiling and treatment of vulnerable migrants in need of protection assistance at initial contact

First line officials have the responsibility to identify persons with protection needs and take all possible immediate action to ensure these needs are met. To this end, it is essential that linkages are built with national referral institutions mandated to provide protection assistance to vulnerable migrants who need it.

First line officials may have very limited time to reflect and take a decision on each person they come across. There are key principles that should be applied to vulnerable migrants with protection needs by first line officials. Some of these principles include:

- Treatment of vulnerable migrants in need of protection assistance with full respect for human dignity, as mandated by the Universal Declaration of Human Rights;
- Prohibition of discrimination on any grounds;
- Confidentiality and safeguarding of migrant information, a breach of the confidentiality principle could pose a serious risk to the migrant and his or her family.

Facilitating access to information & communication

Vulnerable migrants in need of protection assistance should be provided with the necessary information, in a language they understand. This information should include the relevant processes and procedures that particular migrants should have to follow as well as information on their rights and

obligations during the procedure and the possible consequences of not complying with their obligations. All persons seeking protection should be afforded information on the services and advice available to them, including health care and consular services. This includes information on how to contact national actors that provide protection and other types of assistance to vulnerable migrants. Accessible information should also be available with regard to their situation and their rights, including protection mechanisms, other available services, and the processes of family reunification and/or return.

Ensuring access to interpreters and legal assistance

Interpretation: Vulnerable migrants in need of protection should be afforded an interpreter to facilitate translation services into a language they can understand. Lack of communication on grounds of language or cultural barriers may result in the migrant being unable to explain the circumstances surrounding their cases and to express their wishes to seek protection.

Legal assistance and representation: Where relevant, vulnerable migrants in need of protection should be granted access to legal assistance, if needed. Legal assistance and representation can be provided by a number of legal aid institutions in Zambia. First line officials must ensure that vulnerable migrants in need of protection assistance in detention facilities have access to a legal adviser or counselor who can assist or represents the migrant.

Figure 7: Access to Legal Assistance

Discussion on Access to Legal Assistance:

- *Are there any challenges to accessing legal assistance for vulnerable migrants in your area?*
- *How can these challenges be addressed?*

Ensuring the protection of persons with specific needs

First line officials should alert to specific protection needs of vulnerable migrants. As the first and sometimes only actors coming into contact with vulnerable migrants, they have a responsibility to ensure that appropriate action is taken to protect migrants' rights, including providing referrals to relevant national institutions. First line officials must ensure that emergency health considerations are tackled immediately they are identified. Such health considerations should take priority over migratory concerns. Below are some of the key considerations for the provision of protection assistance.

Figure 8: Gender dimensions of migration

In the past, the majority of women migrated as dependents, but women are now increasingly migrating as individuals for various reasons, be they economic, educational, cultural, or, in some cases, for their very survival. This feminization of migration flows needs State commitment to ensure that the particular needs of all migrant women are identified, taken into consideration and addressed by service providers. It is important that women and men are provided with equal access to services and opportunities. There is need to address the negative impacts of mobility that disproportionately affect women such as human trafficking, sexual and physical violence and exploitation. Though a VoT could be a person of any gender, research shows that the majority of trafficked victims, particularly those trafficked into commercial sexual exploitation, are females.

An inadequate response from a Service Provider to the trafficked person further exacerbates gender discrimination which already exists in society. Hence, gender sensitivity is an essential requirement in addressing human trafficking. The procedures and steps undertaken by those providing services to trafficked persons should always promote gender equity and equality (IOM Service Provider Manual: Training Toolkit Minimum Standard Guidelines on Protection of Victims of Human Trafficking, 2012).

Due to the trauma that these women may have suffered during the migration process, female vulnerable migrants may wish to speak to female officers and whenever possible, they should be given the choice.

Figure 9: Protection Assistance to Asylum Seekers

Access to asylum procedures: The principle of non refoulement contained in Article 33 of the 1951 Convention Relating to the Status of Refugees implies the right to admission to the territory and the right to stay until any claim for refugee status is determined. The principle of non refoulement applies whether or not the persons have been formally recognized as refugees, and includes not only a threat to life or freedom on account of race, religion, nationality, membership of a particular social group or political opinion, but also a risk of being exposed to torture, to inhuman or degrading treatment or punishment. For the principle of non-refoulement to be effective, access to a procedure for the determination of refugee status is crucial. The quality of the initial contact between an asylum-seeker and the State's official is, therefore, very important. An incorrect decision at the point of access to the territory or failure to pass on the asylum request to the competent authority could have serious consequences for the applicant. It is therefore essential that those officials who first come into contact with asylum-seekers are fully aware of international legal requirements.

The role of border officials in the asylum process: Asylum seekers should never be interviewed by police or border officials on the substance of their asylum claim. This is the role of officials from the Office of the Commissioner for Refugees (COR) mandated to take substantive decisions on refugee claims. Among other reasons for such a division of responsibilities is the need to ensure that the asylum-seeker has adequate information about her/his rights before a substantive interview takes place; the need to ensure that specially trained officials will study the asylum claims and the fact that asylum seekers should have adequate time to rest and recuperate after what has most likely been an arduous journey, instead of being subjected to an asylum interview. Rather, border officials have a positive responsibility to identify persons who may wish to apply for asylum and refer them to the relevant determining authority; they have the duty to recognize and respond in a protection-sensitive and rights-respecting way to persons who present themselves at the border and who may wish and/or need to seek asylum.

Ensuring access to the asylum procedures: As stated in Activity 3a (Quiz & Answers exercise) in Section 3.6, no entry restrictions should be made on asylum seeker with fraudulent documents, no documents at all or those that have entered irregularly. Everybody has the right to seek asylum and to have access to an asylum procedures. Border officials should pay particular attention to undocumented persons arriving from war-torn countries. The latter should be given the opportunity to express any protection concerns they may have. There is a strong likelihood that they may be entitled to some form of protection, even if they do not seem to fall under the 1951 and 1969 Conventions refugee definition. For some trafficked persons, where there are indications that they cannot return to their country or place of origin due to a well-founded fear of persecution, access to the asylum procedure will be the most appropriate avenue to pursue. In any event, all victims of trafficking should be properly informed of their right to seek and enjoy asylum. Asylum-seekers must be allowed to remain in a country, for the sole purpose of the asylum procedure, until the determining authority has made a decision. Moreover, in case permission to enter is refused by a competent authority, this competent authority shall state the reasons in fact and in law why the application for asylum is considered as unfounded or as inadmissible. Border officials should immediately inform, without exception, the competent authority of all asylum requests.

Figure 10: Protection Assistance to Child Migrants

Special considerations for children: All actions in relation to children (defined as persons below the age of 18¹) should always maintain their best interests as the primary consideration, in accordance with their rights under the Convention on the Rights of the Child.

Unaccompanied minors and separated children should be referred to the Department of Social Welfare immediately. Those seeking protection should never be refused entry or subjected to detailed interviews. First line officials should limit the initial interview to gathering basic information about the child's identity. Where an adult accompanies children, it will be necessary to establish the nature of the relationship between the child and adult.

COR should refer child asylum seekers whose claim has been rejected to Department of Social Welfare for considered assistance. In case of abscondment, Department of Social Welfare should report to Department of Immigration.

Minors should not be detained. In the case of minors, detention (including administrative detention) should always be a measure of last resort. Furthermore minors should not be kept with adults who are not related to them, unless this is within the framework of clear foster care arrangements with regular supervision and assessment by qualified persons. Should a minor be arrested, Department of Social Welfare should be contacted immediately.

Family unity should be preserved to the extent possible and minors should not be separated from their parents.

Figure 11: Protection Assistance for VoTs

Trafficked persons are victims of serious crimes and should not be held in a detention facility simply because they do not have legitimate travel documents as this is likely to be through no fault of their own. Rather, they should be provided with necessary psychological, medical and any other support required in their situation. All suspected cases of VoTs should be reported to the Police. Adults are referred to an adult shelter, whilst minors are referred to the Department of Social Welfare before they are transferred to a shelter for children. Depending on the immediate, medium-term and long-term needs of the VoTs and the capacity of service providers, referrals are made for services that are not provided by the shelter.

As a key measure, first line officials should develop contacts **with national referral institutions** specialized and mandated to respond to the specific needs of persons in the circumstances highlighted above. The principles and considerations highlighted for the initial identification phase in Sections 5 and 6 of the Guidelines are also applicable in follow up protection assistance phases. To this effect, the principle and considerations are presented in more depth in follow up sessions.

For more detailed information on protection assistance for each category of migrants, refer to Annex 5 (Applicable Operational Guidelines) of the Guidelines for Protection Assistance to Vulnerable Migrants in Zambia.

5. REFERRAL FOR CASE-TYPE DETERMINATION

5.1 Session Outline

This session uses role play for “conducting an in-depth interview”. This session facilitates familiarisation of approaches for interviewing vulnerable migrants, in line with guidance notes presented **Annex 5 of the Guidelines**. This session uses an interactive discussion to highlight the importance of correctly identifying vulnerable migrants in need of protection assistance. The session allows for participants to reflect on the decisions taken during the role play exercise from Chapter 4, including what they would do differently if faced with a similar situation in the future.

Objectives

- To understand the criteria that should be considered when identifying the various categories of vulnerable migrants’ protection needs;
- To get practical experience on how to conduct an in-depth interview for case-type determination;
- To learn the importance of identifying vulnerable migrants.

Training materials:

Projector

Laptop

Referral Form for Protection Assistance to Vulnerable Mixed Migrants in the Profiling Form from Activity 4b (Administering the Profiling Form) undertaken in session 4.3

Coloured Cards

Flip chart paper

Markers

Blu tack/ press-stick

Expected outcomes

First line officials’ knowledge, skills and attitudes:

As a result of the training first line officials will:

- Gain insight into migrant specific case determination criteria;
- Understand the key issues to be taken into consideration when interviewing vulnerable migrants in need of protection;
- Understand the importance of case-type determination.
- Increase their ability to conduct effective interviews.

5.2 In-depth Interview for case-type determination

An in-depth interview is a follow up to the initial profiling of vulnerable migrants in need of protection assistance. The in-depth interview is conducted by the mandated institution to which the migrant is referred. The interview is aimed at providing ‘actual case-type determination’ or ‘final identification’ of the migrant. It is the basis for effective service provision that meets the needs of the migrant to ensure that they are adequately protected and that their rights are upheld. The referral institutions may have internalized procedures and processes for case-type determination, usually achieved by administration of case-type determination or screening forms.

Activity 5a: Role Play – “Conducting an in-depth Interview”



Based on final outcomes of Activity 4b (Administering the Profiling Form) undertaken in Chapter 4. The role play commences with the cases of the female and child migrants being referred to service providers for actual case determination and protective assistance. The Referral Form for Protection Assistance to Vulnerable Mixed Migrants in the Profiling Form attached as Annex II is used to provide referral information from the initial interview. The participants are divided into two groups, with one group focusing on the case of an adult female migrant and the second group focusing on a child migrant. The roles of the female and child migrants are played by the same participants who played these roles in the simulation exercise. The groups are given 30 minutes to discuss the case and any pertinent issues that need to be considered to ensure that the required outcome for the interview. The groups are given another 30 minutes to develop an interview plan with key questions to be used in the interview. Each group will then conduct their in-depth interview role play.

5.3 Communicating with vulnerable migrants in need of assistance ⁴¹



This participatory presentation will be based on a checklist for first line officials communicating with vulnerable migrants in need of protection assistance. The facilitator should explain that the presentation will relate to the simulation exercise and the role play on the in-depth interview. The presentation is closely linked to Annex 6 of the Guidelines on the techniques for interviewing vulnerable migrants.

See [Facilitation Tip 6: Delivering a participatory presentation](#)



Note: In order to make the presentation relevant for the participants, the facilitator should expand only on those points in the checklist where participants appear to need additional information. The selection of one point over another should be based on the impressions of the facilitator with regard to participants' understanding of the key issues in communication following their performance during the earlier simulation and the in-depth interview role play exercise.

Key messages of the presentation



Checklist for effective communication:

1. Recalling the purpose of communicating at first contact
2. Access to interpreters
3. Access to legal counsel
4. Confidentiality
5. Self-awareness on barriers to communication
6. Active listening
7. Respectful and professional attitude
8. Appropriate body language
9. Sensitivity to gender, age and diversity factors that may affect communication
10. Psychological and emotional needs of asylum-seekers and vulnerable migrants
11. Asking appropriate questions

⁴¹ Key messages of presentation adopted from the UNHCR, *Protection Training Manual for European Border and Entry Officials*, Session 5 Manual, p. 9-16, 2011.

5.4 Activity 5b - Cards on wall exercise: Key messages on communication ethics

To wrap up the session on communicating with persons potentially in need of protection, a participatory brainstorming exercise should be carried out in plenary. This exercise could be done with the help of wall cards. The participants are divided into four groups and each group receives three wall cards, and should write down (in big letters; one idea per card; 5-7 words per card) three key recommendations that the group proposes for communicating with persons who may have protection needs, taking into consideration the role play in Section 5.2 activity 5a (conducting an in-depth interview) and what should have been done differently after learning from the presentation on communicating with persons in need of protection. The feedback provided should concentrate on the procedure rather than on the content of the interview and it should be clear and constructive. To the extent possible, participants should try to provide feedback against the checklist of the previous presentation on communicating with persons in need of protection.

The facilitator then starts collecting the wall cards. He/she places the first wall cards on the wall. Participants should decide which cards reflect a similar idea (based on the organizing principle of “similar impact”) thereafter the facilitator puts similar cards together (one below the other). Once all cards have been “clustered” each cluster should be given a common title. The resulting titles should be written down on a flipchart paper and put on the wall. Thereafter, the facilitator should conduct a focused debriefing with the participants on the resulting titles, trying to raise key messages that will apply to interviewers’ day-to-day activities.

6. SERVICE PROVISION AND REFERRALS

6.1 Session Outline

The session is linked to **Chapter 8 of the Guidelines** and allows participants to understand what a needs assessment is and the guiding principles of protection service provision. It further highlights the needs for effective referral of vulnerable migrants for service provision and the importance of coordination of service providers to ensure comprehensive and quality service provision (**refer to Chapter 7 of the Guidelines**). It uses case studies to facilitate understanding on effective provision of protection assistance.

Objectives

- To understand the basic principles of service provision to vulnerable mixed migrants

Session Outcomes

In the area of knowledge acquisition, after this session participants will:

- Understand the importance of case management;
- Learn the key principals guiding protection assistance for vulnerable migrants;

Training materials:

Projector
Laptop
Case studies
Flip chart paper
Markers
Blu tack/ press-stick

In the area of knowledge, skills and attitudes, participants will:

- Increase their ability to identify migrant specific needs;
- Build their capacity to collaborate with relevant actors in the provision of protection assistance;
- Understand assistance needs of vulnerable migrants, as well as the importance of effecting service provision through referral systems.

Case management is a step-by-step process entailing a series of interviews, decisions, counseling

Figure 12: Case Management

ongoing care of each vulnerable migrant, including intake, follow-up and planning for departure from the Service Provider. An important feature of case management is a Care Plan, to be developed by the Case Manager and the migrant. The Care Plan should document the services needed by the migrant, how these services will be provided, and by whom. The Care Plan should be part of the migrant's case file and should be regularly revisited to address changes in the individual's needs.

6.2 Case Management

6.3 Needs assessment and fundamental principles of assistance

Needs assessment: A needs assessment should be undertaken by the designated staff with the appropriate training to ensure adequate care and comprehensive protection services are provided. A needs assessment facilitates the identification of needs unique to each migrant. These needs are link to the individual situation of the migrant and it is thus important to offer a differentiated approach. No two migrants have the same needs, even if they belong to the same category. Needs can be categorized in three main stages, including: immediate, medium and long-term. As highlighted under emergency health care in Section 8.1 (Immediate Basic Needs) of the Guidelines, it is important that emergency needs such as first aid are provided for at the earliest possible time.

Table 3: Protection Needs of Vulnerable Migrants*

Table of Protection Needs of Vulnerable Migrants		
Immediate Basic Needs	Medium Term Needs	Long Term Needs
Safety and Security	Health Care: ongoing medical care and psychological assistance	Continuation of immediate and medium term needs
Shelter	Skills building and recreation	Economic stabilization and independence
Food, drink, clothing	Family Tracing	Sustainable/Durable Solutions: Voluntary return, resettlement, or regularization of long-term stay or reintegration
Health Care: Emergency medical treatment	Legal assistance	
Maintain foster care services		
Legal Assistance: Regularization of stay		

Note: This table is adapted from the needs of a VoT. The provisions are indicative and may not be exhaustive to meet the protection needs of vulnerable migrants in need of protection assistance and is intended as guidance only

Figure 13: Guiding Principles for Service Delivery

Respects for Rights - Vulnerable migrants are to be afforded respect of human rights, based on international and national laws and standards, at all times. Vulnerable migrants should not be held in detention facilities such as prisons and police cells, where alternative shelter services can be provided;

Security and Safety - The security of the state, and the safety and protection of migrants and Service Providers is of paramount concern at all times. Where possible, shelters should ensure a safe and secure temporary living environment for vulnerable migrants. Measures should be taken to ensure that the working environment for shelter staff is safe and secure;

Confidentiality - Ensure confidentiality at all times. All information and documentation regarding migrants is confidential and should be treated as such. Migrants' information, including files, should at all times remain stored in a secure place. Information should only be shared on a "need to know" basis. With the exception of instances where the safety of the migrant or another person is involved, Service Providers are not permitted to disclose information relating to the migrant without her/his consent, unless national legislation provides for legal obligation of disclosure;

Information - Everyone has the right to information in a language they understand, including information on their rights, the services available, accessibility of services, the potential risks and consequences of accepting services and the repercussions of not accepting services, for them to make informed decisions. For children, information should be provided in an understandable and child friendly manner;

Consent - All services should be provided with the full and informed consent of the migrant, where possible. Migrants have the right to full participation on all stages of decision making related to their case. Participation in assistance programmes will be on a voluntary basis only, at the free and informed will of the migrant;

Non-Discrimination and Impartiality – As they respond to the needs of vulnerable migrants, service providers should ensure non-discrimination and impartiality in all interactions. Migrants are not to be discriminated against by Service Providers based on gender, race, nationality, ethnicity, age and religion, among others;

Migrant Centred Approach – All the services rendered should take into consideration the needs and concerns of each migrant. This principle must be respected during all stages of service provision;

Best Interests of the Child - For child migrants, the best interest of the child should be a primary consideration in all actions concerning children, including the search for short and long-term solutions (Article 3, CRC). Further, a best interest's determination (BID - refer to Box 2 below) process must be conducted in preparation of any decision fundamentally impacting on an unaccompanied or separated child's life (see also Box 4 below). This determination "requires a clear and comprehensive assessment of the child's identity, including her or his nationality, upbringing, ethnic, cultural and linguistic background, particular vulnerabilities and protection needs;

Quality Assurance - Service provision is to be carried out by trained and experienced professional Service Providers. For all parties, service provision is to be conducted in a collaborative, interdisciplinary manner to provide the best possible care for migrants.

6.4 Provision of protection services for vulnerable migrants

This practical session will include an analysis of a number of case studies on each category of migrants of concern. It is important to note that not all vulnerable migrants fit established legal categories for protection and that they face different degrees of vulnerability. It is therefore critical that vulnerable migrants are provided with differentiated processes and procedures as not all services will be applicable to all categories of vulnerable migrants. Hence the service providers should conduct a needs assessment as a guide for the services to be provided. These services address immediate, medium term and long term needs of vulnerable migrants. Where needs cannot be met by one service provider, collaboration can be sought with other existing competent organizations.

Activity 6a – Provision of Services for Vulnerable Migrants in Need of Protection (Timeframe: 60mins)

Instructions:

Participants will be divided into groups representing the various categories of vulnerable migrants referred to in Box 1. Each group is allocated a case study to analyze (see below).

Questions:

1. What migrant category does (or categories do) the migrant(s) in your case study belong to? Justify your answer.
2. What are the protection needs/services for the migrant(s) in the case study?
3. Which actors provide these protection services in Zambia?
4. What are the key challenges are faced by these actors as they provide the required service(s) identified in 3 above?
5. Are there any opportunities that exist in Zambia that can enhance protection assistance to the migrant(s) in this case study?
6. Provide key recommendations to address the challenges/gaps identified in 4 above?

Activity 6a:

Case Study 1: The Three Sisters

Bupa, Mishupi and Katrina* were sisters born in a family of twelve. At the time the Department of Immigration came to know about them; the girls were aged 16, 14 and 12 and were the youngest three in their family. The girls lived at home with their mum, in a small town in southern DR Congo. Their father did not live with his family as he had found employment in a town three hundred kilometres away from home. However, he kept regular contact with his family.

One of the girls' elder sisters got married to a man who was living in Botswana where he was a businessman. Following her marriage, she moved to Botswana to be with him. The family back home looked up to their married daughter who was now living in a foreign country, as she provided them with financial support. Bupa, Mishupi and Katrina had not seen their sister since she left home in 2007, but had often heard stories of her exciting life in Botswana. The girls' parents thought that it would be good for them to visit their sister. Their mother requested that her daughter in Botswana take care of the youngest of the sisters, Katrina, so that her sibling could assist her in going to 'a good school'.

The girls and their family were very excited about the journey to Botswana as they felt it would present lots of new opportunities for them. Passports were very expensive in their country of origin, but the family was determined to let the girls go to Botswana and was willing to use the small amount of savings they had for the journey to become a reality. None of the remaining family members had travelled outside DR Congo before, so when they were approached by a 'relative' who offered to help procure the passports for Bupa, Mishupi and Katrina, they were very pleased. The man was introduced to the family as their father's cousin; although the girls had not seen, nor heard of him, before. Their 'uncle' told the girls he could get passports for them in Zambia, as this would be cheaper than getting them in Congo. The girls' mother was against the idea at first, fearing the girls may get into problems. However, the girls' uncle convinced their mother that he had done this before and that her children would be safe.

Eventually, with contributions from local community members, as well as their savings, the family gave him USD 1,500 for their transport to Zambia, passport procurement, and onward journey to Botswana where they were to join their sister. In November 2011 the girls and their 'uncle' left home for Zambia.

When they reached Zambia, they were taken to a high density area to stay in a house with lots of other people, most of whom were from their country. The girls spent over a month in Zambia waiting for their travel documents. The girls went once into town with their father's 'cousin' to have their passport-size photos taken but most of the time they were told to stay at the house. Their father's 'cousin' rarely spent time at home with them.

Apart from not being allowed to move alone, the girls did not suffer any form of abuse from either their 'uncle' or from any other person. They were just worried about how long it was taking for them to travel as they were anxious to go and see their sister in Botswana. They had limited contact with their family back home.

In January, 2012 two passports for Bupa and Katrina were ready and the 'uncle' arranged that these two girls proceed to Botswana first, and Mishupi would follow a few days later. On the following Sunday the two were put on a bus to Botswana in the company of a lady from their country of origin. The 'uncle' did not travel on the bus but followed the bus in a taxi.

When they reached Kazungula border post, the Immigration officers notice the following:

- The girls are separated from one and/or both parents and other relatives and are not being cared for by an adult;
- The girls had Zambian names but could not speak any of the Zambian languages.

When the 'uncle' noticed that the girls were facing problems at the border, he just disappeared and left the girls to fend for themselves. Immigration officials did not allow the girls to proceed with their journey, but referred them to the Department of Social Welfare.

During an assessment conducted by DSW and Immigration officials, Bupa explained that one of her sisters had remained at the house where they had lived while waiting for their passports. Authorities were able to find their sister and the siblings were reunited.

**Based on a true story, identifying details have been changed*

Activity 6a:

Case Study 2: States of Newark and Laguardia¹

The Republic of Newark is a country experiencing a significant migratory influx. It has ratified most of the international instruments relating to human rights. It has signed but not ratified the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. However, it follows a dualist approach to international law, according to which the international agreements are not applicable by national courts until they have been explicitly incorporated into the domestic legal system by an act of the national legislature. To date, Newark has only incorporated the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

Facts:

Michael is a young man of 28 year old. Michael's father was a citizen of the Republic of Newark, who went to work in the Kingdom of Laguardia where he married. Michael was born in Laguardia. Shortly after his birth, his mother died, and Michael was sent back to Newark where he grew up. Because he was not registered at birth, he grew up without any proof of nationality or origin. He is not considered a national under the operation of the law of either Newark or Laguardia. He cannot travel, study or secure formal employment and has lost count of how many times he has been arrested for being undocumented. He claims Newark nationality by descent, and has lived in Newark for most of his life. He does not have close family ties in Laguardia or speak the language.

Newark citizenship can be obtained by birth on the soil. Alternatively, people can become citizens by registration if they were not born in Newark and they have lived for 10 years in the country. Laguardian law provides for citizenship by descent, where citizenship is passed down through the father by the operation of law. Because his father was Newarkian, Laguardia does not consider Michael to be a national.

Michael applied for citizenship by registration in Newark, but his application was unsuccessful. The government considered him to be a threat to national security. He was one of the founders and leaders of an opposition party to the Government of Newark. He was involved in organizing demonstrations in protest of the Government, in which many demonstrators were arrested because of violent acts perpetrated against a number of police officers.

A short time later, because of his involvement in the demonstration, he was declared an "undesirable immigrant" by the Newarkian authorities. He was apprehended by the police and held in administrative detention pending the procedure to deport him to Laguardia. The reasons for his deportation were explained to him orally by the authorities responsible of the detention center. He filed an appeal against his deportation with the Department of Immigration Services. Newark did not stay the expulsion procedure pending the appeal and deported him after seven months of detention.

Because Michael was not considered a Laguardian national, he was only able to live in the frontier lands of Laguardia. After few months, the authorities of Laguardia issued a deportation order against him. He was notified in writing on the reasons for his deportation, but he does not know the Laguardian language very well, so he could not fully understand. He was given the opportunity to appeal, and his case was heard before a tribunal. While waiting for his case to be decided, Michael was held in administrative detention.

After ten months, the expulsion procedure was enforced and he was taken to the borders with Newark. Despite the fact that he did not have the necessary documents, he was able to enter the Newarkian territory through an entry point in the desert. Today, he lives in Newark with no legal status and he is constantly under threat of being caught by the police and deported.

**Based on a true story, identifying details have been changed*

Activity 6a:**Case Study 3: Mr. Abubakar**

Mr. Abubakar is married with two children; he ran away from his native country of Somalia in 2005 and lived in Tanzania up to 2007 where he was granted protection. After the elections in Tanzania, his house was burnt down, so he and his family ran away with many others to Mozambique and lived there up to 2009 when he went back to Tanzania.

In 2011, whilst in Tanzania, Mr. Abubakar received financial and material help from people he did not realise were from a criminal group. After sometime, these people from the criminal group started to pressure him to join them. When he refused to join them they started harassing him and he started moving from one place to another in Tanzania. He had reported the case to the police. Finally he found people who assisted him to get to Zambia.

Whilst in Zambia, he applied for asylum but his application was unsuccessful. He appealed against the rejection but his appeal was unsuccessful and he was told to move out from the transit home where he was living with his family.

Based on a true story, identifying details have been changed

Activity 6a:**Case Study 4: The Story of Dalia***

Dalia's story begins on the streets of Dar es Salam in Tanzania where she was selling fruits. One day, two foreign women approach Dalia and offer her to go to Lusaka to sell household items for them. Dalia sees this as an opportunity and accepts the offer, and soon after she is escorted to Lusaka.

Upon arrival Dalia is locked into a house and beaten. She is drugged and raped by five men, and is barely conscious when she is informed that she will shortly start receiving clients and she must do whatever they ask of her. Dalia refuses to comply and shouts out that she will never sell her body. The men threaten her and she is told that she will be dealt with severely if she continues to protest.

For the next two months, Dalia is repeatedly drugged, raped, beaten up and forced to have sex with a number of different men. She is always tied and locked up in her room at night.

Dalia becomes ill, but she is denied health care. Too sick to make any more money for her exploiters, Dalia is taken to a nearby forest where she is left in a ditch and is barely conscious when she is discovered and brought to an Immigration Office, which refers her to IOM for assistance.

Dalia is physically and emotionally traumatised. She has contracted an STI and HIV as a result of her repeated sexual exploitation.

Based on a true story, identifying details have been changed

6.5 The Importance of Protection Assistance and Referral Systems



Vulnerable migrants require differentiated processes for effective protection that holistically meets their needs. A referral system for assistance and protection of vulnerable migrants is a comprehensive system of co-operation between governmental and non-governmental agencies that facilitates collaboration in service provision. The National Referral Mechanism (NRM) for protection assistance to vulnerable migrants (see National Referral Mechanism for Zambia in Annex 3 of the Guidelines) outlines the different stages of assistance for vulnerable migrants and includes service providers responding to the needs of these migrants at each stage. The NRM also promotes coordination among actors to ensure that the immediate, medium and long term protection need are met. The NRM takes into account provisions of the national legal framework and international best practices, which should be followed by all actors. A NRM is important because it ensures that the human rights of migrants are upheld and respected through the effective referrals of migrants to service providers for the required services. The referrals also facilitate linkages for appropriately qualified service providers to facilitate appropriate care and support to migrants on an individualised basis.

7. FROM THEORY TO PRACTICE

7.1 Session Outline

This section concludes the training and provides the opportunity for participants to commit to ensuring that the knowledge acquired during the training sessions is turned into action. It aims at ensuring participants contribution to effectively responding to protection of vulnerable migrants.

Objectives

- To operationalise the utilization of the Profiling Form, Guidelines, Manual and the National Referral Mechanism

Expected outcomes

First line officials' knowledge, skills and attitudes

As a result of the training first line officials will:

- Understand the key challenges faced in protecting vulnerable migrants in need of protection assistance in Zambia.
- Increase their ability to assess their own capacity in providing protection to vulnerable migrants;
- Identify the role they can play to contribute towards effective protection assistance to vulnerable migrants.

Training materials:

Projector

Laptop

SWOT analysis template

Action Plan template

Flip chart paper

Markers

Blu tack/ press-stick

7.2 Development of Action Plan

This final session is meant to provide participants with an opportunity to reflect on the content of the training with the intention of putting into practice the knowledge and skills gained during the training. The intended outcome of the training is the identification of interventions that can be implemented by the participating organisations to contribute towards the realization of improved protection assistance for vulnerable migrants in need of protection in Zambia. Strategies, activities and indicators will be generated using the Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis as a tool for strategic planning. A SWOT analysis allows the participants to reflect on the current response to addressing the needs of vulnerable migrants in Zambia, taking into consideration strengths and weaknesses, and to thereafter plan for an improved response by identifying opportunities and threats. The identified activities will be clustered into specific objectives for each migrant category and consolidated into one post-training Action Plan. The training output, the Action Plan, is aimed at institutionalizing and operationalizing the Guidelines, training Manual, Profiling Form and National Referral Mechanism for identification, protection and referral of vulnerable migrants in need of protection assistance in Zambia. The session will provide an opportunity for first line officials to commit to implementation of activities that will facilitate collaboration and an enhanced response to protection of vulnerable migrants through the training participants' day to day functions. Where possible, a simplified monitoring and evaluation framework will also be developed to facilitate the monitoring of activities in the plan of action.

Activity 7

Aim: To draw up a realistic Plan of Action for the protection of vulnerable migrants in Zambia.

Timeframe: 120 minutes.

Materials:

- ✓ Copies of SWOT tool for distribution to participants;
- ✓ A template of the action plan are provided in Annex III;
- ✓ Flipcharts and markers.

Activity 7a: Facing the challenges (30 minutes)

- ✓ Highlight three prominent challenges faced in providing protection assistance to each of the 6 categories of vulnerable migrants in Zambia?
- ✓ What are the proposals (solutions) to addressing the challenges identified above?

Instructions for SWOT Analysis (10 minutes)

1. Explain the aim of the Activity and the SWOT tool;
2. Ensure that participants fully understand how to do a SWOT analysis (see SWOT tool below);
3. Briefly recall and distribute the list of proposals resulting from Activity 8a (Facing the challenges);
4. Divide participants into groups by organization;
5. Assign one migrant category to each group based on institutional mandate;
6. Explain the task at hand.

Activity 7b - Group Work: SWOT Analysis (50 minutes)

1. Each group selects a facilitator and a reporter;
2. Ask each group to prioritise one proposal from the three identified in activity 8a;
3. Ask the groups to use the SWOT tool (below) to identify the Strengths, Weaknesses, Opportunities and Threats (SWOT) in implementing the proposal selected for each migrant category.

Activity 7c: Drawing up an action plan (60 minutes)

1. Ask the groups to spend the next 60 minutes to draw up a Plan of Action (template attached in Annex III), based on their SWOT analysis, to successfully implement the proposal.

SWOT Template

Name of proposal for SWOT analysis: _____

Internal environment (within the organization)

Strengths: What will work in your favour? ▪ ▪ ▪ ▪ ▪	Weaknesses: What will be the obstacles to success? ▪ ▪ ▪ ▪ ▪
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External environment (outside the organization)

Opportunities: What will work in your favour? ▪ ▪ ▪ ▪ ▪	Threats: What will be the obstacles to success? ▪ ▪ ▪ ▪ ▪
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- 2007b "Being a refugee" – How refugees and asylum seekers experience life in central Europe, an Age, Gender and Diversity Mainstreaming Report.
- 2007c Guidelines on Formal Determination of the Best Interests of the Child.
- 2011 Protection Training Manual for European Border and Entry Official, Belgium. United Nations Children Fund (UNICEF)
- 2006 Reference Guide on Protecting the Rights of Children Victims of Trafficking in Europe. World Health Organization (WHO)
- 2003 Ethical and Safety Recommendations for Interviewing Trafficked Women.

United Nations Joint Programme on Human Trafficking (UNJPHT) in Zambia

- 2012 Service Providers Manual – Training Toolkit and Minimum Standard Guidelines on Protection of Victims of Human Trafficking, Zambia.
- 2012 Minimum Standard Guidelines on Protection of Victims of Human Trafficking, Zambia.
- 2012 Counter Trafficking Service Provider Directory, Zambia

United States Department of State Office to Monitor and Combat Trafficking in Persons

- 2013 Trafficking in Persons Report

ANNEX I: FACILITATION TIPS

Facilitation Tip 1: Facilitating the discussion

Story-telling is a sensitive exercise in general as it deals with personal experiences and feelings. It is even more so in this case, as it constitutes the first activity of the training.

To this end, as a facilitator:

- Do not judge comments made by participants, either positively or negatively. Feedback should build upon participant's contributions to transform them into a learning experience;
- Respect the other person's feelings, beliefs and opinions. If a participant expresses a negative feeling as a result of his/her experience with an asylum seeker or migrant, the facilitator should find out which was the exact feeling and ask the participant what he or she would have needed in order to overcome that feeling? (e.g. resources, knowledge, time, etc.);
- Avoid general comments such as "That was good". Instead, point at what was relevant in the participant's statement from the point of view of the Session's objectives and seek out from the group of participants what was the lesson learned;
- To ensure that the group understands the interventions by participants, the following techniques can prove useful, particularly in difficult discussions:
 - **Repeating:** the facilitator repeats contributions to confirm understanding and ensure that the relevant participant is heard by the whole group;
 - **Rephrasing:** the facilitator repeats in his or her words what he or she understands a participant to be saying;
 - **Summarizing:** a summary condenses the content of several comments that may have been made over the course of the discussions;
 - **Re-framing:** extracting the statement and expressing it correctly.
- If a participant expresses an opinion that is contrary to international human rights standards or humanitarian principles, the facilitator should:
 - Highlight the complexity of the issue and announce that it will be looked at later in another session to avoid in-depth analysis of the issue at this stage;
 - Make a personal note of it and bring it up in relevant session as it is important to provide clarity.

A useful approach is to invite the rest of the participants to give their views.

Facilitation Tip 2: Asking participants questions to induce learning or commitment

Asking questions to the group and receiving the answers in an appropriate manner is a very important skill for facilitators, which is often taken for granted. Like most skills, however, it can be developed with some technique and practicing. Questions, if adequately formulated and posed in a timely manner, can greatly contribute to **inducing learning or personal involvement directly**.

This means helping participants to work things out for themselves. Letting the group find solutions to apparent controversies can be useful to enable the group gain ownership and commitment to basic protection principles. The guiding rule is that facilitators should maintain genuine confidence in the participants as a group.

In the present Manual, the facilitator is continuously being invited to pose questions to participants after most exercises, such as after sharing personal experiences, watching a movie, reading a document, doing a role-play, etc. To maximize the learning, questions should be of the following kind and posed in the following order:

- 1) Questions to help organizing the facts mentioned in the stories so that all participants get the same vision (i.e. the same facts): *"What are some of the aspects of this situation that caught your attention?"*
- 2) Questions to trigger personal reflection to compare their feelings *vis-à-vis* those facts: *"What was your instinctive response to the situation?"*

- 3) Questions on the impact of the exercise to focus on how the facts and feelings are relevant for the participants' job: *"What is the significance of these exercises for our daily work?"*
- 4) Questions that may open the way for some kind of inner commitment through specifying which concrete actions participants could take: *"If we went back home right now, what key message would we carry with us that we would like to remember in our daily work or whenever we find ourselves in a similar situation?"*
- 5) *"Are there any legal instruments that could provide some guidance in such cases?"*

Since such questions invite participants to provide a lot of information, and the group may lose some focus, it is important that the facilitator is fully attentive to the reply to help participants get back on track if needed.

The facilitator should avoid questions which contain the answer, as they can sound patronizing or make the exercise boring. All participants will have a base point of knowledge. Questions that call for a participant to use knowledge and reason out of a situation are most effective.

Participants need to be able to answer at the present level of learning. The facilitator should not pose questions if they are not explained. If participants lack the theoretical background to respond, they should be supplied with support documents to build their reply.

Facilitation Tip 3: Delivering effective presentations

It is commonly acknowledged that the maximum attention span during a presentation is of 45 minutes. This means that participants will not retain any comments made by the facilitator after that. Particularly in presentations of a technical or legal nature, participants can lose concentration or be distracted during the initial 20 minutes. In order to help them integrate the content of the presentation, facilitators should ensure the following:

Preparation

- Preparation is the key to success. At a very minimum, rehearse your full presentation twice.
- **Be very clear about how much time you have** - and stick to that time in preparing your presentation. It's very difficult to 'cut' a Power Point presentation at the event itself, and it is a great mistake to run out of time.
- **Make sure you know the substance** of the presentation well enough so that you do not need to read. You should be able to complement the text in the Power Point presentation without additional notes.
- **Be sure to fully understand the sequence or logic** of your presentation. This is the only way that participants will also understand it. If the Power Point presentation referred to at para.1.2 of Session 1 does not follow a logical sequence that you feel comfortable with, modify it until you feel at ease with it.
- **Be very clear about your key message** - and ensure that everything in your presentation is both consistent with, and supportive of, that key message. You should be able to articulate the message in a phrase or a sentence.

Opening of the presentation

- Depending on the subject, the opening of a presentation can be humorous, questioning or even provocative. It can also be a citation or an anecdote. A connection to a previous speaker or facilitator can also be a very good way to start. Some can even create a connection between the place of the training activity and the subject matter, which shows a very professional preparation on their part.
- Often it is best to give them a **high-level overview first**, and then plunge into the details; then, while listening to the details participants can relate to the high-level picture and understand where you are. This also helps them save important brain power for later parts of the talk which may be more important.

Delivery of the presentation

- **Direct eye contact** is the initiator of communication. Facilitators should not face the display screen behind them and talk to it. The presentation should be pitched towards the back of the audience, especially in larger rooms. Eye-contact enables the facilitator to recognize whether the participants are still wholly engrossed in the subject or maybe need a break. It can also provide hints as to whether or not the content was understood by the group. However, it is important to avoid fixing on an individual - this can be intimidating.
- **Avoid sounding mechanical or robotic** to reach the audience. Be spontaneous and energetic in whatever you say. Involve the audience and make them the centre of attraction.
- **Speaking with conviction.** The only way to make the audience believe in what you say is to believe it yourself.
- **DO NOT read from your slides verbatim.**
- **Make brief statements, concentrate on the point and be target oriented.** Condense what you say: every word should be needed. Make simple statements. Use familiar words. Explain technical terms. Be precise.
- **Add some humour and interesting facts or examples.** Just the aids in your presentation are not going to help you to make the presentation interesting. Try to be innovative and draw from your own personal experience to illustrate the different parts of your presentation.
- **Deliberately pause at key points** - this has the effect of emphasizing the importance of a particular point you are making.
- **Make sure that the group maintains an overview of structured content.** When the participants cannot identify a clear structure, they easily lose orientation and overview. Ensure that one statement is logically linked to the next.
- **Stick to the plan for the presentation**, don't be tempted to digress - you will eat up time and could end up in a dead-end with no escape!
- **Do not go overtime under any circumstances.** If you can, keep it short. It's better to under-run than over-run. As a rule of thumb, allow 2 minutes for each general overhead transparency or PowerPoint slide you use, but longer for any that you want to use for developing specific points.

Closing of the presentation

- The end of a presentation can be learned by heart. It should consist of three to five sentences summing up the key messages of the presentation. It will give you confidence when delivering your presentation and you will transmit a sense of clarity to the participants.

Asking for questions

- Some facilitators feel that they have done their duty by professing the material to the participants. There is an argument that unless facilitators help their participants to learn, they are not really training.
- Give participants real opportunities to ask questions. Invite questions through motivating statements, rather than rhetorical statements. Give participants time to formulate their questions before you move on. Look at the participants to make sure you do not miss someone with his or her hand up.
- Asking for questions at the end of the presentation, may help to save time and ensure that participants listen to your message until the end, which may solve some of their doubts. However, if you become aware that some participants are confused, asking for questions at that point becomes necessary to clear possible misunderstandings and to help them concentrate on the rest of the presentation.

See below, Facilitation Tip 7: Answering adequately participants' questions.

Facilitation Tip 4: Maximizing the learning potential of a role play

1. Structure the role-play well, keeping it brief and clear in focus;

2. When explaining the instructions to the participants, caution them against extensive monologue and encourage participants to give each other sufficient time to speak;
3. Give clear and concise instructions to participants;
4. Make participation voluntary;
5. Encourage participants to play their roles as close to reality as possible. This kind of exercise sometimes invites exaggeration and drama, often triggering explosions of laughter amongst observers in the audience – so it is easy to lose focus. Sense of humour is indeed a core ingredient of the learning experience. Yet, it is equally important that the role play is taken as seriously as possible to enable participants try to respond to daily challenges while in a safe and supporting environment.

Facilitation Tip 5: Debriefing on feelings and emotions

Several of the participants – inter alia because of the stress experienced during the exercise – may show rather strong emotions which need to be expressed and integrated. To integrate those feelings, the facilitator needs to conduct this session in a way that:

- Participants are reassured that whatever feelings they have experienced, whether positive or negative, are legitimate;
- Acknowledging such feelings and emotions is an important part of the learning process as it will greatly contribute to increased self-awareness. This will, in turn, strengthen communication skills and help in the decision making process later on;
- It would be useful to ask the participants whether they can associate any of those feelings to their day-to-day work. If some nod with their heads, the facilitator should ask them if they can recall a concrete event where they felt overwhelmed, stressed, or just powerless to deal with the situation;
- In group reflections like this, it is important to find a shared understanding between the facilitator and the participants, where all are able to share a common language. In this context, it is useful if the facilitator can bring up personal experiences that may have triggered similar feelings or emotions in his or her work, even if it is not specifically related to border control; it could be a tense situation in a refugee camp, a large refugee outflow, etc.

Facilitation Tip 6: Delivering a participatory presentation

In a participatory presentation, the participants intervene to share their own experiences with regard to the various concepts presented by the facilitator. Such presentations foster:

- Greater understanding of the participants on the content of the presentation. In addition, the participatory dynamic provides additional legitimacy to the concepts learned. These concepts are reinforced by the participants' own experiences as well as by reality itself;
- The facilitator should ask the participants whether they can recall a concrete situation in the discharge of their functions, where that specific point became very relevant. He should invite all participants to reflect on the lessons, whether positive or negative, that could be drawn from such situations. These should be integrated by the facilitator into the presentation as such;
- In this kind of presentation it is important to keep an eye on the clock. Participants' interventions can lead to interesting and constructive debates and it is up to the facilitator to allow more time for certain discussions or to go back to the main presentation. However, the facilitator should try to allocate sufficient time to the discussions so that he or she can also cover the main issues selected to develop participants' communication skills. To that end a co-facilitator could discreetly assist with time-keeping during the interaction with participants.

Facilitation Tip 7: Answering participants' questions adequately

1. Answer directly to questions requesting information that the rest of participants are not likely to have or that request the facilitator's opinion

Facilitators should foster the participants' thinking or problem-solving skills by trying to induce learning through other questions [see *Facilitation Tip 2: Asking participants questions to induce learning or*

commitment, in Session 2]. However, if the participants are not likely to reach the answer easily, directly answering the question may be more practical and rewarding to the group. The answer then should be kept brief and exact.

2. Redirect questions to which participants are likely to know the answer

If you think that somebody might know the answer, you may redirect the question to the group, asking for an answer or comment, or an elaboration upon the issue. This procedure not only encourages more participation by the class but it also implies that peers are a resource for learning.

3. Postpone the answer when you are very short of time, especially if the answer is complex, or when the material will be covered in an upcoming session, or when the answer is of interest to only a few participants

Participants are more likely to learn and remember if the facilitator answers their questions **when** they ask them. However, when the material is covered later, the facilitator should call it to the participants' attention and give the answer without further explanation. If the answer is not covered in the course, then the facilitator could offer to answer it after the session or make an appointment to discuss the question later. This also tells the group of your willingness to try and answer their questions. Generally the facilitator should answer more questions than he/she postpones or else the participants may ask fewer and fewer questions.

4. Gently discourage questions that are inappropriate

Usually participants ask questions because they wish to learn but sometimes a participant will ask a question to sidetrack the group, to get attention or even to put the facilitator in a difficult situation. Handling such questions presents a dilemma. If the facilitator treats them like other questions, it may encourage the participant to ask more of the same, but if the facilitator turns that participant down abruptly, then he/she may discourage not only that participant but also the rest of the group from asking any kind of question. In reacting it, is probably best to tactfully indicate what about the question is inappropriate. It is not uncommon for a group to have at least one participant who appears to be antagonistic toward the facilitator or hostile to the subject matter and who asks questions that serve only to express the participant's disagreements, which often are of little interest to the rest of the group. Because such questions usually stem from emotional rather than intellectual concerns, answering only on a cognitive level serves little purpose. It is probably best to see that participant outside of the session and explain what seems to be going on from the facilitator's point of view. Often such a talk is sufficient to enable the participant at least to censor the questions he or she asks in the room, although it may do little to solve the underlying problem.

5. Acknowledge it when you do not know the answer

If the facilitator does not know the answer to a participant's question, then it is important to say so. Although one of the roles of a facilitator is to be the "expert" and "information source", admitting that he/she does not know the answer to a question will probably not damage the confidence of the group in the facilitator. On the other hand, if the facilitator fakes it, there is a good chance that the participants will find out and the facilitator's credibility will be seriously damaged. The facilitator should assume the responsibility for finding the answer to the question and reporting back with the answer to the group.

6. Creating an accepting atmosphere and encouraging learning

If encouraging participants to ask questions is desirable behaviour in training, then it is also desirable that the facilitator creates an atmosphere where participants are not afraid to ask questions for fear of embarrassment, etc. The facilitator should avoid anything which would embarrass the participant who asks the question. Rather than responding with a value judgement to a participant's question or comment, ask a probing question. The facilitator may help the participant arrive at the correct answer, or an acceptable one; in which case, rather than proving the participant "wrong", the facilitator has helped him or her to be "right".

Facilitation Tip 8: Providing feedback on role plays

Give positive feedback: Give positive feedback before any developmental comments, people respond to praise, encouragement and recognition. The phrase 'negative feedback' should be avoided if possible and the term 'developmental feedback' used instead. Preface developmental feedback with a positive statement, and it is more likely to be favourably received. Example: "I'm very pleased with the way you have settled in, you are really very popular with your colleagues. I do feel though that you need to take more time to reflect on your answers to questions."

Encourage: If the facilitator likes something about a participant, or feels that they have done something particularly well, the facilitator should recognise this, give positive feedback and encourage them to build on their strengths. The facilitator should always try to end the feedback on a positive note.

Concentrate on what can be changed: The facilitator should direct the feedback only towards things that an individual can do something about.

Give details: Detailed feedback gives more opportunity for learning. Example: "The way you phrased that question was helpful to the participant because it gave him/her the opportunity to explain."

Allow the other person to accept or reject your feedback: The facilitator cannot impose beliefs, opinions and attitudes on others. At best, demands for change are met with initial resistance, and at worst with resentment. Skillful feedback offers the person information about himself/herself, which he/she can consider and from which he/she can learn. Whether or not the feedback from the facilitator is acted upon is a matter for the decision of the receiver.

Offer alternatives: Turn negative feedback into positive suggestions. Example: "It would save time if you collated all the information first rather than....."

Take responsibility for feedback: Avoid "You are...." Statements which suggest universally agreed opinions of the other person. Start with "I think....." or "In my opinion...." It is important to take ownership of proffered feedback.

Be aware that things may change as a result of your feedback: There is always the chance that the recipient will be annoyed or hurt by negative feedback, or that the relationship between the facilitator and a participant might change as a result. The facilitator needs to think about this before giving feedback.

Ask whether or not they agree with the feedback given: The facilitator should give the person a chance to think about and discuss the feedback in his/her presence. The recipient is unlikely to act upon feedback with which he/she disagrees.

Ask if he/she has been told something similar before: If he/she has, the feedback given will reinforce the fact that some kind of change is needed. If the recipient has not, it will at least establish that the issue is between just the facilitator and the participant.

Ask him/her to suggest alternative forms of behaviour etc.: The most positive step towards setting a clear objective about change is to enable the other person firstly to acknowledge the need for change and secondly to reach his/her own conclusion about how things could have been done differently.

ANNEX II (a): PROFILING FORM FOR VULNERABLE MIGRANTS



PROFILING FORM FOR VULNERABLE MIGRANTS WITH PROTECTION NEEDS

(For use by First Line Officials and Service Providers who may come into contact with vulnerable migrants in the course of their duties)

REF No:



This profiling form is intended to assist First Line Officials and Service Providers in identifying indicators for 'initial case-type determination' of vulnerable migrants, including for asylum seekers who have yet to enter the asylum process. It provides a basis for the identification and referral of migrants in need of assistance and follows a victim-centered approach, taking into consideration the best interest of the child. This form should not be used for actual case-type determination or to limit claims to rights in follow-up processes.

Date of interview:		Organization/ Department:	
Name of interviewer:		Location of interview (including district):	
Name of interpreter(if any):		Interpreter contact details:	

Before starting the interview, the interviewer should inform the migrant that this interview is intended to facilitate protection assistance, with a focus on immediate needs. Information collected during the interview should remain strictly confidential, and will only be shared with the consent of the migrant, and should not limit claims to rights during follow-up processes.

Information Required (To be completed in block letters)	Information Provided by the Migrant			
1. (a) Surname				
(b) Other names				
2. First language:			Other languages spoken (indicate all that apply)	
3. (a) Can the interviewer conduct the interview in a language that the migrant fully understands?	Yes	No	(b) If, no are vetted interpretation services available in a language that the migrant fully understands?	Yes
4. Sex (Tick (✓) where applicable)	Male		Female	
5. Date of birth (dd/mm/yyyy)			Tick if minor (under the age of 18 years)	
6. Place of birth	Town		Country	
7. Nationality				
8. Current place of usual residence	Town		Country	
9. (a) Does migrant have passport or other travel/ ID documentation? (if yes answer (b)-(e) below; if no answer (f))	Yes		No	
(b) Passport/ ID No			c) Place of issue	
(d) Date of issue (dd/mm/yyyy)			(e) Date of expiry (dd/mm/yyyy)	
(f) Reason for not having documentation				
10. Particulars of children (under age of 18) traveling with migrant. (If more than three children, please include details in 'Comments' section overleaf)	Name:	Date of Birth: (dd/mm/yyyy)	Sex (m/f):	Relationship to migrant:
	Details of legal guardian (name & contact information):			
	Name:	Date of Birth: (dd/mm/yyyy)	Sex (m/f):	Relationship to migrant:
	Details of legal guardian (name & contact information):			
	Name:	Date of Birth: (dd/mm/yyyy)	Sex (m/f):	Relationship to migrant:
	Details of legal guardian (name & contact information):			
11. Details of next of kin	Name:	Physical Address:	Contact details:	
12. Is the migrant currently facing any pain or physical discomfort? (if so, please give details)	No:	Yes:	If yes, provide details:	
13. Does the migrant have any of the following conditions? (tick all that apply)	Pregnancy	Disability (tick and specify):	Other health concerns: (tick and specify)	

14.	Where did migrant's journey start:	Country:		Province:		Town/ village:	
15.	When did migrant leave place of origin (dd/mm/yyyy):	____/____/____		When did migrant arrive in Zambia? (dd/mm/yyyy):		____/____/____	
16.	Method(s) of Travel (Tick (✓) all that apply)	Air		Water		Rail	
17.	Countries passed through in transit:						
18.	Point of entry into Zambia:	Official border point - land/ air/ sea (specify)				Entered through unofficial border point (specify location)	
19.	Reasons for travel (Tick (✓) all that apply)	Do not know					
		Education		Visit family/ friends			
		Work opportunity		Marriage			
		Security reasons		Tourism			
		Political		Do not know			
		Other (specify)					
20.	Expected length of stay in Zambia	Days		Weeks		Months	
21.	Residential address in Zambia (if any)						
22.	Is Zambia migrant's intended final destination?	Yes		No		If no, specify intended destination	Country: Province: Town/ village:
23.	Are there any barriers for migrant to return to country of origin? (specify)						
24.	Has the migrant ever applied for and/ or been granted asylum in Zambia or any other country?	Yes		No		If yes, provide details:	

DECLARATION

I hereby consent for the information provided during the interview to be shared, on a need to know basis, for the purpose of my protection. I have been informed that the information I have provided in this interview will not affect my claim to rights during follow-up.

.....
Name of migrant

.....
Signature

.....
Date

INTERVIEWERS ADDITIONAL COMMENTS:

NOTES TO INTERVIEWER - MIGRANT CATEGORIES OF CONCERN:

Asylum seeker: A person who is seeking protection from a foreign country and is still waiting to have his/her claim assessed.

Rejected Asylum Seeker: An asylum seeker whose application for asylum was unsuccessful.

Victim of trafficking: A person who has been exploited and has suffered loss of fundamental rights and psychological or physical harm as a result of being trafficked. A 'potential' victim of trafficking is any person intercepted before exploitation occurs and is considered to be at risk of exploitation by traffickers should they reach their final destination. A presumed victim of trafficking is any person who may reasonably be presumed under the circumstances to be a victim of trafficking

Unaccompanied children (also called unaccompanied minors): Children who have been separated from one and/or both parents and other relatives and who are not being cared for by an adult who, by law or custom, is responsible for doing so.

Separated children: Children who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

Stranded migrant: Migrants become legally stranded where they are caught between removal from the state in which they are physically present, inability to return to their state of nationality or former residence, refusal by any other state to grant entry. They may also be stranded where there are practical or humanitarian reasons that prevent them from returning home. Many of those who become stranded entered a country irregularly, assisted by smugglers or transported at the hands of traffickers. Some are legally stateless.

Stateless person: A person who is not considered as a national by any State under the operation of its law.

REF No:

REFERRAL FORM *(Please complete one form per migrant, including for each accompanying child)*

Bio-data of referred migrant:

Surname: Other names:

Date of birth: Nationality:

Please tick *(Tick (✓) all that apply)* assistance required and indicate the service provider

- ☐ Medical care: (to be provided by)
- ☐ Shelter: (to be provided by)
- ☐ Legal guardian for child migrants: (to be appointed by)
- ☐ Regularization of stay: (to be provided by)
- ☐ Family tracing: (to be provided by)
- ☐ Other, please specify: (including security considerations)

Specify categories that migrant may fall into based on information collected during initial profiling interview
(Tick (✓) all that apply):

- ☐ May be an asylum seeker
- ☐ Is a rejected asylum seeker requiring protection assistance
- ☐ May be a presumed/potential or actual victim of trafficking
- ☐ Meets the criteria set out for unaccompanied and/ or separated child
- ☐ May be a stranded migrant
- ☐ Meets the criteria set out for a stateless migrant
- ☐ Meets none of the above criteria, but has protection needs (please elaborate)

Referred by:

(Name)..... (Institution)

Contact details of referee: Date of referral:

Remarks including any particular/ immediate protection needs and considerations):

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

ANNEX II (b): NATIONAL REFERRAL MECHANISM FOR VULNERABLE MIGRANTS

ANNEX III: TEMPLATE FOR PLAN OF ACTION (for use in activity 7.2)

ACTION PLAN FOR VULNERABLE MIGRANTS IN NEED OF PROTECTION ASSISTANCE IN ZAMBIA.									
Overall Objective:									
Specific objectives	Activities	Results Indicators		Target			Lead Actor	Other Actors	Timeline
		Output	Outcome	Baseline	2013	2014			

ANNEX IV: MIGRATION TERMINOLOGY & ALIGNMENT WITH LEGAL PROVISIONS MATRIX (for use in activity 3.5)

Term	Definition	Legal Provisions
Migration		
Mixed Migration		
Regular Migrant		
Irregular Migrant		
Asylum seekers		
Refugee		
Victim of trafficking		
“Presumed trafficked” person		
“Potential” trafficked person		
Unaccompanied Child		
Separated Child		
Stranded migrant		
Stateless migrant		
Non-refoulement		

ANNEX V: MIGRANT CARDS (for use in activity 4.2)

Abubakar

"I am 42, a married man, and father of two children. I was a refugee in Kenya but had to run away. My situation back home in Somalia is impossible, I am desperate, I cannot go back to Kenya for fear of insurgents who are after me, nor my home country of Somalia, it is dangerous back there".

Protection Granted:

YES

☐

NO

☐

Maia

"I am 22 years old and come from Somalia"

Other Information: She has forged documentation. She does not speak any other language but her native language. She looks malnourished and pale. She carries a copy of a contract to work as a bi-lingual secretary for a senior executive in the country of destination.

Protection Granted:

YES

☐

NO

☐

Pierre

"I am 15 years old and come from the Democratic Republic of the Congo. I have no documents because I lived in the forest. I am in hiding, I fought alongside the Congolese insurgency against the Central Government. I am very afraid of returning because the militias may kill me for deserting."

Other information: He looks considerably older than what he says.

Protection Granted:

YES

☐

NO

☐**Ibrahim**

"I am 22 years old and come from Eritrea. I have no documents because I lost them during my voyage. I cannot go back to Eritrea because I have no money or means to go back."

Other information: He can hardly communicate in English and can only speak Eritrean.

Protection Granted:

YES

☐

NO

☐

NDUI

I am 50 years old; I was born in Zimbabwe from Congolese parents who were residents in Zimbabwe. I applied for Zimbabwean citizenship but my application was rejected on account that Zimbabwe does not grant citizenship by birth. I have contacted the Congolese Embassy to apply for Congolese citizenship and I have been told that Congo does not provide citizenship by decent. I have attempted to enter Congo but I have been refused entry. I cannot return to Zimbabwe because I have been told that I am not a Zimbabwean national. I want to seek citizenship in Zambia.

Protection Granted:

YES

☐

NO

☐

ANNEX VI: THE DIFFERENCE BETWEEN TRAFFICKING IN PERSONS AND MIGRANT SMUGGLING

Migrant smuggling: The second Supplementary Protocol to the Convention against Transnational Organized Crime is the Protocol against the Smuggling of Migrants by Land, Sea and Air (hereinafter called the Smuggling Protocol).⁴² 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.”*⁴³

Smuggling under Zambian law: Refer to the definition of smuggling in Part I of the Act. Note that the definition of smuggling under the Act 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. There are some similarities between smuggling of persons and cross-border TIP. 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 can 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 who 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 the trafficker after he/she has reached the destination. In this relationship, he/she is controlled and exploited by the trafficker and may even be resold to other traffickers who will continue to exploit him/her;

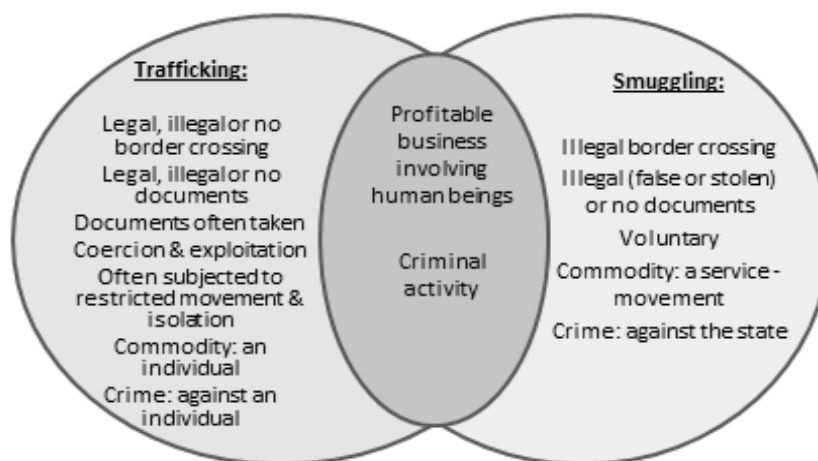
⁴² The United Nations 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime.

⁴³ The United Nations 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organized Crime, Article 3 (b).

- **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 by charging fees in exchange for helping people to cross borders irregularly;

Figure 14: Trafficking and smuggling: Similarities and differences⁴⁴

Trafficking and Smuggling: Similarities & Differences



Border crossing: Human trafficking can take place both within one 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. 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.⁴⁵

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 law enforcement officials and 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 Act⁴⁶ (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.”

In practice, law enforcement officials sometimes use the initial evidence gathered to launch a smuggling investigation, which can later be converted to a case of human trafficking as additional evidence comes to light. In such cases, law enforcement officials have to rely on existing legislation against the smuggling of migrants until the additional elements of a human trafficking offence can be established. 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 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.

⁴⁴ IOM, Counter-Trafficking Training Modules Victim Identification and Interviewing Techniques Facilitator’s Guide (2006), p. 9.

⁴⁵ Chapter 1, IOM Handbook – Building the Capacity of South African Civil Society to Combat Trafficking in Persons. Training of Trainers on Combating Human Trafficking for South African Civil Society Organizations (2006).

⁴⁶ Section 21(d).