

# THE CONSULAR GUIDELINES

## TO SUPPORT VULNERABLE MIGRANTS ESPECIALLY POTENTIAL VICTIMS OF TRAFFICKING IN THAILAND



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## ACRONYMS AND ABBREVIATIONS

<b>ACTIP</b>	ASEAN Convention Against Trafficking in Persons Especially Women and Children
<b>ASPOA</b>	ASEAN Plan of Action on Trafficking in Persons
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CSOs</b>	Civil Society Organizations
<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>ILO</b>	International Labour Organization
<b>INGOs</b>	International Non-Governmental Organizations
<b>IOM</b>	International Organization for Migration
<b>NGOs</b>	Non-governmental Organizations
<b>NRM</b>	National Referral Mechanism
<b>PVOT</b>	Potential Victim of Trafficking
<b>Palermo Protocol</b>	The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children
<b>RTG</b>	Royal Thai Government
<b>SDGs</b>	Sustainable Development Goals
<b>TIP</b>	Trafficking in Persons
<b>TICA</b>	Thailand International Cooperation Agency, Ministry of Foreign Affairs of Thailand
<b>VCCR</b>	Vienna Convention on Consular Relations
<b>UNICEF</b>	United Nations Children’s Fund
<b>UNODC</b>	United Nations Office for Drugs and Crime
<b>UNTOC</b>	The United Nations Convention against Transnational Organized Crime
<b>VOT</b>	Victim of Trafficking

# FOREWORD

## FROM THE CHIEF OF MISSION OF IOM THAILAND

Thailand, as a hub of regional migration and a destination for diverse migrant communities, bears both the responsibility and the opportunity to uphold the highest standards of protection for those in vulnerable situations. Among these are victims of trafficking, who often suffer exploitation, abuse, and profound violations of their human rights. This consular guideline has been developed to strengthen our collective ability to identify, assist, and advocate for such individuals, ensuring they receive the care, dignity, and justice they deserve.

Consular officers play a pivotal role as first responders and protectors of their nationals abroad. Their ability to recognize signs of trafficking and vulnerability, to coordinate effectively with Thai authorities, civil society, and international organizations, and to provide informed support is essential. This guideline provides practical tools, legal references, and protocols to enable proactive, rights-based engagement in cases involving trafficked persons and other at-risk migrants, especially women, children, and disabled individuals.

We are committed to a multi-stakeholder, victim-centered approach that prioritizes safety, non-discrimination, and long-term solutions. Through this Guideline, we reaffirm our dedication to international cooperation and the principles of human rights that guide our diplomatic missions. It is our hope that this Guideline will serve as a trusted resource in ensuring that no migrant is left unprotected, and that victims of trafficking find a clear path to recovery, sustainably with dignity.

**Géraldine Ansart**

Chief of Mission

International Organization for Migration, Thailand

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Lead author: Khine Myat Chit

# CHAPTER 1: INTRODUCTION

## 1.1. BACKGROUND

Trafficking in persons (TIP) is a serious crime that exploits and violates the human rights of its many victims. It is often committed by those who engaged in other forms of organized crime (Interpol,2024; UNODC,2023). Crime is fueled by demand and often linked to and exacerbated by phenomena such as poverty, armed conflicts, climate change, and migration movements (IOM,2019). Moreover, since 2020, especially with the COVID-19 pandemic, the trafficking situation has evolved, and trafficking often intertwined and merged with other types of criminality including cybercrime.

According to the reports, migrants not only from Southeast Asia but other countries around the world were subjected to forced criminality such as online scamming, online gambling, fake investment, and online sexual exploitation, and experienced forced labour and labour exploitation (RTG, 2022a: 2023a). Given the multi-nationalities of the victims of trafficking (VOTs), cooperation with diplomatic missions and consular offices is of utmost important to ensure VOTs have unhindered access to protection and assistance following the national law of Thailand (RTG,2002b; 2023b). The information gap, *vis-à-vis*, the limited or lack of understanding of officers at diplomatic missions and consular offices on TIP indicators, victim's rights, existing national TIP policies, and available services in Thailand, needs to be addressed.

## 1.2. PURPOSE AND OBJECTIVES

The overarching objective of the Consular Guidelines is to increase knowledge regarding TIP among consular and diplomatic officials working in Thailand and provide concrete guidance and tools on the steps to be taken when a case of TIP is suspected or identified. The Consular Guidelines will specifically enable consular officers of the diplomatic missions to gain knowledge on TIP, relevant international and national legal frameworks, and national anti - trafficking in persons policy in Thailand, and enrich their technical skills needed for the identification of potential victims of trafficking (PVOTs). The Consular Guidelines will further support officials to achieve a deeper understanding on how to provide direct assistance to the victims in line with the international and national framework in providing protection services for victims of trafficking.

The Consular Guideline aims to:

- **Capacitate** consular officers and diplomatic staff at diplomatic missions with the knowledge of **TIP including the national policy on TIP and National Referral Mechanism (NRM) in Thailand**;
- **Facilitate and enhance** coordination between diplomatic missions and relevant national and provincial agencies, international organizations (INGOs), civil society organizations (CSOs), non-governmental organizations (NGOs) based in Thailand; and
- **Mitigate** hinderances in the process of providing assistance to the VOTs and including child victims

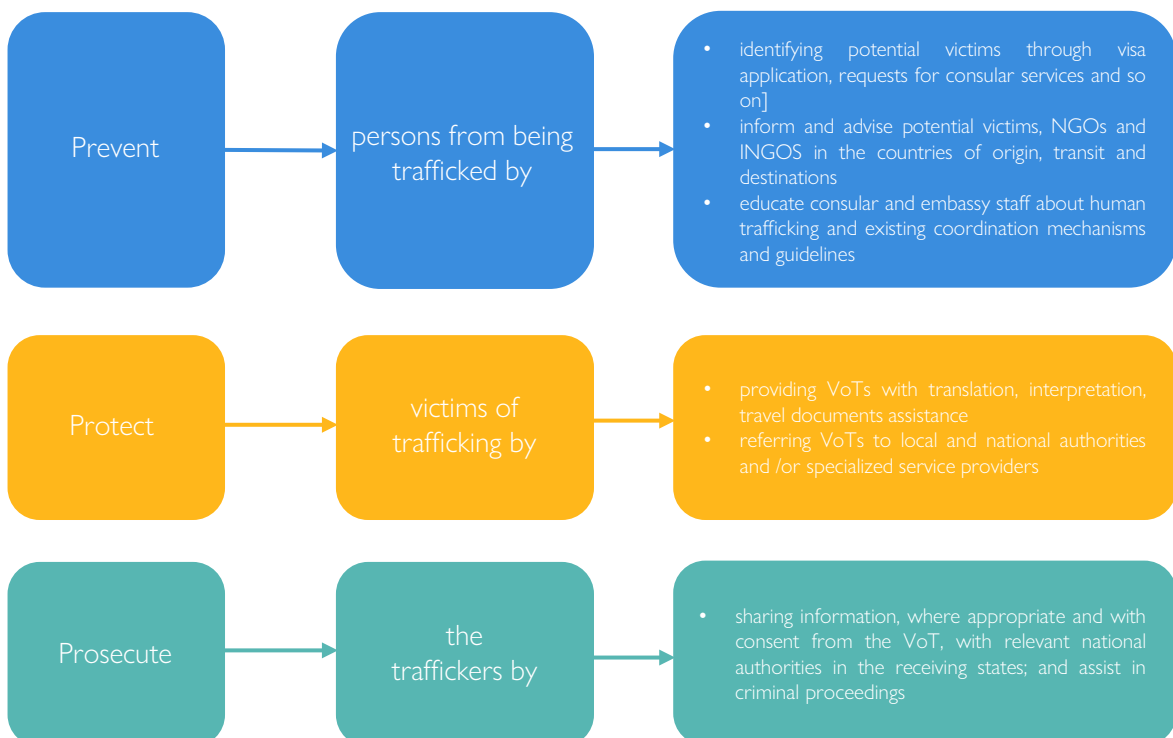
Specifically, the Consular Guidelines aims to equip consular officers and diplomatic staff with practical tools to:

- Detect and recognize the signs of TIP among its citizens in Thailand seeking support at the embassy
- Conduct screening interviews following protection principles such as Do No Harm, victim-centered, gender-sensitive approach, trauma-informed approach, child-friendly approach, and child-sensitive approach
- Provide assistance and referral to PVOTs through the existing case management system including the national referral mechanism (NRM) to protect and assist victims of trafficking in Thailand.
- Foster and strengthen cooperation between consular officials and relevant national and provincial agencies and other stakeholders to address the issue of TIP.
- Assist in the safe and voluntary return and repatriation of PVOTs and/or VOTs in an effective and timely manner
- Support the establishment of collaborative partnerships with NGOs, local authorities, private sector stakeholders, etc. in the countries of origin to ensure the seamless reintegration of victims into their communities

### 1.3. INTENDED USERS OF CONSULAR GUIDELINES

The Consular Guidelines aim to support the work of consular officers and diplomatic staff in Thailand in addressing the issue of TIP. While national agencies are tasked for preventing TIP, prosecuting the perpetrators and providing protection services to PVOT and/or VOTs, diplomatic and consular staff should support national authorities in their duty to promote, protect and fulfill victim's rights.

Diagram 1.1: Role of Diplomatic and Consular Officers and the Benefit of Consular Guidelines



## 1.4. KEY CONSIDERATIONS IN THE DEVELOPMENT OF CONSULAR GUIDELINES

The Consular Guidelines are developed based on the international and national framework on TIP, including international standards in assisting victims of trafficking. Article 6 of the Palermo Protocol (United Nations, 2000) outlines protection and assistance measures for VOTs including provision of physical, psychological, and social recovery of VOTs. This may include the provision of appropriate housing, legal counselling, medical, psychological and mental health care, employment and education opportunities as well as return and reintegration. Such support should be provided in cooperation with government or non-governmental organizations, or other stakeholders.

Similarly, Article 5 of the Vienna Convention on Consular Relations (VCCR) states that the functions and responsibilities of the diplomatic missions include "*protecting the interests of the sending state, its nationals, and corporate bodies in the receiving state...*" and "*helping and assisting the nationals of the sending state.*" As such, consular officials appointed by the sending states have a dual role of being both "first responders and frontline officers" in executing their consular duties. Additionally, Article 38 of the VCCR states that consular and diplomatic missions are recommended to "*contact, coordinate, and collaborate with competent local and central authorities*" while executing their consular responsibilities for the best interests of their nationals in the receiving state (The VCCR,1963).

Referring to these core international instruments highlighted above, the Consular Guidelines will follow the international guiding principles and approaches set out below (*in alphabetical order*) (IOM,2023):

### Accountability

The PVOTs and/or VOTs accessing services should actively participate in monitoring the quality of those services. Their feedback should be solicited and utilized to adapt and improve services delivery. Effective complaints and feedback systems should be integrated into all service delivery programming to understand the impact of the services provided. Safeguards must be established to ensure that migrants are not harmed through their use of services.

### Child-centered assistance

In the case of children under the age of 18, the above principles should be considered in conjunction with other relevant procedures. Services for children should be age-appropriate, follow the best practices in child protection and be child-friendly (i.e. the approach should be accessible and appropriate for children).

### Continuum of assistance

A holistic approach to assistance includes ensuring comprehensive service delivery that meets identified needs. This is contingent on a robust case management system where assistance services are mapped, and service delivery is tracked and monitored throughout the period the PVOTs and/or VOTs are accessing the services.

### Do No Harm

Diplomatic and consular staff members should assess the potential harm of any proposed action. Assistance should not be provided, or it should be deferred if there is reason to believe it might leave PVOTs and/or VOTs worse off than before. Support for PVOTs and/or VOTs should cause no

harm to the wider community in which they stay, including other members of migrant communities and host communities.

### Gender-sensitivity

The impact of gender on experiences, vulnerabilities, and needs should be explicitly acknowledged and appropriately addressed throughout the delivery of assistance. This approach allows for services to be tailored to the needs of different genders and promotes gender equality through the provision of services.

### Individualized assistance

Assistance should be tailored to the needs of each PVOT and/or VOT to the extent possible. This includes ensuring that services are age, gender and culture-sensitive, provided in the PVOT and/or VOT preferred language, and appropriate to the circumstances and context in which the PVOT and/or VOT are currently located.

### Informed consent

Before receiving assistance or accessing services, PVOT and/or VOT should freely give their permission with knowledge of the possible risks and benefits. Preferably, the informed consent form should be prepared and signed by the victim as a record. The inherent in the right to give consent is also the right to refuse assistance. Consent is not static and should be evaluated throughout the time vulnerable migrants are accessing support. Consent can be given in full or in part, and access to one service should not be contingent on consenting to others.

### Non-discrimination

Assistance should be provided to PVOTs and/or VOTs without discrimination or prejudice based on nationality, gender, age, sexual orientation, gender identity, ability, race, ethnicity, religion, language, social status or any other status.

### Rights-based approach

PVOTs and/or VOTs should be empowered to understand and claim their rights while steps are being taken to increase the ability and accountability of duty bearers responsible for respecting, protecting and fulfilling rights of PVOTs and/or VOTs. Protection and assistance should not be contingent on the involvement of law enforcement. This approach serves as an underlying principle and guide for all other principles.

### Self-determination and participation

PVOTs and/or VOTs, including child victims are entitled to make their own choices and participate in decision-making regarding their protection and assistance. This right should be respected and supported. Services should be delivered in collaboration with PVOTs and/or VOTs, whose autonomy and agency should be reinforced and encouraged by individuals and organizations providing protection and assistance.

## 1.5. LIMITATIONS

The Consular Guidelines are not designed to address all cases of vulnerable migrants in Thailand. Additionally, the guidelines should be read alongside the NRM Operational Guidelines. Its focus is restricted to providing services for victims of trafficking during and after the screening and

identification process. Moreover, the procedures detailed in the guidelines do not pertain to the prosecution of TIP cases. For detailed referral and coordination on the investigation and prosecution of TIP cases, please refer to the bilateral agreement on cross-border law enforcement cooperation and adhere to the Procedures for Human Trafficking Cases Act (2016).

# CHAPTER 2:

## INTERNATIONAL LEGAL FRAMEWORK ON TRAFFICKING IN PERSONS AND FORCED LABOUR

### 2.1. KEY INTERNATIONAL INSTRUMENTS ON TRAFFICKING IN PERSONS

The most comprehensive instruments of international law that have set the course for how to define, prevent, and prosecute TIP is The United Nations Convention against Transnational Organized Crime (UNTOC) and its two related protocols, namely (i) The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; and (ii) The United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air. The UNTOC and its protocols apply to:

- All forms of trafficking: national and transnational, regardless of its relation to organized crime
- All victims: women, men and children
- All forms of exploitation: sexual exploitation, forced labour or services, and so forth

### 2.2. OTHER INTERNATIONAL AND REGIONAL INSTRUMENTS RELATED TO TRAFFICKING IN PERSONS AND FORCED LABOUR

#### 2.2.1. OTHERS INTERNATIONAL LEGAL FRAMEWORKS

In addition to the UNTOC and Trafficking in Persons Protocol, international law includes several international legal instruments that identify, define and describe different forms of exploitation to ensure the respect of the human rights of the victims of trafficking (UNHCR, 2014; UNODC, 2008).

#### THE INTERNATIONAL CHARTER OF HUMAN RIGHTS

- The Universal Declaration of Human Rights (1948) and the optional protocol
- Covenant of Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)

#### OTHER INTERNATIONAL INSTRUMENTS

- International Convention on the Elimination of All Forms of Racial Discrimination (1965)

#### INTERNATIONAL LABOUR CONVENTIONS

- Convention concerning Forced or Compulsory Labour (Convention No. 29) (ILO,1930)
- Convention concerning the Abolition of Forced Labour (Convention No. 105) (ILO,1957)
- Discrimination (Employment and Occupation) Convention (ILO,1958)
- Convention concerning Minimum Age for Admission to Employment (Convention No. 138), (ILO,1973)
- International Convention on the Protection of the Rights of All Migrant Workers and their Families (ILO,1990)

#### INSTRUMENTS CONCERNING MIGRATION

- Convention concerning Migration for Employment (Revised) (Convention No. 97) (ILO,1949)

- Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (Convention No. 143) (ILO,1975)
- International Convention on the Protection of the Rights of All Migrant Workers and their Families (1990)

#### GENDER-SPECIFIC INSTRUMENT

- Convention on the Elimination of All Forms of Discrimination against Women (1979)

#### CHILD-SPECIFIC INSTRUMENTS

- Convention concerning Minimum Age for Admission to Employment (Convention No. 138) (ILO,1973).
- Worst Forms of Child Labour Convention (Convention No. 182) (ILO,1989)
- Convention on the Rights of the Child (CRC)(UNICEF,1989)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000)
- Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, Child Prostitution and Child Pornography (2000)

### 2.2.2. SOFT LAWS GOVERNING TIP

In addition to these international treaties, the consular Guidelines also reference multilateral commitments including Sustainable Development Goals (SDGs) and the Global Compact for Migration (GCM).

#### 2.2.2.1 SUSTAINABLE DEVELOPMENT GOALS (SDGs)

SDG 5.2: Eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual, and other types of exploitation.

SDG 8.7: Take immediate and effective measures to eradicate forced labour, end modern slavery and trafficking in persons and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers.

SDG 16.2: End abuse, exploitation, trafficking and all forms of violence and torture against children.

#### 2.2.2.2. GLOBAL COMPACT FOR MIGRATION (GCM)

Objective 5: Enhance availability and flexibility of pathways for regular migration

Objective 7: Address and reduce vulnerabilities in migration

Objective 10: Prevent, combat and eradicate trafficking in persons in the context of international migration

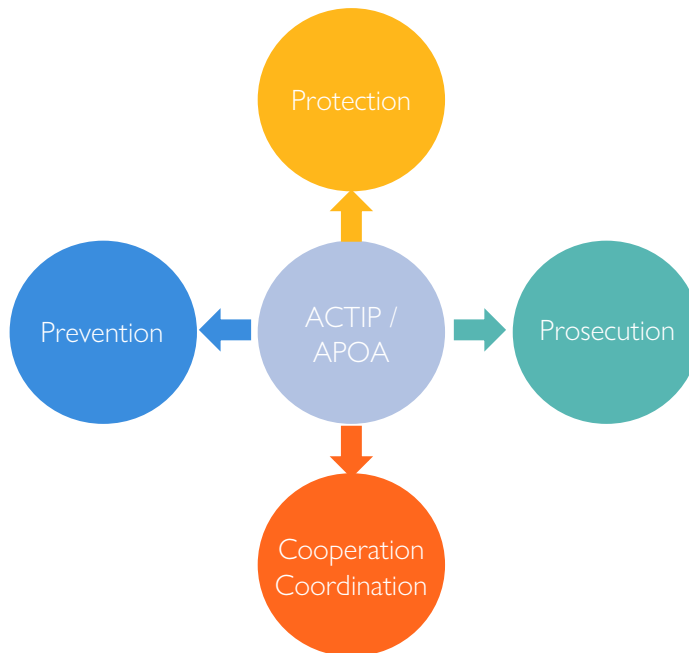
Objective 21: Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration

Objective 23: Strengthen international cooperation and global partnership for safe, orderly and regular migration

### 2.2.3. REGIONAL FRAMEWORK ON TIP: THE ASEAN CONVENTION AGAINST TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN (ACTIP)

As early as 1997, the ASEAN member states have made efforts to combat transnational organized crime, including trafficking in persons (TIP). Notably, the ASEAN Declaration on Transnational Crime and the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children, which were signed in 1997 and 2004 respectively set the course for ASEAN's efforts in combating trafficking in persons (ASEAN,1997; ASEAN,2004). ASEAN's first-ever legally binding instrument, the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), was signed by ASEAN member states on November 21, 2015, and entered into force on March 8, 2017 (ASEAN,2015; ASEAN, 2017). It is an important step toward a more robust legislative regional cooperation framework for countering TIP in the ASEAN region.

Diagram 2.1: Framework of ASEAN Convention Against Trafficking in Persons Especially Women and Children (ACTIP)



Reverberating the Palermo Protocol, the Article 2 (a) of the ACTIP defines trafficking in persons as “..(acts) the recruitment, transportation, transfer, harboring 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”. Exploitations include at a minimum, “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Resembling the Palermo Protocol, the ACTIP also directs that the consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth in Article 2 (a) as stated above have been used. Article 2(c) states that when the recruitment, transportation, transfer, harboring or receipt of a child who is under the age of 18 for the purpose of exploitation shall be considered "trafficking in persons".

The objectives of ACTIP highlight the necessity for more coordinated collaborative efforts across the region to prevent and improve responses to TIP. The overarching goal of ACTIP is to ensure that ASEAN member states have effective justice systems that penalize TIP perpetrators and protect the human rights of TIP victims. Article 14 provides extensive recommendations for the 'Protection of Victims of Trafficking in Persons', while Article 15 outlines actions for "Repatriation and Return of the Victims". Article 20 titled "Law Enforcement Cooperation" details recommendations on bilateral, cross-border, regional and international law enforcement cooperation in prosecuting of trafficking cases. Article 23 commends the establishment of coordinating structure at both national and regional levels.

### 2.3. DEFINITION OF TRAFFICKING IN PERSONS

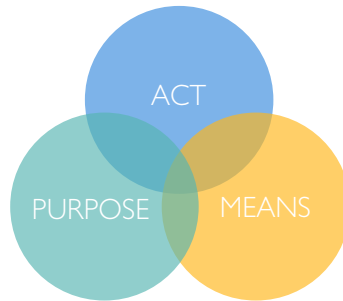
The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, widely known as TIP Protocol or Palermo Protocol, is the international benchmark on trafficking in persons, which provides the first encompassing international definition of the crime. Article 3 of Palermo Protocol establishes that:

*"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (United Nations, 2000).*

Article 3 (b)	The <b>consent</b> of a victim of trafficking, whether intended or actual, shall be irrelevant where any of the above-mentioned means of exploitation have been used
Article 3 (c)	When exploitative conduct involves a child who is under the age of 18, it shall be deemed a punishable offense of human trafficking even if none of the means have been used
Article 3 (d)	" <b>Child</b> " shall mean any person under <u>eighteen years</u> of age

According to the Palermo Protocol, trafficking in persons is defined by three main elements which are:

Diagram 2.2: Three Elements of Trafficking in Persons



<b>Act</b>	What is done by the perpetrators to introduce or maintain victims in the trafficking situation whether it be recruitment, transportation, transfer, harboring, or receipt of persons
<b>Means</b>	How trafficking is done – techniques and methods perpetrators use to deceive, attract, lure, coerce, abduct and force victims to remain in a trafficking situation
<b>Purpose</b>	The intention of the trafficker to commit exploitation and/or human rights violations.

Diagram 2.3: Three Elements of Trafficking in Persons



One common technique used by perpetrators is the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim. This can occur with or without the use of any force.

### WHAT IS EXPLOITATION?

Exploitation is an act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one’s own benefit (IOM, 2019).

- It is NOT necessary for the exploitation situation to be happened to determine certain actions as TIP.
- For example, if an individual is rescued or escaped before the purpose of exploitation is achieved, but there are certain indicators that most likely the exploitation situation will happen if s/he was not rescued or escaped, s/he is still considered a potential victim of trafficking

## 2.4. TYPES OF TRAFFICKING IN PERSONS

There are multiple forms of TIP, including but not limited to trafficking for sexual exploitation, labour exploitation, domestic servitude, illegal adoptions, organ removal, forced begging, forced criminality, and forced and exploitative marriages, such as child marriages. However, this list is not exhaustive, and the types of trafficking can evolve. It is essential to recognize that trafficking can manifest in various ways and adapt to changing circumstances, making it imperative to remain vigilant and informed about emerging trends and patterns in trafficking.

Sexual exploitation	The most well-known form of trafficking in persons. It pertains to different forms of sexual exploitation including forcing an individual to engage in commercial sex acts such as prostitution or the production of pornography, online child pornography and sexual abuse of children.
Labour exploitation	Individuals are compelled against their will to provide work or service through the use of force, fraud, or coercion.
Domestic servitude	It is a type of forced labour whereby the victim is usually expected to work around a person’s home every day and be “on call” 24 hours a day.
Forced begging	People (male, female; adult or child) are forced to beg in public areas.
Illegal adoption	Selling of a child as commodities to facilitate an adult to parent and others merely to make money or exploit in other ways i.e. Domestic Servitude.
Organ removal	Also known as organ harvesting which involves trafficking people in order to use their internal organs for transplant.
Forced criminal activities	Victims are forced to carry out a range of illegal activities which in turn generates income for criminal groups.  Activities can include theft, drug trafficking, selling counterfeit goods, recent criminal activities such as call center scams, online gambling, and investment fraud that are conducted through the misuse of information technology.
Forced and exploitative marriages including child marriages	Transportation of a person (adult or underaged) to marry someone against their will.

Sources: (Interpol, n.d.; UNODC, 2018; IOM-X,n.d.)

## 2.5. TRAFFICKING IN PERSONS INDICATORS

Trafficking indicators are not uniform and can vary significantly depending on the type of exploitation, the location of the case, and other factors. It is important to understand that the presence or absence of certain indicators does not conclusively prove or disprove that trafficking is occurring, but they should prompt further investigation. Victims of trafficking can be found in various situations, and their experiences can differ widely. For instance, indicators that might be present in one scenario, such as control over movement or inability to leave work premises, may not be applicable in another. This complexity is further compounded by the fact that trafficking operations can be highly adaptive to law enforcement efforts and societal changes, making it challenging to establish a definitive set of indicators.

Below are some indicators of trafficking based on their type of exploitation:

### 1. Indicators of labour exploitation

- a) Deceptive recruitment
- b) Deceived travel and recruitment conditions
- c) Deceived about the nature of the job, location or employer (different destination countries, different job description)
- d) Deceived about work conditions (excessive working hours, poor living conditions, hazardous tasks for children, absence of job contracts, etc.)
- e) Deceived about wages/salaries (low or no salary, salary manipulation)
- f) Deceived through false promises (marriage, annulment of debt, false exchange of services)
- g) Deceived about health situation (falsified medical tests)
- h) Deceived through abuse of vulnerability of head of households and single parents (need for services, difficult economic status, illegal status, lack of knowledge & education, etc.)
- i) Deceived through promises of marriage or adoption, harboring and custody of unaccompanied or orphaned children
- j) Forced to lie to authorities and frontline actors (in cases of children)
- k) Coercive recruitment
- l) Threats and violence against victims and family members
- m) Exploitative forced tasks (e.g., in agriculture, house cleaning or construction)
- n) Forced street begging especially for children
- o) Confiscation of documents
- p) Debt bondage and additional requests for services
- q) Abuse of sponsor or smuggler status
- r) Forced to lie to authorities and families

### 2. Indicators for trafficking for forced labour

- a) Abuse of vulnerability
- b) Deception
- c) Restriction of movement
- d) Isolation
- e) Physical and sexual violence
- f) Intimidation and threats
- g) Retention of identity documents
- h) Withholding of wages

- i) Debt bondage
- j) Abusive working and living conditions
- k) Excessive overtime

#### KEY NOTES

- In the case of children, 2 a), b), and c) are considered to always constitute forced labour of children.
- The existence of forced labour may not necessarily look for several indicators. The existence of only one indicator may imply the existence of forced labour.

### 3. Indicators of sexual exploitation

- a) Deceived about the nature of the job (control of exploiters, forced into illegal activities, forced clients and tasks)
- b) Deceived about content or legality of work contract (prostitution)
- c) Deceived about housing and living conditions (isolation, confinement)
- d) Deceived through promises of marriage
- e) Threats of reporting to authorities, families, environment or community about job involvement
- f) Threats and violence against victims and family members
- g) Psychological and emotional dependency on exploiters (e.g., Stockholm syndrome)
- h) Abuse of cultural/religious beliefs and traditions (arranged or early marriage)

### 4. Indicators for forced criminality

The indicators below refer to the UNODC Key Indicators of TIP for Forced Criminality to Commit Cyber Enabled Crimes (UNODC, 2023)

- a) The person is coached/instructed by staff in the compounds to perform online/phone/computer-based activities that ultimately amount to fraud and scamming; and
- b) The person participates in the scam-related activities, which may include:
  - Illegal gambling, gaming and lottery schemes: tasked to chat online with people and encourage them to deposit money into their gaming accounts to play illegal online games or perform manipulation into gambling results.
  - Pig-butcher (investment) schemes: tasked to set up and use fake profiles on networking platforms to develop relationships and then gain trust of people, through romance and/or friendship, and entice them into investing in fraudulent schemes (often through cryptocurrency investments).
  - Pyramid schemes: tasked to find people who can recruit 'new investors' for 'get rich quick' schemes.
  - E-commerce schemes: assigned to call individuals and falsely claim pretend that their parcel from DHL or FedEx was seized by customs due to illegal goods.
  - Impersonation schemes: tasked to call people and pretend to be police, customs officers, or potential investors looking to secure a bank transfer.
  - Fake loan schemes: tasked to advise customers at casinos on borrowing money via computer apps.
  - Unsolicited phone calls practice: tasked to make unsolicited phone calls.
  - Dating or companionship offer: tasked to impersonate a man/woman looking for companionship and ask for a cash transfer to support various requests.

## 2.6. DIFFERENCES BETWEEN TRAFFICKING IN PERSONS, FORCED LABOUR AND SMUGGLING OF MIGRANTS

Trafficking, forced labour, and smuggling of migrants are distinct yet interconnected issues. **Trafficking** involves the exploitation of individuals through force, fraud, or coercion for purposes such as forced labour or sexual exploitation. **Forced labour** refers to situations where individuals are compelled to work against their will under threat or coercion. **Smuggling of migrants**, on the other hand, involves the transportation of individuals across international borders, typically with their consent, but often under dangerous conditions. Understanding these definitions is crucial as it helps in identifying and addressing the specific needs and rights of victims, ensuring appropriate legal and protective measures are implemented, and developing targeted policies to combat these crimes effectively.

### 2.6.1. FORCED LABOUR DEFINITION

An Internationally agreed definition of trafficking in persons recognizes forced labour or services as a form of exploitation. Therefore, trafficking in persons is associated with, or the term is used interchangeably with slavery and forced labour.

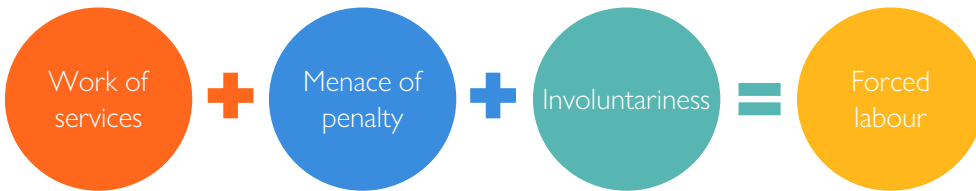
Forced labour is a situation where an individual is compelled to work against their will by physical force or violence and/or other subtle actions such as retention of identity documents, withholding of wages, and imposing threats to report authority or harm their families. According to Article 2 of the ILO Forced Labour Convention 1930 (No. 29), forced or compulsory labour is: "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily" (ILO, 1930).

The Forced Labour Protocol Article 1(3) further reaffirms exploitative acts against a person or persons by using **three elements**, which are:

- i. **Work or service** refers to all types of work across any activity, industry or sector including the informal economy.
- ii. **Menace of any penalty** refers to a wide range of penalties used to compel someone to work.
- iii. **Involuntariness:** The term "offered voluntarily" refers to the free and informed consent of a worker to take a job and his or her freedom to leave at any time. This is not the case, for example, when an employer or recruiter makes false promises, leading a worker to take a job he or she would not have otherwise accepted.

Forced labour can be imposed on both adults and children, by state authorities, private enterprises or individuals. It is prevalent in various sectors including agriculture, construction, forestry, mining, quarrying and brick kilns, manufacturing, processing and packaging, fishing, services sector such as hospitality, restaurant, transport, domestic work, illicit trades and illegal activities.

Diagram 2.4: Basic Elements of Forced Labour (ILO, C029 - Forced Labour Convention)



#### KEY NOTES

- One of the key characteristics of forced labour is a form of extreme hardship and abusive working and living conditions. However, an individual can be a victim of forced labour even if s/he is not subjected to such conditions.
- Almost every form of trafficking in persons includes some elements of forced labour. It is the most extreme way in which people are exploited for some form of gain – including for profit, and other things.

Trafficking, forced labour, and smuggling of migrants are distinct yet interconnected issues. **Trafficking** involves the exploitation of individuals through force, fraud, or coercion for purposes such as forced labour or sexual exploitation. **Forced labour** refers to situations where individuals are compelled to work against their will under threat or coercion. **Smuggling of migrants**, on the other hand, involves the transportation of individuals across international borders, typically with their consent, but often under dangerous conditions. Understanding these definitions is crucial as it helps in identifying and addressing the specific needs and rights of victims, ensuring appropriate legal and protective measures are implemented, and developing targeted policies to combat these crimes effectively.

In Thailand, forced labour is defined as any person who compels another person to work or to provide services by one following means: (i) threatening to cause injury to life, body, liberty, reputation or property of the person threatened or any other person; (ii) intimidating; (iii) using force; (iv) confiscating identification documents; (v) using debt burden incurred by such person or any other person as the unlawful obligation; and (vi) using other means similar to the above act.

#### 2.6.2. MIGRANT SMUGGLING DEFINITION

Migrant smuggling is defined in the Article 3 of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air, which supplements the United Nations Convention against Transnational Organized Crime, 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 State Party of which the person is not a national or a permanent resident'* (United Nations, 2000).

Migrant Smuggling is the facilitation, for financial or other material gain, of irregular entry into a country where the migrant is not a national or resident. The criminals behind this highly profitable business seize the opportunity created by the need or desire of people to escape not just poverty and lack of employment opportunities but also natural disasters, conflict or persecution. Simply put, migrant smuggling is about making money (UNODC, 2018). Migrant smuggling violates the sovereignty of states over their borders and is a criminal act under the domestic law of many states.

### 2.6.3. COMMONALITIES AND DIFFERENCES BETWEEN TRAFFICKING IN PERSONS AND MIGRANT SMUGGLING

#### COMMONALITIES

- Frequent involvement of organized criminal groups
- They are both very often operated by the same criminal organizations that use the same routes and transportation methods for the two crimes
- Like trafficked persons, smuggled migrants are often the victims of other crimes, ill-treatment, violence, or human rights violations

#### DIFFERENCES

- Trafficking in persons always includes Acts + Means (except if the PVOTs are children) + Purposes, while smuggling of migrants does not require these elements.
- Trafficking in persons can happen within the country and or multiple countries, and cross-border elements are not required. Smuggling of migrant will always require cross-border movement.
- Trafficking in persons is an act against individuals, while migrant smuggling is crime against States.

Table 2.1: Difference between Trafficking in Persons and Migrant Smuggling

Criminality	Human trafficking	Migrant smuggling
Consent	<ul style="list-style-type: none"> <li>• Whether or not they have consented initially or their consent is obtained by deception, coercion or abusive actions of the traffickers, consent by the victims is deemed nonsensical and irrelevant.</li> </ul>	<ul style="list-style-type: none"> <li>• Smuggled migrants generally consent to being smuggled. Migrants are involved in their smuggling willingly.</li> <li>• Smuggling does not need to include coercive means.</li> </ul>
Exploitation	<ul style="list-style-type: none"> <li>• Trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers.</li> </ul>	<ul style="list-style-type: none"> <li>• The relation between smuggled migrant and smugglers is a commercial transaction: smugglers facilitate the migrant's irregular entry across borders to obtain a financial or other material benefit.</li> </ul>
Transnationality	<ul style="list-style-type: none"> <li>• Does not necessarily involve crossing a border. Human trafficking can take place whether the victims are transported to another country or they are forced into an exploitive condition in the same country where they reside.</li> </ul>	<ul style="list-style-type: none"> <li>• Involves irregular border crossing and entry into another State or other States in the region or other territories.</li> </ul>
Source of profit	<ul style="list-style-type: none"> <li>• <b>A person is the commodity.</b> Profits are derived from exploitation of the victims.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Service is the commodity.</b> Profits are made by facilitating irregular entry into another State or States.</li> </ul>
Crime	<ul style="list-style-type: none"> <li>• Traffickers commit a crime against individuals.</li> </ul>	<ul style="list-style-type: none"> <li>• Smugglers commit a crime against the State.</li> </ul>

(UNODC,2018; IOM, n.d.)

It should also be noted that the two crimes are different yet very interlinked. For this reason, identifying whether a case is one of trafficking in persons or people smuggling can be very difficult for several reasons which include but are not limited to the following:

- Some people may pay to be smuggled but end up as victims of trafficking during the process with coercive means being used against them, which makes their initial consent irrelevant.
- Once smuggled migrants arrive at their destination, they are illegally staying in a country. Most likely, they need to work illegally as well without perhaps knowing the language and laws of the country or avoiding law enforcement because of fear of deportation.

## 2.7. PROFILES OF VICTIMS AND PERPETRATORS

### 2.7.1. VICTIM PROFILES

Anyone can be a victim of trafficking in persons. Adults and children from any nation, culture, religion, socio-economic background, ethnicity, age or gender can become victims of trafficking in persons. The only feature that is common to all victims of trafficking is their specific vulnerability to perpetrators at the time they are targeted and trafficked. Perpetrators actively seek people who have one or a combination of vulnerabilities that they can use to target them for trafficking and exploit them for profit.

Common vulnerabilities may include:

- Economic vulnerabilities such as poverty and destitution, limited job opportunities, and financial instability
- Low or no education and/or unemployment
- Lack of access to skills training
- Conflict or war
- Pandemic
- Man-made and natural disasters
- Climate change-induced vulnerabilities
- Mental health problems, intellectual disabilities or learning difficulties
- Experience abuse and violence and/or witness domestic violence at home
- Discrimination, gender-based violence, racism and other forms of structural inequalities

While the majority of sex trafficking victims are female, males are exploited as sex trafficking victims as well. The trafficking in adult males is closely linked to labour exploitation, which seems to be the predominant form of exploitation for adult men. Boys, on the other hand, are trafficked in different networks than girls.

### 2.7.2. PROFILE OF THE PERPETRATORS

Trafficking in persons is often connected to serious organized crime. However, it is important not to stereotype or make assumptions about perpetrators: they can be from any background, gender or demographic profile. Perpetrators may operate individually, or in small or large organized criminal networks. The range of educational levels and the social status of the perpetrators are wide. While some are uneducated and unemployed, some are tertiary level educated. Human perpetrators are employed in a range of professions, for example, information technology (IT), law enforcement, medicine, law and hospitality. Their professional backgrounds strengthen their capacity to generate trust and credibility from their victims.

Victims often have personal relationships with their perpetrators, who may be family members, lovers or spouses, friends, employers, colleagues. Perpetrators frequently share the same ethnic background as their victims, which enables them to exploit common language and cultural understanding. This familiarity can make it more challenging for victims to recognize that they are being exploited and trafficked.

Victims may have no knowledge of their perpetrators or even meet them. Perpetrators might intentionally mislead victims to ensure that any information provided to law enforcement authorities or other professionals lacks credibility. In some instances, perpetrators pose as rescuers, offering to help victims escape their current trafficking situation, only to groom them for further exploitation and trafficking.

In some cases, victims of trafficking may become perpetrators themselves. For some, this is the only mean they know to earn a living. Others are forced by their exploiters into becoming perpetrators, making them complicit and complicating the prosecution process.

- Anyone who knowingly contributes in the trafficking of people with the intent of exploiting a victim is considered a **perpetrator**; this includes recruiters, intermediaries, transporters, document providers, corrupt officials and employers.
- **Trafficking intermediaries** are people who perform jobs such as selecting which borders to cross and when to cross, identifying and bribing border guards or keeping watch over trafficking victims.

## 2.8. CONSEQUENCES OF TRAFFICKING IN PERSONS

### 2.8.1. THE MINDSET OF A VICTIM OF TRAFFICKING

A victim of trafficking may develop a mindset characterized by fear, distrust, denial, and conflicting loyalties. Foreign victims of trafficking often fear deportation or imprisonment, leading to distrust of authority figures, particularly law enforcement and government officials. Many victims of both sex and labour trafficking worry that if they escape and initiate investigations against their traffickers, the traffickers and his/her associates will harm them, their families, or others.

### 2.8.2. PSYCHOLOGICAL AND BEHAVIOURAL IMPACTS ON THE VICTIMS

Victims often:

- Develop general feelings of helplessness, shame, guilt, self-blame, and humiliation.
- Suffer from shock and denial, or display symptoms of post-traumatic stress disorder, phobias, panic attacks, anxiety, and depression.
- Suffer from sleep or eating disorders.
- Become addicted to drugs and/or alcohol to cope with or “escape” their situation, or as a method of control used by their perpetrators.
- Become emotionally numb, detached, and disassociated from the physical and psychological trauma and display “flat affect”; or
- Experience “trauma bonding” with the perpetrator, positively identifying with the trafficker and believing that, despite repeated abuse, the trafficker is a loving boyfriend, spouse, or parent.

### 2.8.3. PHYSICAL IMPACTS OF TRAFFICKING IN PERSONS

While not all victims of trafficking have physical indicators, many victims suffer serious health issues, which may include the following:

- Signs of physical abuse, such as bruises, broken bones, burns, and scarring.
- Chronic back, visual, or hearing problems from work in agriculture, construction, or manufacturing.
- Skin or respiratory problems caused by exposure to agricultural or other chemicals.
- Infectious diseases, such as tuberculosis and hepatitis, which are spread in overcrowded, unsanitary environments with limited ventilation.
- Untreated chronic illnesses, such as diabetes or cardiovascular disease; or
- Reproductive health problems, including sexually transmitted diseases, urinary tract infections, pelvic pain and injuries from sexual assault, or forced abortions.

## 2.9. MYTHS AND MISCONCEPTIONS ABOUT TRAFFICKING IN PERSONS

### **Myth 1: Trafficking is the same as smuggling**

Smuggling requires an illegal border crossing and is a crime against the State border. Human trafficking is a crime against the state but inflicted on individuals and involves commercial sex acts or labour or services that are induced through force, fraud or coercion, regardless of whether or not transportation occurs.

### **Myth 2: Trafficked persons can only be foreign nationals**

Victims may be citizens of the country, foreign nationals, or undocumented persons.

### **Myth 3: Persons who knowingly engage in illegal activities cannot be considered victims of trafficking**

Initial consent to commercial sex or labour prior to acts of force, fraud or coercion is not relevant to the crime. If a person is forced, defrauded or coerced to perform commercial sex acts or labour against his or her will, he/she might be a victim of trafficking.

### **Myth 4: A person receiving payment for commercial sex acts or labour cannot be a victim of trafficking**

Whether a person receives payment or other forms of compensation for commercial sex acts or labour has no effect on whether a person is trafficked. If a person is forced, defrauded, or coerced to perform commercial sex acts or labour against their will, he/she might be a victim of trafficking, regardless of payment.

### **Myth 5: Trafficking in persons requires the victim to be physically restrained, physically abused, or held in bondage**

The legal definition of trafficking does not require physical restraint, bodily harm, or physical force. Psychological means of control, such as threats, fraud or abuse of the legal process, are sufficient elements of the crime.

### **Myth 6: All foreign national trafficking victims are undocumented immigrants**

While some foreign national trafficking victims are undocumented, immigrants with legitimate visas are also trafficked.

**Myth 7: Only females are trafficked**

Men and boys are also victims of trafficking. Most males are not only trafficked to perform acts of labor but also trafficked in the commercial sex industry.

**Myth 8: All trafficking situations include commercial enterprises, companies, business entities or organized crime rings**

Trafficking can exist even when the trafficker is not associated with a commercial enterprise or an organized crime ring. Any person who receives compensation or benefits from forcing a person to perform commercial sex acts or labour is a trafficker. For example, parents who force their child to perform sex acts with a landlord in lieu of rent may be considered a trafficker under law.

**Myth 9: Victims will immediately ask for help and identify themselves**

Due to an extreme lack of trust, self-blame, shame, fear of arrest, threats of harm to family and/or other "grooming" methods used by the perpetrator, victims tend not to immediately ask for help. This allows trafficking to occur in the open.

(UNODC, 2018)

## 2.10. THE 4 Ps' FRAMEWORK

The Palermo Protocol sets out **3 Ps Paradigm** - prosecution, protection and prevention approach in combating trafficking in persons (United Nations, 2000), and States are encouraged to impose a range of programmatic tools to advance the **3 Ps** paradigm worldwide. One of the best ways to address TIP is to comprehensively address the whole issue, rather than addressing aspects of the problem separately. In 2010, the United Nations Global Plan of Action Against Trafficking in Persons was adopted by the United Nations General Assembly in which the member states agreed to adopt an effective national response mechanism to trafficking in persons build upon **4 pillars**, which are:

- prevention of trafficking
- protection and assistance to victims of trafficking
- prosecution of the perpetrators of trafficking; and
- strengthening and working in partnership to achieve desired goals

*The fourth P for partnership serves as a complementary means to other 3 Ps and cross-cutting issues in all segments of national policies (UNGA, 2021).*

Diagram 2.5: Anti-Trafficking in Persons Policy and Mechanism: 4 P's Framework



**Prevention** means reducing the vulnerability of a person (or a community) to becoming a victim of trafficking. Effective ‘prevention’ work requires a clear identification of what makes a person (or a community) vulnerable. It necessitates a reduction of vulnerability throughout the whole cycle: vulnerability at the place of origin, during the trafficking experience, and at the place of destination.

**Prosecution** targets people who profit from trafficking in persons. It requires vigorous law enforcement, corruption fighting, the identifying and monitoring of trafficking routes and cross-border coordination. It is also concerned with seeking full justice for the victims of trafficking.

**Protection** begins when a potential victim is rescued and ends when he or she is repatriated and re-integrated into his/her family and/or community. This involves keeping victims safe from threat, violence and abuse; providing basic needs like shelter, food, medical and psychological care; and providing legal protection that upholds individual rights, confidentiality, judicial redress and witness protection.

**Partnership** is a course of collaborative actions by the national agencies of a country, between two or more countries, and organizations on a particular issue. Placed at the core of partnership is a state’s policy underpinning its international obligations such as national legislation, bilateral and regional agreements, and conventions through the spirit of amity, goodwill and reciprocity. In combatting trafficking in persons, partnership (national, regional or international) based on enabling policy serves as strong pillar of support to all anti - trafficking initiatives under prevention, prosecution and protection. (United Nations, 2021b).

## CHAPTER 3:

# NATIONAL LAWS AND OPERATIONAL FRAMEWORK ON PROVIDING ASSISTANCE TO VICTIMS OF TRAFFICKING IN THAILAND

### 3.1. THE ANTI-TRAFFICKING IN PERSONS ACT (2008) AND OTHER RELEVANT LAWS

The Prevention and Suppression of Trafficking in Persons Act (*hereafter 'PSHTA' or the Anti - Trafficking in Persons Act*) was enacted in 2008. The Anti-TIP Act of 2008 is the founding legislation, which criminalizes all forms of trafficking in persons, and ensures the provision of assistance to the trafficked victims. The 2008 Act has been amended in 2015, 2017, and 2019 to strengthen the law in protecting victims; to enact measures to effectively suppress the crime; to establish multi-disciplinary measures to effectively address the crime and to enhance partnership with all stakeholders.

**Section 6** of the Anti - Trafficking in Persons Act (amended in 2019) stipulates that:

Whoever does any of the following acts:

- 1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, abuse of power over a person because of their physical, mental, educational or other weakness, threat to use illicit legal process, or giving money or benefits to a person's custodian or caretaker to achieve a consent of such person to exploit the person under his or her control; or
- 2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child,

If such act is committed for the purpose of exploitation, the person who does so is guilty of trafficking in persons.

Exploitation under Paragraph One means seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery or other similar acts, causing another person to be a beggar, coerced removal of organs for the purpose of trade, forced labour or service as prescribed in Article 6/1, or any other similar practices resulting in forced extortion regardless of such person's consent.

Additionally, **Section 6/1** of the same Act defines forced labour or services as a stand-alone article which defines as: Any person who compels another person to work or to provide services by one of the following means:

1. threatening to cause injury to life, body, liberty, reputation or property of that person or any other person
2. intimidating
3. using force
4. confiscating identification documents
5. using debt burden incurred by such person or any other person as the unlawful obligation;
6. using any other means similar to the above acts.

If by such act, the other person is put in a state where they cannot resist, that person has committed the offense of forced labour or service.

The Anti Trafficking in Persons Act is the main umbrella of the Thailand counter trafficking programming and policies, including in protection of victims of trafficking.

Furthermore, other national laws that are also being used by the officials to investigate and assist PVOTs and/or VOTs are:

- Criminal Code (1906)
- International Cooperation in Criminal Matters Act (1992)
- Prevention and Suppression of Prostitution Act (1996)
- Labour Protection Act (1998)
- Anti-Money Laundering Act (1999)
- Crime Victims Compensation Act (2001)
- Child Protection Act (2003)
- Extradition Act (2008)
- Witness Protection Act (2003) (amended in 2022)
- Anti-Transnational Organized Crime Act (2013)
- Fisheries Act, B.E. 2558 (2015)
- Control of Begging Act, B.E.2559 (2016)
- Procedures for Human Trafficking Cases Act, B.E.2559 (2016)
- Computer Crime Act (2017)

## 3.2. BILATERAL AGREEMENTS ON TIP PROGRAMMING

In addition to its own national laws, Thailand has signed a number of memorandum of understandings (MOUs) with its neighboring countries in the Greater Mekong Sub-Region (GMS)-Lao PDR, Myanmar, Viet Nam, Cambodia, and China, as well as with United Arab Emirates on TIP related issue, which include, *inter alia*, sharing of information, prosecution, protection (victim identification, recovery and reintegration), and prevention.

Each MOU creates bilateral task forces involving relevant national agencies from both sides to work together and effectively address the prevalence of trafficking in persons in the countries (ASEAN, 2016; RTG, 2023).

Table 3.1: List of Bilateral Agreements Between Thailand and Other Countries

Country	Year	Title of the Agreement
Cambodia	2004; revised in 2014	MOU Between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Bilateral Cooperation for Eliminating Trafficking in Persons and Protecting Victims of Trafficking
China	2018	MoU Between the Government of the Kingdom of Thailand and the Government of the People's Republic of China on Cooperation in Anti - trafficking in persons and Humanitarian assistance for the victims
Lao PDR	2017	MOU between the Government of the Kingdom of Thailand and the Government of the Lao People's Democratic Republic on Cooperation to Combat Trafficking in Persons
Myanmar	2009	MOU Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation to Combat Trafficking in Persons, Especially Women and Children
United Arab Emirates	2018	MOU of the Kingdom of Thailand and the United Arab Emirates on cooperation in combating trafficking in persons (2018)
Viet Nam	2008	Agreement Between the Government of the Kingdom of Thailand and the Government of the Socialist Republic of Vietnam on Bilateral Cooperation for Eliminating Trafficking in Persons, Especially Women and Children and Assisting Victims of Trafficking (2008)

(UN-ACT, 2004;2005; 2008;2009; RTG,2023)

### 3.3. REGIONAL AND SUB-REGIONAL AGREEMENTS AND DECLARATIONS

At regional level, Thailand is a member of ASEAN and a party to the following regional agreements and instruments on trafficking in persons (ASEAN, 2016):

- The ASEAN Declaration against Trafficking in Persons Particularly Women and Children (2004)
- The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)
- ASEAN Declaration on the Promotion and Protection of the Rights of Women and Children
- The ASEAN Convention against Trafficking in Persons, Especially Women and Children (2015)
- ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (2017)
- ASEAN Declaration on the Protection of Children from All Forms of Online Exploitation and Abuse (2019)
- The ASEAN Declaration on Combating Trafficking in Persons Caused by the Abuse of Technology (2023)

Thailand is the third ASEAN Member State to ratify the ASEAN Convention Against Trafficking in Persons Especially Women and Children (ACTIP) on 24 July 2016

#### 3.3.1. SUB-REGIONAL AGREEMENTS

Thailand is a member of the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT Process) and together with China, Cambodia, Lao PDR, Myanmar, and Vietnam signed the Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region in 2004 (UN-ACT, 2004). The COMMIT Process is a ministerial-level government-led process in the Greater- Mekong Sub-region (GMS), where collective efforts on the prevention of trafficking, protection of victims and their repatriation and reintegration, and prosecution of the criminals responsible have been made and sub-regional programs implemented.

Table 3.2: Thailand's Ratification of International Treaties

Date of Ratification	Name of the Treaty
17 October 2013	UN Convention against Transnational Organized Crime (UNCTOC)
17 October 2013	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol)
9 August 1985	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
14 June 2000	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Optional Protocol)
27 March 1992	Convention on the Rights of the Child (CRC)
27 February 2006	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OP-AC)
11 January 2006	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (CRC-OP-SC)
26 February 1969	ILO Forced Labour Convention, 1930 (No. 29)
2 December 1969	ILO Abolition of Forced Labour Convention, 1957 (No. 105)
16 February 2001	ILO Worst Forms of Child Labour Convention, 1999 (No. 182)
26 February 1969; 4 June 2018	ILO Forced Labour Convention 1930 (No. 29), and the Protocol of 2014 to that Convention (No. 29)

### 3.4. NATIONAL MEASURES TO PROVIDE ASSISTANCE TO AND PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

According to the Anti - Trafficking in Persons Act (2008), victims of trafficking in Thailand are entitled to and provided with the following assistance and protection for their safety:

Articles/Section	Provisions
Section 33	Food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin and to claim compensation  Respect for human rights, views, culture, age, race, sex of the trafficking victims while providing assistance
Section 35	Rights to compensation to victims for the harm they suffered
Section 36	Safety protection of victims prior to, during and after prosecution
Section 37	Permission to stay and work in the country temporarily
Section 38	Subject to Section 37, the victim shall be repatriated to his/her home country without delay
Section 41	An exemption from criminal and administrative liabilities from the offences during their victimization such as leaving, entering or residing in the country without legal permission, giving false information to the officials, forging or using a forged travel document, prostitution, and working without permission.
Section 56	Penalty for whoever disclosing identity and history of trafficking victims without their consent
Section 13	Triple punishment for whoever in the capacity as a member of the House of Representatives, member of the Senate, governmental officers, employee of a public agency or board member of any organization under the Constitution, commits an offence under this Act

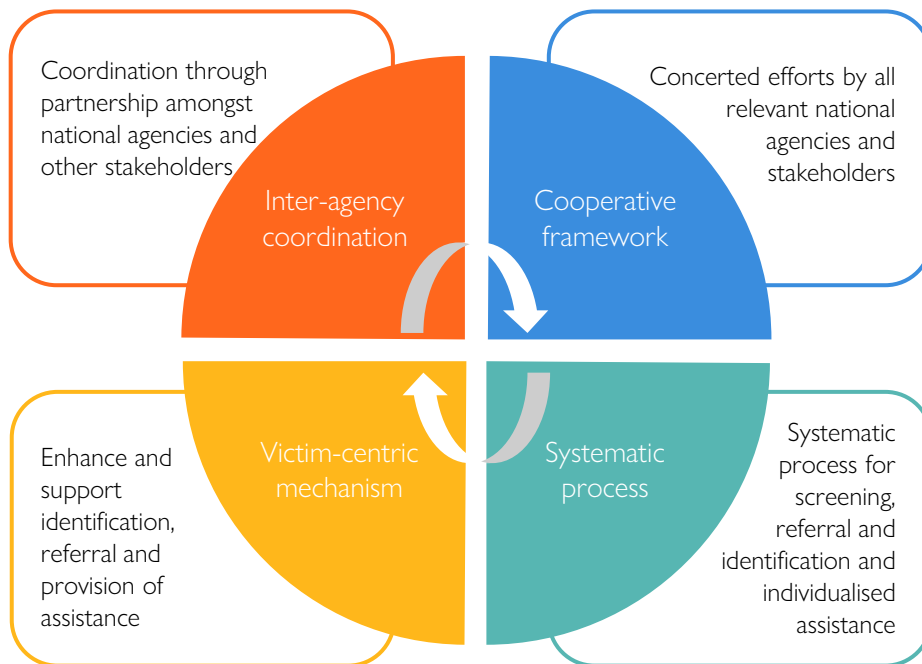
### 3.5. THE NATIONAL REFERRAL MECHANISM TO ASSIST AND PROTECT VICTIMS OF TRAFFICKING

The National Referral Mechanism is often referred to as the **chain of assistance** (IOM, 2023c). It is a cooperative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons. They coordinate their efforts in strategic partnership with other stakeholders, such as international organizations and civil society organizations. The NRM is designed to enhance and support the identification, referral and assistance of trafficking victims in a country through coordination and cooperation amongst government stakeholders, civil society and international organizations.

Furthermore, an NRM establishes specific processes for identification, referral and assistance to be followed when an adult or child is determined to be a presumed victim of trafficking.

A National Referral Mechanism is, therefore, a vital tool in victim protection and, as such, is a key component of a country's efforts to establish a robust and comprehensive antitrafficking response.

Diagram 3.1: Framework of National Referral Mechanism



Thailand's relentless efforts in anti-TIP have culminated in the National Referral Mechanism (NRM) which was established in March 2022 (RTG, 2022). It is designed to facilitate operations of the relevant agencies in cooperating, sharing information, referral assistance and protection for victims of trafficking in persons and forced labour or service to access primary support services.

The NRM is a new national policy framework that stipulates roles and responsibilities in victim screening, identification, providing assistance and referral and sensitizes over 2,300 frontline officials on the framework.

It is a coordinated, multi-sectoral, multidisciplinary mechanism to prevent people from becoming victims of trafficking in persons and protect both potential and identified victims (IOM, 2023a).

#### Goals and objectives of the National Referral Mechanism

- Promote and protect the rights of persons with reasonable grounds to believe they are victims.
- Collaborate with various agencies in providing physical and mental assistance and services for recovery, including social reintegration to presumed trafficking victims.

- Serve as a monitoring framework to ensure that the victims are treated as the victims of crimes.
- Act as a guideline in verifying that the law is effective in prosecutions of all forms of human trafficking.
- Review or reinforce the provision of national services for presumed trafficking victims and the victims of human trafficking or forced labour or services.
- Protect privacy and data confidentiality and ensure the safety of presumed trafficking victims and the victims before, during and after the immediate assistance as prescribed by the NRM.
- Data obtained from NRM shall be used for preventive operation by relevant agencies.

### 3.5.1. COMPONENTS OF THE NATIONAL REFERRAL MECHANISM IN THAILAND

According to the NRM Operational Guideline, the NRM served as a coordination mechanism among key agencies working on TIP. It is recognized as a formal institutional framework for implementation, cooperation and referral, including the establishment of procedures and mechanisms for determining the status of individuals.

The scope of the NRM includes finding, identifying and assisting victims of trafficking in persons, as well as fostering cooperation among governmental authorities, civil society organizations and international organizations. The NRM mandated the agencies to properly identify, treat and refer victims. In addition, the NRM encourages agencies to work closely with non-government partners, such as civil society organizations and international organizations, to enhance and uphold victim rights and ensure that the PVOT and/or VOT are assisted and protected.

### 3.5.2. THE RESPONSIBLE FRONTLINE AGENCIES OF THE NATIONAL REFERRAL MECHANISM IN THAILAND

Below are the responsible agencies mandated to implement the NRM and their roles (RTG, 2022; 2023).

1. **Royal Thai Police (RTP)** – within the NRM, the RTP functions as one of the first responders, mandated to screen any individuals reporting potential TIP cases. They are also members of the multi-disciplinary team authorized to determine the status of individuals, assessing whether there is reasonable ground to believe the individual is victim of trafficking in accordance with the Anti Human Trafficking Act 2008.
2. **Ministry of Social Development and Human Security (MSDHS)** – Similar with the RTP, the MSDHS functions as first responders and members of the multi-disciplinary team.
3. **Ministry of Labour (MOL)** – The MOL holds a function as first responders and members of the multi-disciplinary team.
4. **Ministry of Interior (MOI)** – The MOI is mandated as frontline officers and has the authority to determine the status of individuals as PVOT or non-PVOT.
5. **Department of Special Investigation of Ministry of Justice (DSI - MoJ)** – The DSI-MoJ functions as first responders and members of the multi-disciplinary team.
6. **Ministry of Foreign Affairs (MFA)** – The MFA is mandated as frontline officers and has the authority to determine the status of individuals as PVOT or non-PVOT.
7. **Thailand International Cooperation Agency (TICA) of the Ministry of Foreign Affairs** – TICA is principally responsible for administering Thailand's international development cooperation and supervising the implementation of cooperative projects and programs with neighboring countries, as well as with other countries around the world.

8. **Ministry of Public Health (MOPH)** – The MOPH is mandated as frontline officers and has the authority to determine the status of individuals as PVOT or non-PVOT.
9. **Internal Security Operations Command (ISOC)** – The ISOC is mandated as frontline officers and has the authority to determine the status of individuals as PVOT or non-PVOT.
10. **Thai Marine Enforcement Command Centre (THAI-MECC)** – The THAI-MECC is mandated as frontline officers and has the authority to determine the status of individuals as PVOT or non-PVOT.

### 3.6. SYNERGY BETWEEN PROVIDING CONSULAR ASSISTANCE AND THE IMPLEMENTATION OF THE NATIONAL REFERRAL MECHANISM PROCESS

Complimentary role of the consular assistance in the NRM process is to:

- Identify if a person is a potential victim of trafficking or at risk of being trafficked
- Inform the person about the national coordinating agency or the relevant specialized organizations that can provide assistance and offer to contact them on his/her behalf
- Explain the NRM to the PVOTs and encourage them to be assisted by the NRM protection and services
- Act as key coordinator between the country they are based in and country that the victims will return to (country of origin)
- Provide assistance to the victims throughout the process of their integration in the receiving state
- Coordinate with the relevant authorities in the country of origin for the voluntary return of the victims
- Share information about the subsequent criminal investigation and prosecution of cases with the NRM agencies as appropriate
- Be in continuous contact with the specialized agencies/organizations in Thailand as well as in the country of origin

Cooperation between the diplomatic missions and the NRM agencies may include, but are not limited to the following:

- Support and understanding of their respective roles
- Consultations and intervention in emergency situations, including child protection
- Information on legal procedures, social assistance and shelter availability in Thailand
- Help with translation and interpretation if required
- Cooperation to ensure safety of the victim and his/her voluntary and safe integration or return
- Identify if a person is a PVOT or at risk of being trafficked or a VOT
- Proper referral of a PVOT

# CHAPTER 4: CASE MANAGEMENT IN ASSISTING VULNERABLE MIGRANTS INCLUDING VICTIMS OF TRAFFICKING

## 4.1. CASE MANAGEMENT DEFINITION AND APPROACHES

Case Management is a collaborative process of assessment, planning, facilitation, care coordination, evaluation and advocacy for options and services to meet an individual's needs. To simplify, case management is the process of confirming and characterizing the situation of victims of trafficking for further implementation of support and assistance (IOM, 2020). Case management allows us to address beneficiaries' needs in an appropriate, systematic, and timely manner either through direct assistance or referrals. In order to ensure quality, consistency, and coordination of assistance, case management should be processed in accordance with international standard operating procedures (SOPs) (IOM, 2023a).

Case management process can be divided into **six interlinked steps** (IOM, 2019; IOM, 2023b):

- 1) identification and registration
- 2) assessment
- 3) case planning
- 4) referral
- 5) follow-up and review
- 6) case closure

## 4.2. CASE MANAGEMENT PROCESS

### 1. Identification and registration

- Detect and confirm the signs of exploitation by conducting screening interview to identify if a person is a PVOT or at risk of being trafficked.
- Obtain written/signed informed consent and record bio data, along with other information about a PVOT.

### 2. Assessment

- Record the process, make assessment based on the information gathered and outcome of the screening interview.
- Discuss among interview team on the next step.

### 3. Case Planning

- After identification, inform the PVOT the relevant organizations and institutions, such as NRM agencies, that can provide them with protection, assistance and support so that the person can make the informed decision.
- Respect the PVOT's right to accept or refuse available protection and support services under the NRM and if required, take a break and give time for consideration.
- While the beneficiary's preferred option should be pursued, where possible, consular officers should explore other viable options in consultation with the PVOTs for their best interests.

#### 4. Referral

- With the written consent from the PVOTs/VOTs, contact relevant NRM agencies and prepare for temporary shelter/accommodation, official identification, and protection.
- Ensure the continuum of consular assistance to the PVOTs/VOTs in the shelters as necessary and monitor their progress.

#### IMPORTANT

- Referral to a service is a major component of the case management process.
- Providing a referral for external services is the act of directing a client to other service providers to receive services to address a specific need.
- Any transfer of information to other service providers on behalf of the beneficiaries should only be made with their explicit consent and through secure communication channels
- Reporting and referrals should always be done with the written/signed informed consent of all victims - whether adults or children, and especially migrant women and girls due to their enhanced vulnerabilities.

#### 5. Follow-up and Review

- Coordinate among stakeholders as the main point of contact, maintaining continuous communication with national agencies in Thailand and relevant authorities in the country of origin.
- Follow-up, monitor the process, including voluntary repatriation, and provide consular assistance as required.

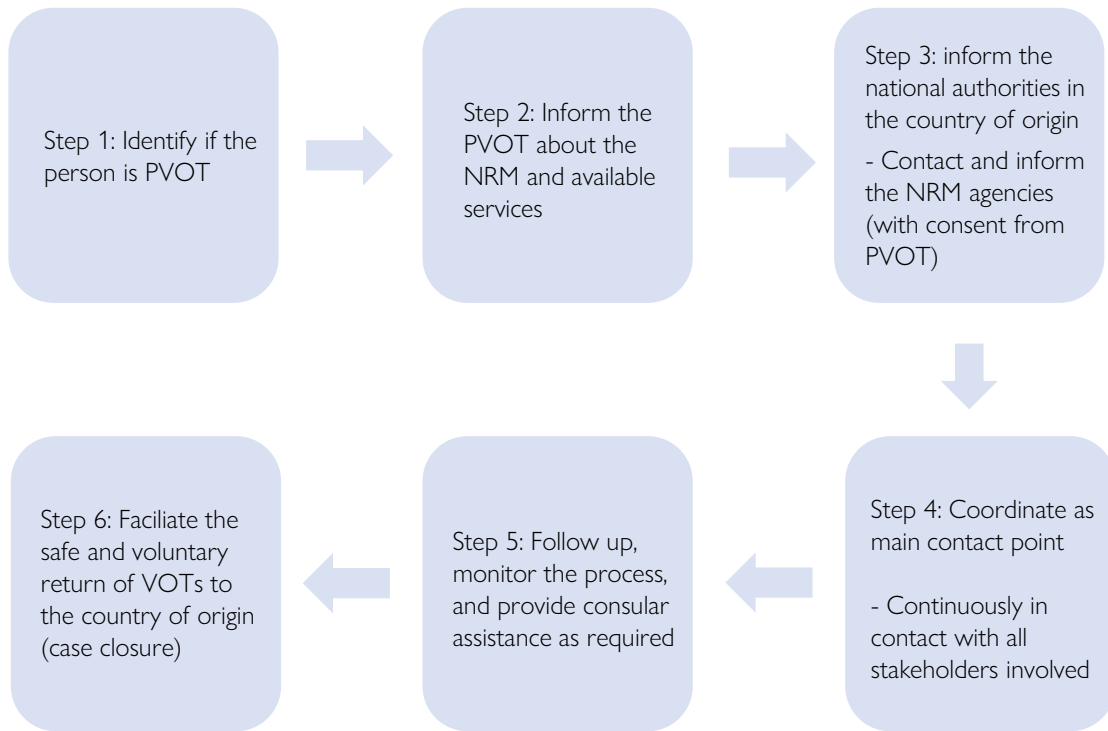
#### 6. Case closure

- All support and case plans should include “case closure” strategies, which comprise plans for seeking legal remedies, return, reintegration, or remaining in Thailand in accordance with the NRM
- VOTs should be given all information about available protection and assistance options under the NRM as well as possibility of remaining in Thailand, and on return and reintegration
- VOTs should be involved in the decision-making process to pursue their preferred option.

#### IMPORTANT

*Case management may be terminated because the support has ended, or the beneficiaries no longer meet the criteria for case management support, or they choose to stop receiving support, or they leave the country.*

Diagram 4.1: Case Management Process



- Identification and referral for protection and assistance are two major components of the case management process.
- Identification process begins with the detection of signs suggesting a possible situation of trafficking.

### 4.3. GUIDING PRINCIPLES FOR CHILD PROTECTION CASE MANAGEMENT

When working with children, specific case management considerations must be taken into account. In addition, diplomatic staff engaged in child protection case management must comply with a core set of principles guiding their behavior and interactions with children and their families. The International guiding principles for case management involving children are as follows:

#### Best Interests of the Child

Article 3 (1) of the UN Convention on the Rights of the Child (CRC) serves as the foundation for the principle of the best interests of the child. While it does not explicitly define a child's best interests, the principle can be understood as a threefold concept which includes a substantive right, a fundamental and interpretative legal principle and a rule of procedure that is aimed at ensuring the full and effective enjoyment of all the rights recognized in the CRC and of which the primary consideration is to ensure the holistic development of the child (UNHCR, 2008).

### Confidentiality, Privacy and Data Protection

Identities and information should be disclosed on a need-to-know basis; records should be kept in a secure place that is accessible only to authorized persons – this is of particular importance for especially vulnerable individuals such as children. In addition, interviews should be conducted in a location where identities and information are protected, and which is child-friendly (IOM, 2023c).

### Do No Harm

Efforts/initiatives taken to protect and/or support vulnerable individuals must minimize possible negative effects and maximize possible benefits. The potential consequences must be considered before action is taken (UNICEF, n.d.).

### Informed Consent

In recognition of their unique position as vulnerable persons, children may not be able to provide effective consent. In the absence of a parent or legal or customary caregiver, a designated guardian may consent on behalf of a child. In addition, the child should be provided with age-appropriate information when seeking the guardian's consent to whatever action is proposed on the child's behalf (UNHCR, n.d.) It is important to also obtain the assent of the child, provided that they can demonstrate a reasonable degree of maturity and age. In this regard, their expressed willingness and permission in writing from their guardians/relevant authorities to participate in assistance provision is required.

### Safety and Protection

It must be ensured that the child's immediate wellbeing is protected and secure. Where the child is experiencing abuse or is at risk of further abuse, steps must be taken immediately to protect the child's survival and long-term development (UNHCR, n.d)

Proper case management is:

- ensuring the privacy and security of the victims
- respecting the victim's culture and attitude
- ensuring an integrated service delivery environment
- considering the family and social surroundings of the victims
- identifying the purpose of reintegration into the society of the victims and formulating strategies or exit strategies to eliminate the need to receive services
- ensuring successful reunification as the main goal

Sources: (IOM, 2020; IOM, 2023)

## 4.4. SPECIAL CONSIDERATION IN ASSISTING CHILD VICTIMS OF TRAFFICKING

The specific physical, psychological, and psychosocial harm experienced by trafficked children, along with their increased vulnerability to exploitation, shall be addressed separately from the assistance to adult victims. The best interests of the child must be the primary consideration in all actions. Child victims of trafficking should receive appropriate assistance and protection, with full consideration given to their special rights and needs. Additional measures to assist child victims should be implemented, including but not limited to:

1. Ensure that the safeguarding policies to assist child victims are in place, in accordance with the Convention of the Rights of the Child and Palermo Protocol, as well as national policies such as Anti Trafficking in Persons Act (2008), Prosecution of TIP Cases Act (2016), and Child Protection Act (2003).
2. Ensure that the trauma-informed and child-friendly procedures for the identification of child victims are in place.
3. Before conducting victim identification or any other processes requiring interviews with children, ensure that the child's physical and psychological condition is thoroughly assessed and prepared. The physical and psychological safety of children must be prioritized and maintained throughout all procedures.
4. Officials involved in victim identification and criminal justice processes should recognize that child victims may need time to build trust with unfamiliar officials before they feel comfortable disclosing the truth or cooperating. Therefore, it is essential that these officials are trained in psychological first aid and possess skills in conducting trauma-informed interviews with children.
5. Ensure that the inquiry, investigation, and examination of child victims of trafficking are conducted in a separate, child-friendly room. A social worker or psychologist must be present during these processes, in accordance with Thailand's criminal procedure codes, to provide appropriate support to the children.
6. Ensure that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.
7. Ensure that children not identified as victims of trafficking are referred to the competent officials under the Child Protection Act (2003) to receive necessary welfare assistance and child protection support.
8. In cases where children are not accompanied by relatives or guardians, take step to identify and locate family members. Following a risk assessment and consultation with the child, measures should be taken to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest.
9. In situations where the safe return of the child to his or her family is not possible, or where such a return would not be in the child's best interests, establish adequate care arrangements that respect the rights and dignity of the trafficked child.
10. Ensure that a child who is capable of forming his or her own views has the right to express those views freely in all matters affecting him or her, particularly concerning decisions about
11. his or her possible return to the family. The views of the child should be given due weight according to his or her age and maturity.
12. Provide children with appropriate physical, psychosocial, legal, educational, housing and health-care assistance.
13. Protect the privacy and identity of child victims and take measures to prevent the dissemination of information that could lead to their identification.

# CHAPTER 5:

## WORKING WITH THE POTENTIAL VICTIMS OF TRAFFICKING

### 5.1. THE IMPORTANCE OF SCREENING

As stipulated in Article 5 of the Vienna Convention on Consular Relations (VCCR), one of the most important responsibilities of consular officers is protecting the rights of and providing consular assistance to their nationals abroad.

Consular officers are positioned at the first line of contact with nationals in or passing through the receiving state. While executing their consular duties, they are the first persons to detect the signs of exploitation, coercion, intimidation, illegal activities, or deceptive recruitments that the nationals including underaged children are being subjected to. It is, therefore, crucial that consular officers have the knowledge, basic skills and understanding of procedural measures that need to be undertaken as and when they encounter potential victims of trafficking in persons. With the appropriate knowledge and skills, diplomatic and consular officers as frontline officers are able to **identify, protect, refer** the potential and presumed victims of trafficking for assistance (Council of the Baltic Sea Secretariat, 2022).

Diplomatic missions and Consulates might encounter trafficking in persons cases via:

- Contact from local authorities or NGOs asking for assistance or information in a trafficking in persons case – they might be investigating a case or assisting a person from the country you represent and want to get in contact with you.
- Direct or indirect call for help from victims – victims might contact their consulates/embassies for assistance either themselves or through family and friends
- People approaching the consular section seeking other assistance, for example with the issuance of a new passport, assistance to travel back home and so on, may need to be looked at more closely.

### 5.2. SCREENING FOR THE IDENTIFICATION OF VICTIMS

**Screening** is the fundamental process involving a series of observations and interactions, through which an individual is identified as a potential trafficking victim by relevant practitioners. It is the first and foremost step leading towards the official victim identification by the competent national authorities (IOM, 2023). Identification may be **reactive** (when an individual **self-identifies** as a trafficking victim and seeks assistance) or **proactive** (when relevant authorities identify trafficking victims in the course of their work).

#### 5.2.1. THE SCREENING PROCESS

An individual is preliminarily assessed or identified as a potential or presumed trafficking victim based on signals and indicators observed through interaction and communication. Those who consent are then referred for further assessment, assistance, and protection. Formal identification is the official determination that a person is a victim of trafficking, leading to voluntary referral for assistance, available services and reintegration and/or legal remedy.

In the case of children who may be in age dispute (for example, a child who may lie about their age or a child who may not appear to be a child), the presumption that the person is a child should be applied and treated as a child until another determination can be made.

- Ask yourself what could be the actual reason for asking for your assistance?
- Are they potential victims of crime?
- Visa and residence permit applications from other nationalities wanting to travel to your country
- What are their risks of being trafficked to or in your country?
- Is there anything suspicious in their visa application, such as the reference persons, the people the person is traveling with or their reasons for traveling?
- Are their documents in order? Is it safe for this person to accept this job?
- Consular cases involving children leaving or entering a country

## 5.2.2. CONDUCTING SCREENING INTERVIEWS

Consular officers have the advantage of being in the position to invite applicants for interviews to gather more information in response to their requests for consular services. This provides an opportunity to investigate any suspicions the consular officers may have and identify potential victims. Acting upon suspicions, they can conduct screening interviews not only with their nationals but non-nationals who apply for tourist visas and those who are going to work in the consular officers' home country (sending states).

The purpose of the screening interview is to assess if the person involved in the identification procedure is a victim of trafficking. During the identification conversation, screening questions should be asked using widely recognized TIP indicators. Based on the answers it can be determined whether the identified person is most likely a victim of trafficking. During the screening and identification process, it is possible to identify those who may already be 'victims' of trafficking and those who may be potentially 'at-risk' of trafficking.

**IMPORTANT:** Interviews should take place in a safe and confidential environment and in a language the victim can easily understand.

Victims should be informed first and foremost of the reason for the interview and interviews should be conducted in line with the *four Cs' approach*.

1. Consent of the person to the interview
2. Confidentiality
3. Interviewee should be in **C**ontrol whether to stop the interview at any time; to ask for clarification
4. Cooperation with the local and national authorities (for referral and assistance) at a later stage

### 5.2.3. PREPARATION FOR THE SCREENING INTERVIEW

First and foremost, consular officers must be mindful that interviewing a potential victim of trafficking is not an interrogation and should only be conducted with written consent. An interviewer must always respect and adhere to international guiding principles pertaining to the rights, wishes and safety of the interviewee. Consular officers should be well-versed in the universal guiding principles of “Do No Harm” and “Victim-Centered Approach” in all their interactions with VOTs.

During an interview, if there is any indication that the procedure may negatively impact the VOTS more than before, it should be postponed. It is an ethical responsibility of consular officers and those working with VOTS to be attentive to their reactions and thoroughly assess potential harm and risks.

#### DO NO HARM APPROACH

The Do-No-Harm approach in addressing trafficking in persons involves recognizing the impact of existing or an exploitative experiences and their consequences. This understanding helps to limit and prevent causing harm when interacting with, assisting, and protecting victims of trafficking. The principles of the ‘Do No Harm’ approach include:

- Full information and consent
- Gender sensitivity
- Respect and protection of human rights
- Confidentiality, and right to privacy and anonymity
- Self-determination and participation
- Non-discrimination
- Best interests of the child

#### VICTIM-CENTERED APPROACH

The victim-centered approach prioritizes the **rights and dignity of victims**, including their well-being and safety, in all efforts to prevent and respond to all forms of trafficking in persons. It involves a **systematic** way of **engaging** with victim(s) from the moment a person is suspected of being a potential victim of trafficking and in every subsequent interaction. This approach requires the empathetic, individualized, holistic delivery of continuous and reliable services in a non-judgmental and non-discriminatory manner.

The priority is to create an **enabling environment** where victims can speak to someone they trust, safely, and confidentially. They should feel listened to and heard, supported and empowered, and able to express their needs and wishes.

Victims must be **fully informed** at every stage of the process, including what they can expect and what is and is not possible. They should have the opportunity to provide **consent** before any action is taken on their behalf. They must be protected from stigmatization, discrimination, retaliation and re-traumatization.

**Informed consent** means each victim should be able to make a choice based on all available facts, freely and voluntarily.

**IMPORTANT:**

For the cases involving children, immediately seek technical assistance from national agencies and INGOs responsible for child protection and coordinate with them for the best interest of the child.

#### 5.2.4. SCREENING INTERVIEWS WITH POTENTIAL VICTIMS [P-E-A-C-E MODEL]

##### Step 1: Preparation (P)

It is crucial to make sufficient preparations before interviewing a presumed victim. A consular officer who is going to interview a national who appears to be a potential victim of trafficking, based on general indicators, directing indicators, or information gathered from the consular service application, must adhere to the following principles and conduct the interviews in a professional, ethical, and empathetic manner.

- Select appropriate consular staff for the interview, with special consideration for gender and children. Preferably, these members should have knowledge of TIP (where possible) and be aware of the need for confidentiality, discretion, and empathy when interacting with victims.
- Minimize the number of people in the interview room. When an interview team is established, roles and responsibilities should be clearly divided between the lead and secondary interviewers. For example, the lead interviewer is responsible for building rapport and interviewing the victim. In contrast, the secondary interviewer is responsible for taking notes and acting as the “eyes and ears” for the lead interviewer by monitoring the victims’ reactions and detecting any signs of increasing stress to safeguard their well-being and safety.
- Interview the victim alone. If the victim arrives with a person exhibiting controlling behavior, talk to the victim in private. This person may be the trafficker or someone working for the trafficker.
- Listen actively and empathetically. The lived experiences of victims are always traumatic. Do not be shocked. Do not show disbelief or doubt when the victim is recounting his or her stories or is experiencing emotional vulnerability.
- Ensure sufficient time is set aside for the interview. Interviews of this nature may require regular breaks and time for bathroom use within the interview schedule, especially when dealing with child victims of trafficking.

**KEY NOTE:**

Members of interview teams must maintain a professional but friendly attitude and appearance throughout the interview

##### Step 2: Engage with Victim and Build the Trust (E)

This step lays the foundation for the interview and questioning. It is a critical stage that involves the following:

- Introduce yourself and your team (if other consular staff are joining) [i.e. a brief and friendly welcome followed by the name and position].
- Allow the victim to choose where to sit.
- Ask the potential victim if he or she agrees to participate in the interview.

- Obtain written or signed consent from the potential victim before conducting the interview.
- Offer the person the option of interacting with male or female consular staff.
- Inform the person that all answers will be kept strictly confidential.
- Assure him/her that they can take time answering the questions and take a break if needed. They can ask questions or seek clarification or repetition of what has been explained or stated at any time.
- Ascertain that the potential victim has clearly understood all of what has been explained.
- Ask the potential victim if he or she has any questions at this stage.
- Keep the conversation neutral and light.

#### KEY NOTE:

- First impressions always matter and are critical for ensuing questioning.
- As much as consular officers are observing the presumed victims, they are in turn keenly observed and even judged by the interviewees .
- It is recommended to prepare a welcoming statement in advance.
- Stay relaxed, calm, confident, friendly, reassuring, and professional.

#### Recommendation:

If the potential victim has developed a positive rapport with the first responding consular officer, build on that relationship before conducting a formal interview.

Victims are often reluctant to disclose his/her experiences and may mistrust law enforcement. Therefore, consular officers should be aware of the following factors during the interview process. They should exercise patience with potential victims and avoid being judgmental:

- Fear of perpetrators: PVOTs might worry about retaliation against themselves or their families.
- Fear of authorities: PVOTs may be fearful of being arrested for legal violations, such as illegal entry, working without a permit, or engaging in unlawful activities related to their trafficking.
- Loyalty to perpetrators: PVOTs may have personal relationships with their traffickers. These ties should not be assumed to indicate that the person is a victim or was acting voluntarily.
- Lack of trust: During trafficking, PVOTs often experience severe breaches of trust.
- Self-preservation: Such experience can make PVOTs very distrustful of others and suspicious of service providers' motives.

Consular officers should be mindful that, due to the exploitative circumstances they have endured, PVOT may exhibit the following signs or behaviors:

- Difficulty in providing coherent and consistent account
- Lack of cooperation
- Due to the distressful experience or other causes (drug or alcohol use, for example), victims may not be able to remember all the details of what happened to them (memory loss) and may try to make up details to fill in the blanks.
- Evident contradiction in the victims' statements
- State of denial where PVOTs may downplay or fail to acknowledge the severity of their situation
- Changing facts of the story

**KEY NOTE:**

*Changes in the details of victims' stories may be a result of **memory loss** or **numbing** (blanking out experience from the mind)*

**Step 3: Account (A)**

This phase consists of two elements:

- Obtaining uninterrupted narrative or free recall from the person being interviewed
- Expanded and follow-up questioning for clarification on any inconsistency in the free narrative

**GOOD PRACTICES FOR OBTAINING THE NARRATIVE**

- Using open-ended questions will allow the interviewee to provide free and uninterrupted narrative
- Using specific questions to clarify and add information that is only relevant to the trafficking in person situation

**Asking the questions**

Consular officers should prepare in advance and use carefully selected and timed questions to ensure the person's account is accurate and not suggestive.

**Do's****(a) Open-ended questions**

Open-ended questions are more effective in emotional situations when you want the person to express their feelings.

**Examples:**

- Please tell me more about...
- Kindly explain that to me some more.
- Anything else about the (situation)?

**(b) Specific questions**

This type of question focuses on specific events and helps secure additional information or clarify any ambiguities. Specific questions typically begin with **"Where"**, **"When"**, **"What"** and **"Who"**.

Avoiding using **'Why'** as much as possible, as it can imply blame or accusation towards the victim. Use it only where appropriate.

**X Negative question:** "Why didn't you escape when you had the opportunity?"

**✓ Positive alternatives:** "What prevented you from escaping?" or "Was there anything that prevented you from leaving?"

**(c) Closed Questions**

Closed Questions are used to get specific information. They can typically be answered with "yes" or "no", a single word, or a short phrase. When open-ended or specific questions fail to provide evidential details or clarify a point, closed questions can be asked. However, officers must be cautious, as closed questions may lead the victim to guess the answer or situation.

**Example:** "Do you want to try talking to someone about it?" (Response: Yes or No)

## Don't

### Leading Questions

A leading question is one that implies the answer or assumes something as a fact. Whether a question is leading depends on it and what the witness has already stated in the interview.

*Example of Leading Questions:* “He took all your money, didn't he?”

#### IMPORTANT:

- Questions must be simple. They should not contain jargon.
- They should contain only one point per question.
- Questions should not be too directive or suggestive.
- Victims may pause during recalling phase which may be due to memory loss and/or painful memories.
- Officers should always adhere to the ‘do no harm’, ‘victim-centered approach’ principles.

Where possible, Consul officials should use a sentence that is enthusiastic or cheering up such as

- “It seems you are bit uncomfortable. Please let me know what you want or if you want a break.”
- “Let's move to the next question.”, and “You are doing great!”

### Step 4: Closure (C)

Officers should end the interview not abruptly but in a structured and timely manner.

- Summarize the interview and give the interviewee the opportunity to add anything or confirm with the witness if the information is correct or invite the victim to correct mistakes that may have been made.
- Allow time during the closure for the interviewee to ask questions he/she may have of the interview team and for the interview team to explain in detail the plans for the next steps.
- Ask the interviewee if the interview process is acceptable, if he/she fully understood it and if he/she experienced any problems that he/she wishes to discuss.
- The interviewee should also be thanked and given contact of the investigation or relevant officer's details. Ensure he/she does not feel isolated and that he/she will be kept informed.
- At this stage, reopening the interview or asking evidential questions should be avoided.

### Step 5: Evaluation (E)

This is the final part of the screening interview. At this stage, officers should evaluate the interview against the objective set (i.e., to obtain new information or collaborative information). Officers should assess both the process and techniques used in the interview and discuss any points for improvement.

Evaluation should be conducted among the interview members after each component of the interview, rather than waiting until the entire interview process or investigation is complete. This approach allows for immediate investigative actions and provides evidential guidance for the next interview.

**AT THE END OF THE INTERVIEW THE VICTIM OF TRAFFICKING SHOULD BE MADE AWARE OF: Their status**

Please refer to Annex 1 Standardized screening form under the National Referral Mechanism.

### 5.3. INTERVIEWING CHILDREN

When interviewing children, communication involves verbal communication, non-verbal communication or body language (gestures, eye contact, tone of voice) and active listening. Children communicate differently than adults. They may:

- Not trust you or feel comfortable with you at first. It is important to prioritize building rapport over completing all the interview questions.
- Show feelings of boredom or frustration.
- Feel afraid or isolated during an interview.
- Have a short attention span, meaning that the process may need to take place over several sessions – interviews.
- Be easily distracted.
- Use limited vocabulary depending on age/development.
- Need time to express themselves using several methods.
- May express themselves in various ways, including creative ways such as drawing or playing, rather than through interviews.
- Be unable to answer all questions or provide incoherent responses, which could result from traumatic experiences, developmental differences, or disabilities.

Given this, diplomatic and consular officers interviewing children should utilize all their communication skills, both verbal and nonverbal.

- Use the bodies – sit face-to-face with the child, with no obstacles, leaning slightly forwards, and position yourself at the child's eyes' level.
- Use the eyes – read the child's body language and posture.
- Use the ears – listen carefully to what the child says and rephrase to make sure they have understood and to ensure that you understand the child correctly.
- Use the mind – concentrate on the child, show interest and avoid distractions.
- Use the heart – be patient, empathetic and worthy of trust. The interview should stop as soon as the child shows signs of fatigue or distress.
- Use the right environment – ensure the interview is conducted in an appropriate setting, such as a private room that guarantees confidentiality while prioritizing the child's comfort and safety. A well-prepared, child-friendly environment can greatly support the child during the interview.
- Use the equipment – such as toys, paper, pencils, colors, dolls, or similar items, to help engage with the child. These can be used to make the child feel more comfortable. In many cases, children are better able to express themselves and respond when they are drawing or playing.
- Use the right person – In some cases, gender or physical appearance can play a significant role in engaging with children. Some children may feel afraid or uncomfortable around certain characteristics or genders that resemble those of an abuser or trafficker. If you notice that the child appears uneasy, consider offering or consulting with the child to determine if they would

prefer another adult of a different gender to conduct the interview or accompany them in the interview room.

When interviewing a child, it is important not to do the following:

- Apportion blame.
- Undermine or downplay the child's statement.
- Give advice or propose solutions (instead, listen to the child's solutions and ideas).
- Immediately tell a story of a similar experience.
- Lie or tell half-truths.
- Promise things that cannot be delivered (this will undermine the child's trust).
- Discipline the child and/or use an intimidating voice.
- Interpret what the child says without clarifying it.
- Avoid showing facial expressions or body language that convey disagreement or ridicule toward a child.

In conclusion, building a relationship of trust with children is essential for an effective case management process. Children who do not feel safe and do not trust the interviewer will not share information, making it impossible to determine their best interests.

## 5.4. CHALLENGES

Gathering sufficient information during the first interview to properly identify and assist the person is often challenging. You must be patient and build the victim's trust and always be aware of her/his physical and psychological needs.

It is important that victims of trafficking are promptly identified by trained and educated staff and assisted without delay, especially if there is reason to believe the victim is a child. Several indicators that can help identify a trafficked person.

### Key Notes:

Victims have the right to:

- Be protected and assisted
- Be properly identified
- Not discriminated against
- Not be prosecuted for crimes they have committed as a part of their exploitation
- Compensation
- Safe return and reintegration

At the end of the screening interview, there are 4 possible follow-up actions.

If the interviewee is a child or a person under 18 years of age:	
A	Contact the NRM agency in charge of (or competent for) child protection.  Alternatively, international organizations such as UNICEF and IOM can be contacted for assistance
If the interviewee is an adult:	
B	You think that he/she may be a victim of trafficking. With his/her consent, contact and refer the case to the NRM agencies of Thailand.
C	You think that he/she may be a victim of trafficking, but the person does not want to be referred to the NRM, at least for the time being.  You must explain to him/her about the services available under the NRM; and encourage the person to think about it, and to provide him/her with a list of contact details in case he/she changes his/her mind and details of organizations that can provide support for specific topics, such as check-ups, or legal aid.
D	You do not think the person is a victim of trafficking but nevertheless needs some support.  Provide him/her with details of specific support organizations and a leaflet with information on trafficking.

**IMPORTANT:**

It is utmost important to inform the relevant national agencies such as Ministry of Foreign Affairs in your country about the case without delay as you now have the knowledge and information about a crime.

For A, B, and C, proceed with referral of the potential victim to the NRM agencies for further assessment and official identification.

**YOU MUST BE SENSITIVE TO**

- the trauma they may have experienced
- their cultural background
- their fears and apprehension

## 5.5. REFERRAL FOR PROTECTION AND ASSISTANCE

Diplomatic and consulate personnel who conducted the screening are recommended to store the information obtained from the screening. From the information obtained from the interviewee, if there are reasonable grounds to believe that the person is either a potential or presumed victim of trafficking (VOT or PVOT), with consent from the VOT or PVOT, the relevant National Referral Mechanism agency must be contacted immediately for referral and official identification, necessary protection and assistance, and the transfer of information (IOM, 2023).

*Referrals should be arranged in an immediate and appropriate manner as soon as the person is identified as a potential victim of trafficking (PVOT).*

## 5.6. GENERAL INDICATORS OF TRAFFICKING IN PERSONS

The following are generalization; however, they can guide consular officers in the right direction, especially when they suspect they may be dealing with a potential victim of trafficking.

**Table 5.1: General Indicators of Trafficking in Persons**

Gender/Nationality/Ethnicity	Can the identity be verified? Are they really who they say they are?
Age	Consider the age of the applicants in comparison with the age on the documents, and pay specific attention if the application involves a child and/or children travelling without family or legal guardians
Travel arrangement	Did the applicants arrange their own travel or visas?
Current home and work address	Do the applicants have accommodation of their own which they are responsible for? OR They do not know the address of their home and work
Documentation	Carefully review the documentation provided such as personal information, point of entry, stay permit, school/university enrollment documents
Last location	Ask about the routes travelled and the conditions under which the entry visa or work permit was obtained
Sector of employment	Where do they work? Are they working legally?
Body language	Does the applicant appear unreasonably nervous and fearful?
Signs of abuse	Does the person bear the signs of physical abuse such as: <ul style="list-style-type: none"> <li>• injuries that appear to be the result of an assault, or impairments typical of certain jobs or control measures</li> <li>• injuries that appear to be the result of the application of control measures</li> </ul>

Signs of trauma or psychological abuse	The applicant seems distrustful of the authorities and/or <ul style="list-style-type: none"> <li>acts as if he/she were instructed by someone else</li> <li>shows signs of exhaustion, fear and anxiety</li> </ul>
Financial independence	Do not have access to their money in their bank accounts OR Do not have a bank account under their names
Health	Visibly under-nourished, untidy, wearing clothes in poor condition

#### Diplomatic and consulate

The general indicators mentioned above help consular officers create a profile of a trafficking victim (VOT) and potential trafficker(s). However, the indicators alone are not conclusive evidence of trafficking. When a person is observed as a potential victim of trafficking, it should initiate a screening process to determine whether this is or could be a trafficking in persons (TIP) case.

For the detailed indicators for each type of trafficking, please refer to Chapter 2, Section 2.5 of this Consular Guidelines.

### 5.6.1. INDICATORS FOR CLOSE OBSERVATION WHEN PROCESSING REQUESTS FOR CONSULAR SERVICES

#### I. Nationals with student visas

- What course is he/she currently enrolled in, and what is the duration of the course?
- Who is financing his/her tuition fees?
- Is he/she studying full-time or part-time?
- Does his/her visa allow him/her to work alongside his/her studies?
- Is he/she working on a student visa?
- What is his/her income?

#### II. Nationals with an offer for employment in Thailand or in other countries

- What type of job opportunity has been offered?
- How did he/she learn about the opportunity?
- Who offered him/her the job? Through job advertisement or online recruitment agency?
- Has he/she signed an agreement or contract? Can he/she provide a copy?
- What promises have been made to him/her regarding placement, hiring, and employment conditions?
- Does he/she have the financial means to arrange his/her own travel? If someone else purchased the air ticket, who was it?
- Does he/she have to reimburse the cost of the air ticket?
- Is there a clause in his/her contract concerning the return and reimbursement of the air ticket?
- In which sector will he/she be employed and are these sectors prone to trafficking in persons?
- What is his/her income level?
- Will the earnings from the offered job be sufficient to live on?
- Will he/she be travelling alone or as part of a group? Does he/she know the other group members?
- What are the demographics of the other group members (age, gender, nationalities)?

- Has he/she paid someone to assist with the consular service application?
  - Did someone prepare him/her for this interview?
- III. The Educational Background and Professional Experience of the Applicant
- What is his/her current profession and experience?
  - Do his/her educational certificates align with his/her qualifications?
  - Does he/she possess the necessary qualifications for the job offered abroad?

The same methodology can be applied for non-nationals with an offer for employment in your country.

### 5.6.2. OTHER FACTORS TO LOOK INTO

#### I. Travel and employment agencies

- Are the invitation documents legitimate?
- Are the travel and employment agencies legally registered? Can they provide proof?
- Has the agency issued invitations to people before? If so, how many?
- (Is the number of invitations issued reasonable, or does it seem suspicious?)

#### II. Applicants of tourist visas/transit visas

- How long is he/she going to stay?
- Has he/she got a return travel ticket?
- Does he/she have information about a confirmed reservation for accommodation?
- Will someone assist him/her upon arrival?

While the consular requests are being processed, it is advisable to:

- Provide applicants (both nationals and non-nationals) with contact information for consulate and embassies, local law enforcement helplines, and emergency numbers in the destination country
- Provide information about the immigration rules in the destination country, including whether he/she is required to register with local authorities upon arrival
- Explain the conditions of his/her tourist, study, or work visa, such as duration of validity, entry/re-entry permissions, and whether it permits them to work

Diplomatic and consular personnel should understand that:

- Victims may not see themselves as such – even if they feel exploited, they may believe that they were simply unlucky to fall into the hands of bad recruiters or employers.
- Victims may not be aware that there are laws to protect them and that they can call for help, support and assistance.
- Foreign victims may not speak any local language and thus feel unable to communicate with relevant authorities.
- Victims may not trust or may even fear law enforcement and do not know whom to call for help.
- Victims may fear the direct negative consequences impacting their situation, such as losing money or being deported.
- Finally, victims may fear reprisal from perpetrators against them or their family, in their place of work or their place of origin

*(Surtees and Johnson, 2011)*

**Important:**

If it seems suspicious that the person applying for consular service is at risk of being trafficked, conduct further including into the company or educational institution that the applicant intends to join and travel or employment agency that have assisted with their consular service application.

## CHAPTER 6:

# REFERRAL OF POTENTIAL VICTIMS OF TRAFFICKING TO THE COMPETENT AUTHORITIES OF NATIONAL MECHANISM OF THAILAND

### 6.1. ROLES AND RESPONSIBILITIES OF CONSULAR OFFICERS IN PROVIDING VICTIM SERVICES IN THAILAND

According to the NRM Operational Guidelines, the consular officer or diplomatic mission in Thailand has the role and responsibility to report potential TIP cases to the relevant authorities and provide support to the Royal Thai Government to ensure successful screening, identification, and protection services. The details of roles and responsibilities are outlined below:

1. **Initial Stages:** As first responders, consulate officers who receive reports from their citizens in Thailand about potential trafficking incidents must notify the Ministry of Foreign Affairs of the Royal Thai Government. Note Verbale should be sent to the Internal Cooperation Division under the Ministry of Foreign Affairs, with copies to the relevant parties such as DATIP
2. **During the Screening and Identification Process:** The Multi-Disciplinary Team may request support from the diplomatic mission to provide translation and interpreter services when necessary
3. **Post Identification and Status Determination:** After the formal identification process is completed, consular and diplomatic missions must work closely with the Royal Thai Government to provide further assistance. This includes briefing their citizens on their status determination result, the next procedure they should follow, and conducting awareness and information sessions for VOTs who have been relocated to Government-run shelters. The briefing and information sessions should cover Thai policies and cultural sensitivity aspect. These topics are crucial to addressing knowledge gaps regarding Thailand's policies and regulation, as well as the cultural barriers between foreign victims and shelter staff.
4. **Pre-Return:** At this stage, diplomatic missions need to collaborate with the Royal Thai Government to prepare the return process for VOTs. This includes conducting nationality verification and family tracing as needed, preparing travel documents, identifying and securing budget resources for return, and arranging pre-departure orientation programs for the victims.
5. **During Return Process:** Diplomatic missions are encouraged to be present at the airport and, in close coordination with shelter staff, DATIP, and Immigration Offices, and facilitate airport assistance for victims of trafficking (VOTs).
6. **Post Return:** Upon the return of the VOTs, the diplomatic mission is expected to encourage their national counterparts to provide follow-up care for the victims and ensure that the victim's status, as provided by the Thai Government, is not revoked.

### 6.2. PREPARING REFERRAL TO THE NRM AGENCIES

Upon the completion of the screening interview, the interview team can summarize their perception of the presence or absence of trafficking indicators in the following way:

### 6.2.1. Collecting preliminary information from the victims

<i>Score/Possible finding</i>	<b>Assessment of Screening Interview</b>
<i>0 – Absence</i>	There is no sign of the presence of the TIP indicators
<i>Possible finding 1</i>	Some signs were spotted; satisfactory explanations were provided which confirm the likelihood of the presence of the indicator
<i>Possible finding 2</i>	Signs are present and evidence has been collected during the interview with the person.  This evidence will support the case during the phase of formal identification by NRM agencies
<i>Possible finding 3</i>	Unable to decide for the time being.  Lack of clarity in the facts and explanations leads to uncertainty

Please refer to Diagram 4.1, Chapter 4: Case Management Process.

#### **Step by Step on Referral to the NRM**

If the screening results indicate potential trafficking, consular officials must inform the victims about the available services for victims of trafficking, their rights, and the pathways to access those rights in Thailand. Below are the guidelines for referring the case to local authorities in Thailand:

1. Prepare a referral letter with the subject “Request Assistance to Screen and Identify Potential Victims of Trafficking.” The letter should be addressed to the Multi-Disciplinary Team, including Division of Anti Trafficking in Person (DATIP) of the Ministry of Social Development and Human Security (MSDHS), the Anti - Trafficking Division of the Royal Thai Police, the Investigation Division of the Thailand Immigration Bureau, and the Department of Special Investigation of the Ministry of Justice. Additionally, copy the International Cooperation Division of the Ministry of Foreign Affairs.
2. In your letter, describe why you believe the case is a TIP case, outlining the act, means, and purposes of the trafficking as described in the Palermo Protocol and the Thailand Anti-Human Trafficking Act 2008.
3. Attach a case summary based on your identification, a copy of the passport of the potential victims of trafficking, and any other relevant documents. For example, medical records, photo of injuries, evidence of abuse, etc.
4. Send the letter to the aforementioned agencies and follow up regularly. Once they receive the letter, The Multi-Disciplinary Team will contact a respective diplomatic mission to schedule the screening and identification.

If the screening and identification results from the MDTs are positive, the MDT will seek the consent of the PVOT to participate in the NRM process. This process includes the provision of protection services such as safe places or shelters, rehabilitation and further care, voluntary return, legal assistance, and reintegration.

If the victims consent to join NRM, they will be moved to government-run shelters primarily in Phitsanulok (for female victims), Chiang Rai (for male victims), and Pathum Tani (for both male and female victims), or else.

While victims reside at the government-run shelter, the RTG will coordinate with the embassy and other agencies to prepare return and reintegration assistance for the victims. During this time, the embassy's role is pivotal. The embassy will be required to provide travel documents and facilitate family tracing and pre-departure counseling for the victims.

For detailed information on a step-by-step NRM process, please refer to the flowchart in Annex 2.

**Table 6.1: Contact Persons of Royal Thai Government to Refer the Case**

Ministry of Social Development and Human Security (MSDHS)	Mr. Anukul Peedkaew, Permanent Secretary of MSDHS. Email: society@msociety.go.th
Immigration Technology Center, Thailand Immigration Bureau	Pol.Col. Surasak Surinkaew, Deputy Commander, Immigration Technology Center. Email: balahmm@gmail.com
Anti Trafficking in Persons Division of Royal Thai Police	Pol.Col. Narong Tesvibul, Deputy Commander of ATPD. Email: atpdpolice@gmail.com
Division of Anti Trafficking in Persons (DATIP) of the Ministry of Social Development and Human Security	Mr. Ratchaphon Maneleek, Director of DATIP. Email: protection@msociety.go.th
Department of Special Investigation (DSI) of the Ministry of Justice	Police Major Siriwish Kasemsup, Director of the Bureau of Human Trafficking, DSI. Email: siriwish_ka@dsi.go.th
Department of East Asia Affairs of the Ministry of Foreign Affairs (MFA)	Mr. Piyapak Sricharoen, Director-General, Department of East Asian Affairs. E-mail: eastasiawatch@mfa.go.th, saraban1300@mfa.go.th
Department of Europe, MFA	european01@mfa.go.th
Department of America and South Pacific, MFA	saraban1100@mfa.go.th
Department of South Asia, Middle East and Africa, MFA	saraban1300@mfa.go.th
Department of Consul, MFA	saraban0300@mfa.go.th

### 6.3. KEY CONSIDERATION IN REFERRING THE PVOTs FOR FURTHER PROTECTION

#### Data Confidentiality

Data confidentiality is crucial in all stages of assistance. Upholding data confidentiality means preventing PVOTs from further harm.

Keep the personal information and record of the interview confined to as few people as necessary to maintain confidentiality.

<b>DO</b>	Fully inform the person about the collection and use of their data, as well as their right to access it.
	Exercise due diligence in the managing and disposing of confidential personal data.
	Ensure that all printed materials containing confidential data about the victim are kept secure.
	Ensure that disclosure does not increase the risk to the victim or any member of their family, even if the victim has given written consent to the disclosure of confidential data.

<b>DON'T</b>	Release any confidential data unless the victim provides written and fully informed consent, authorizing the release of personal data for specific purposes and uses.
	Under any circumstances disclose any confidential data to individuals whose identity and credentials are unknown.
	Leave printed materials containing confidential data about victims of trafficking unattended or in areas accessible to others.
	Disclose any confidential data to relatives of the presumed victim if there is a suspicion that they have been involved in trafficking.

#### Rights-Based Approaches

- Ensure that the presumed victim is informed about his/her rights.
- With a gender-sensitive approach, offer immediate support and protection relevant to the needs of the victim.
- Respect for human rights and dignity – victims of trafficking have the right to justice, non-punishment, assistance, compensation, liberty, and security. This includes the right not to be detained, not to be expelled, respect for the principle of non-refoulement and not to be subject to re-entry bans.
- Non-discrimination and opposition to assistance to victims of trafficking in persons based on both direct and indirect discrimination on grounds of disability, ethnicity or national origin, color, race, creed, gender, marital status, domestic circumstances, age, HIV status, sexual orientation, gender identity/expression, religion, language, political belief, or any other grounds.
- Ensure victims' self-determination and participation in the decision-making process.

If the PVOT is under 18 years of age, the principles of protection of children's rights as set out in the United Nations Convention on the Rights of the Child should apply. This means that in all decisions and during the screening interview and referral stage, the best interest of the child is paramount and must be taken into consideration.

If the child is able to express his or her preferences for the options that are presented to him or her, his or her views should be taken into account within the framework of the protection measures of the National Referral Mechanism.

Consular assistance to the victim may include, but is not limited to the following:

- Confirmation of identity
- Victim's access to NRM services, including protection and shelter
- Interpretation (if required)
- Provision of travel documents, such as passports
- Issuance of other certificates and documents, as required
- Financial assistance
- Rehabilitation: medical, psychological, social, legal, and shelter support
- Safe return: departure assistance; airport assistance; transportation to the country of origin

**IF YOU SUSPECT** that an individual is a victim of trafficking and if she/he wants help, you should, with the consent of the victim, report the situation to the relevant authorities/organizations/assistance providers.

**IF YOU IDENTIFY** someone as a potential victim of trafficking, you should treat them as a victim of trafficking.

In both scenarios, **YOU MUST ACT FAST** to assist a victim of trafficking, so you must be familiar with the National Referral Mechanism procedures.

## 6.4. DEVELOPING STRATEGIES TO EFFECTIVELY COMBAT TRAFFICKING IN PERSONS AT DIPLOMATIC MISSIONS AND CONSULATES

Although diplomatic missions and consulates cannot undertake criminal investigations leading to the prosecution of TIP cases, your contribution to the first-level detection and preliminary screening of potential victims of trafficking (PVOT) is imminent.

Involving all relevant entities at the national level to unify and coordinate efforts remains a vital component in the effective prevention, suppression, and punishment of trafficking in persons (TIP) offences. Supporting victims with adequate protection, support, and care is a paramount responsibility of all stakeholders, including diplomatic missions and consulates.

Therefore, it is imperative that the diplomatic missions and consulates develop working methods and procedures not only for handling of TIP cases but also for preventing trafficking in persons at their respective national fronts.

**Recommended actions can include, but are not limited to, the following:**

- Establish and maintain regular consultation and information sharing with key NRM agencies on TIP cases and the trend of TIP
- Enhance cooperation with national authorities, international organizations, civil society organizations, and NGOs to better counteract trafficking in persons
- Promote wider usage of the Consular Guidelines and share it with respective national agencies in your country
- Develop and implement operational procedures for handling TIP cases using the Consular Guidelines as a reference
- Share information about the NRM in Thailand and the availability of protection and assistance services with respective diaspora communities in Thailand, as well as to the general public in the country one represents. Publicize this information on respective institutional websites and via social media
- Develop outreach strategies at embassies and consulates, and make travel information (flyers/booklets) featuring how to travel and stay safe, and emergency contact numbers in Thailand available
- Allocate sufficient resources for outreach and public information efforts
- Strengthen the capacity of personnel to identify, refer, and assist vulnerable migrants and conduct regular assessment
- Arrange capacity-building training and interventions designed to address knowledge and information gaps
- Review, reassess, and readjust operational procedures periodically

All outreach efforts should be clear about who can benefit from the assistance offered through the NRM of Thailand, what services are offered, and how migrants and victims of exploitation who need assistance can access them.

# ANNEXES

## Annex 1: Standardized Screening Form Under National Referral Mechanism

Form Kor Khor 1

Photograph  
of screened  
individual

Unofficial translation

### Screening Form for Identifying Indicators of Human Trafficking and Forced Labour or Services According to National Referral Mechanism (NRM)

Date of screening \_\_\_\_\_ Location \_\_\_\_\_  
Name of organization \_\_\_\_\_ Province \_\_\_\_\_

#### Interpreter information

First name and surname \_\_\_\_\_  
Interviewee's language \_\_\_\_\_  
Contact information \_\_\_\_\_

#### General information of screened individual

First name and family name \_\_\_\_\_ (in Thai)  
First name and family name \_\_\_\_\_ (in English)  
Date of birth \_\_\_\_\_

If the individual is a minor, is there a guardian present? (Yes/No)

First name and family name of the guardian(s) \_\_\_\_\_

Age \_\_\_\_\_ year Gender  Male  Female  Other  Prefer not to disclose gender

Disability  Yes  No

Difficulty  Seeing  Hearing  Walking or climbing steps

Remembering or concentrating  Self-care, such as washing all over or dressing

Communicating

Ethnicity \_\_\_\_\_ Citizenship \_\_\_\_\_

Current address \_\_\_\_\_

National ID/Passport/other identity document \_\_\_\_\_ Number \_\_\_\_\_

**For Thai**

Channel of entering the Kingdom of Thailand \_\_\_\_\_

The channel of exiting the Kingdom of Thailand \_\_\_\_\_

**For foreigner**

Country of origin \_\_\_\_\_

Channel of entering the Kingdom of Thailand \_\_\_\_\_

Immigration status  Legal  IllegalChannel of entering into trafficking  Online  Broker  Other (please specify: \_\_\_\_\_)

Company name \_\_\_\_\_

Type of business \_\_\_\_\_ Job position \_\_\_\_\_ Type of work permit \_\_\_\_\_

Telephone number \_\_\_\_\_ Other contact information \_\_\_\_\_

**Voluntary participation in providing information in the screening process** Willing to share information and participate in the screening process Willing to participate in the screening process but not ready to share information due to:  
\_\_\_\_\_ Unwilling, for the following reasons: \_\_\_\_\_

Agreed to refer to the organization by name: \_\_\_\_\_

Signature of screened individual \_\_\_\_\_ Signature of screening officer \_\_\_\_\_  
( \_\_\_\_\_ ) ( \_\_\_\_\_ )Signature of interpreter \_\_\_\_\_  
( \_\_\_\_\_ )

<b>General indicators</b>	
<b>Types of Recruitment and travelling:</b>	
<ul style="list-style-type: none"> <li><input type="checkbox"/> Signs indicating a control, directing or dictating in a movement i.e. there is a person controlling a movement, or being monitored by a tracking device.</li> <li><input type="checkbox"/> Payment made to others to obtain an illicit passport, travel document or work permit</li> <li><input type="checkbox"/> Travel document or work permit provided by the person persuading to or paying for work</li> <li><input type="checkbox"/> Payment or expenses paid to a transporter or carrier, amounting to _____ Baht</li> <li><input type="checkbox"/> Travel expenses paid in advance by someone, with a condition to repay through a work afterward, amounting to _____ Baht</li> <li><input type="checkbox"/> Doubtful on a travel document used _____</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Uncertainty about an exact destination</li> <li><input type="checkbox"/> Destination does not match the prior agreement made before travel</li> <li><input type="checkbox"/> Traveling alone or in a group led by a broker for the first time.</li> <li><input type="checkbox"/> Traveling without any cash on hand.</li> <li><input type="checkbox"/> Intended destination is not in Thailand</li> <li><input type="checkbox"/> Being harbored at one place waiting for someone to pick up and transfer to others</li> <li><input type="checkbox"/> During traveling, unable to access to food and drinking water as wished</li> <li><input type="checkbox"/> Communication with other persons or relatives during traveling is restricted</li> <li><input type="checkbox"/> Other _____</li> </ul>
<p><b><u>Physical Conditions</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Not engaging in conversation or making eye contact with others</li> <li><input type="checkbox"/> Exhibiting signs of fear, paranoia, or anxiety</li> <li><input type="checkbox"/> Visible injuries on the body / having injuries on _____ during travel or work</li> <li><input type="checkbox"/> If injured or ill, not receiving medical treatment from a doctor</li> <li><input type="checkbox"/> Required to wear minimal and sexually provocative clothing while working</li> <li><input type="checkbox"/> Tattooed or marked on a body to indicate ownership by exploiters</li> <li><input type="checkbox"/> Signs of restraint or evidence of drug use to compel work</li> <li><input type="checkbox"/> Exploited the vulnerabilities for work such as bringing a disabled person for begging</li> <li><input type="checkbox"/> Found items relating to sexual activity such as condoms, contraceptive pills, lubricating gel</li> <li><input type="checkbox"/> Other _____</li> </ul>	<p><b><u>Environmental Conditions</u></b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Found at locations where illegal activities are prevalent, such as sex trade exploitation, sexual exploitation or forced criminality such as scammer, employing illegal migrants, and where human trafficking or forced labour used to occurred</li> <li><input type="checkbox"/> Found in or originating from places associated with potential legal violations</li> <li><input type="checkbox"/> Coming from areas that advertise specific services related to sex work</li> <li><input type="checkbox"/> Found at a place where there is items relating to sexual activity such as condoms, contraceptive pills, lubricating gel</li> <li><input type="checkbox"/> Being bought or moved from one location to another or working in various establishments</li> <li><input type="checkbox"/> Living in unsanitary and/or overcrowded conditions.</li> <li><input type="checkbox"/> No housing provided.</li> <li><input type="checkbox"/> Other: _____</li> </ul>

### Indicators in Case of a Child

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Abnormal growth or developmental delays, such as cognitive impairments</li> <li><input type="checkbox"/> Unable to contact parents or guardians, or able to contact them but the child cannot or is afraid to share the truth</li> <li><input type="checkbox"/> Experiencing threats, fear, or not displaying joy like peers of the same age</li> <li><input type="checkbox"/> Engaging in work unsuitable for their age or in inappropriate environments, performing a dangerous job</li> <li><input type="checkbox"/> Employing or using children under 15 years old to perform a work that is dangerous, affects physically or mentally, or immoral</li> <li><input type="checkbox"/> Employing a child whose age below 18 years old to work on a vessel</li> <li><input type="checkbox"/> Modifications made to work equipment for the child's use</li> <li><input type="checkbox"/> Working inappropriately for the child / prohibited jobs by the law such as a job involving a hazardous chemical component or waste</li> <li><input type="checkbox"/> Working in places where the law prohibits, such as slaughterhouses</li> <li><input type="checkbox"/> Working more than 8 hours per day or 48 hours per week / working between 10 PM and 6 AM</li> <li><input type="checkbox"/> No break provided as prescribed by the law</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Reports of children traveling alone without adult supervision</li> <li><input type="checkbox"/> Reports of children being fostered or adopted and then exploited illegally.</li> <li><input type="checkbox"/> Traveling with non-relatives.</li> <li><input type="checkbox"/> Coerced into illegal activities, such as drug courier / drug dealer / forced criminality such as scamming</li> <li><input type="checkbox"/> Engaging in street vending such as selling candy or flowers</li> <li><input type="checkbox"/> Groups of children under the same caregiver appearing behaviors indicatively at risk of committing an offense</li> <li><input type="checkbox"/> Being homeless or without a stable residence</li> <li><input type="checkbox"/> Wearing untidy clothes / appearing in poor hygiene</li> <li><input type="checkbox"/> Appearing mal-nutritious</li> <li><input type="checkbox"/> Using items relating to sexual activities such as condoms, contraceptive pills, lubricating gel</li> <li><input type="checkbox"/> Other _____</li> </ul> |
|--|---|

### Indicators of Forced labour or Services

#### Types of Coercion and Exploitation:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Unable to move freely or can only do so by being monitored by someone under close surveillance / being monitored during work</li> <li><input type="checkbox"/> Unable to contact family or others</li> <li><input type="checkbox"/> Passport or important personal documents confiscated</li> <li><input type="checkbox"/> Threatened with reporting to the police if refusing to work.</li> <li><input type="checkbox"/> No employment contract provided in the worker's language</li> <li><input type="checkbox"/> Forced to sign an unfair, improper or illegitimate contract, or forced to enter into a unfair debt</li> <li><input type="checkbox"/> Working conditions not as agreed</li> <li><input type="checkbox"/> Forced to perform work or services not originally agreed upon</li> <li><input type="checkbox"/> Job description, work, travel, and accommodation dictated by the employer</li> <li><input type="checkbox"/> Threatened in any manner</li> <li><input type="checkbox"/> Debt bondage by their own one or others'</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Subjected to physical harm or threats of harm to oneself, family, or others, creating fear of danger to life, body, freedom, reputation, or property of oneself or others</li> <li><input type="checkbox"/> Forced to work more than normal business working hours set forth by the law</li> <li><input type="checkbox"/> Forced to work without any days off</li> <li><input type="checkbox"/> Coerced to work unwanted or illegal task</li> <li><input type="checkbox"/> Wages withheld by someone – unable to withdraw</li> <li><input type="checkbox"/> Forced to work to repay debts, to raise money for ransom, or to find replacements to cover one's debt</li> <li><input type="checkbox"/> Unfair wage deductions for debt repayment or as a punishment</li> <li><input type="checkbox"/> Expenses of work equipment, food, accommodation, or other expenses deducted from wages</li> <li><input type="checkbox"/> Witnessing a physical or mental abuse of others in a workplace</li> <li><input type="checkbox"/> Other _____</li> </ul> |
|---|---|

#### Other indicators

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**Summary of the Screening Officer**

- Indicators suggest the individual be a potential victim of trafficking in person in the form of
- Sexual commerce
  - Production or distribution of pornography
  - Other sexual exploitation
  - Slavery or other acts similar to slavery
  - Begging
  - Organ removal
  - Forced labour or services
  - Others (please specify) \_\_\_\_\_  
– Justification \_\_\_\_\_
- Indicators suggest the individual be a potential victim of forced labour or services (Article 6/1)  
Justification \_\_\_\_\_
- No indicators
- Might be a survivor under other laws \_\_\_\_\_
- Might be a perpetrator under other laws \_\_\_\_\_

**Referral**

- Refer to an Identification and Screening Center at \_\_\_\_\_
- In case of children, coordinate with the Provincial Social Development and Human Security Office (PSDHS) to refer to the Provincial Child and Family Shelter at (province) \_\_\_\_\_
- Refer to the Immigration Office (province) \_\_\_\_\_
- Refer to police station \_\_\_\_\_
- Other \_\_\_\_\_

Signature \_\_\_\_\_ Screening Officer  
(\_\_\_\_\_)

Signature \_\_\_\_\_ Interpreter (if applicable)  
(\_\_\_\_\_)

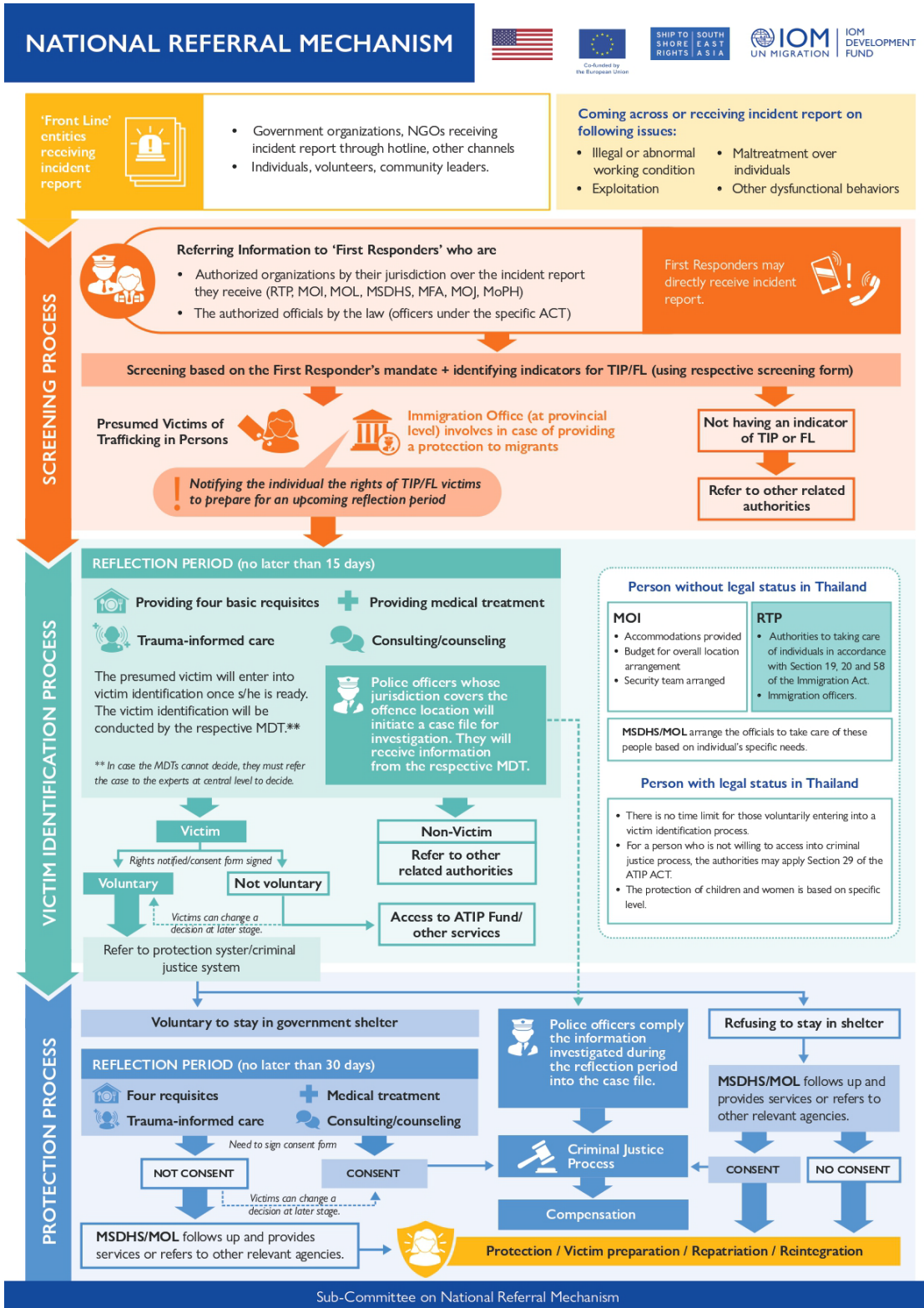
**Consent form for Thai national or foreigner legally entering or residing in Thailand**

I acknowledge and understand my rights and consent to participate in the screening at the designated location arranged by the officials. I hereby sign as evidence of my consent.

Signature \_\_\_\_\_ Screened individual  
(\_\_\_\_\_)

**Other additional indicators**

## Annex 2: National Referral Mechanism (NRM) Flowchart



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