

GROUP 2

VICTIM ASSISTANCE AND PREVENTION

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I. INTRODUCTION

The Group elected, by consensus, Mr. Titawat Udornpim as the Chairperson and Mr. Daisaku Kaneko and Mr. Shahinur Md. Islam as the Co-Chairpersons; Ms. Aileen Marie S. Gutierrez, the Rapporteur, and Mr. Chiaki Ochiai and Ms. Tania Jeannette Fiallos Rivera, as the Co-Rapporteurs. The report will discuss Victim Assistance and Prevention and focus on the following agenda: (a) current situation of trafficking in persons; (b) criminal justice measures for protection of victims of trafficking in persons; (c) victim assistance measures in trafficking in persons; (d) preventive measures against trafficking in persons; and (e) promotion of inter-agency and international cooperation from the viewpoint of victim assistance and prevention.

II. SUMMARY OF THE DISCUSSIONS

A. Current Situation of Trafficking in Persons

1. Modus Operandi

Human traffickers employ various modes in the furtherance of their illegal activities. The participants identified them as follows:

(i) *False recruitment*

This is the most common mode used by traffickers, who pretend to be recruiters or representatives of agencies/entities authorized to deploy foreign workers to other countries. Victims are promised an expense-free recruitment process, including airfare, travel documents and other fees. Then, victims are supplied with false documents to facilitate their exit from the country of origin and entry to the country of destination. Usually, traffickers assure the victims well-paying jobs, including provisions for food and accommodations. However, upon reaching the country of destination, the victims are forced into prostitution or slavery.

(ii) *Fake marriages*

This mode involves the marriage of the victim to a foreigner for the purpose of exploitation. It is a misuse of the immigration system of one country so that a victim can travel abroad.

2. Forms of Exploitation

Trafficking in persons is a transnational crime that abuses the human rights of its victims. It can take the following forms: sexual exploitation, forced labour or services, slavery, and removal or sale of organs.

3. Characteristics of Vulnerable Groups

Identifying trafficking victims is the most challenging task for any law enforcement agency. However,

there are certain indicators that a person is most likely a victim of trafficking. These are more apparent in vulnerable groups, who are marginalised in their respective societies. These groups often have some or all of the following characteristics: (a) poverty; (b) hopelessness; (c) legal minor; (d) uneducated or of low education; and (e) unemployed. In some countries, refugees and victims of natural disasters or climate change are also considered vulnerable.

4. Key Elements for Assistance and Prevention

Victim assistance and prevention are part of the multi-dimensional approach in combating human trafficking. The participants identified the key elements, as follows: (a) an organized system for victim support; (b) a policy of addressing poverty, which is a primary factor that makes potential victims susceptible to trafficking, through sustainable development programmes; (c) an effective mass-awareness programme; and (d) capacity-building training for key players of the criminal justice system, such as law enforcers, immigration officers, prosecutors, judges, and other stakeholders.

B. Criminal Justice Measures for Protection of Victims of TIP (Trial Stage)

Human trafficking undermines the safety and security of all its victims. Thus, certain measures are made available to the victims, particularly during trial. Victims of trafficking are usually unaware of their rights, and if they are, they are unwilling to testify against traffickers either for fear that their families would be harmed or because they are embarrassed to reveal the circumstances in which they lived. Thus, victim protection measures are imperative so that victims feel secure in filing cases against traffickers.

1. Protective Measures during Trial

Some participants have institutionalised witness-protection programmes in their countries, which provide security and safe houses to victims/witnesses, including their families. For those who do not have similar programmes, their governments, through law enforcement agencies, provide security to victims/witnesses. Protection of witnesses are also done through the following: (a) presence of accompanying persons for psychological support; (b) testimony via video link; (c) exclusions; (d) closed trial; (e) pre-trial procedures; (f) limitation of questioning; and (g) limiting disclosure. During trial, coordination measures with NGOs, civil society groups, psychologists, and other medical practitioners are important actions to protect the victim.

2. Organized and Speedy Trial Procedure

Human-trafficking cases should be heard quickly. To this end, the participants explained that they make use of a pre-trial procedure or a pre-trial test, wherein parties stipulate facts and the testimonies of witnesses are already taken for use during the trial. Some participants even have special courts or tribunals mandated to handle cases involving women, children, and human-trafficking cases within a prescribed period.

3. Punishment Reflecting Gravity of Offence

All participants agreed that for criminal prosecution to be a deterrent in human-trafficking cases, a severe penalty should be imposed on human traffickers. While some participants claim that their respective laws have severe penalties for human trafficking, which are also not bailable, some participants said that their penalties are not severe. For some participants, a high penalty is imposed for cases involving multiple charges which can also be considered human-trafficking offences. In all of the participants' jurisdictions, the judge decides whether to grant bail.

Human-trafficking cases should be punished more harshly than other cases, considering the damage and trauma to its victims. Considering the severity of the crime, the suspension of sentence and granting of bail should be addressed more cautiously than ordinary crimes. Thus, prosecutors should present sufficient evidence to prove the human-trafficking offence beyond reasonable doubt and make the judge understand the gravity of the offence for him or her to sentence appropriately.

C. Victim-Assistance Measures in TIP

While victims of human trafficking often enter the country of destination illegally, once discovered, they should be protected, not be treated as criminals to be punished and deported. Some participants stated that in their countries, victims are granted a special status allowing them to stay in that country, and are even provided with a work permit, as long as they participate in the prosecution of trafficking cases. The International Organization for Migration (IOM) also provides money for repatriation of victims who could not

otherwise afford to go home. In the event that victims cannot pay for passports, the immigration authorities co-ordinate with the concerned embassies to request a waiver of fees.

Upon repatriation and to prevent re-victimisation, the IOM also arranges for reintegration by coordinating with NGOs regarding livelihood programmes and the filing of criminal cases against traffickers. IOM can also find housing and other facilities for trafficking victims.

All participants said that in their countries, shelters and similar facilities are available, some provided by NGOs and some by the government as mandated in their respective laws. Victim-support programmes include shelters and legal and medical assistance, such as psychological support. Participants identified the problem of limited shelter facilities for rescued, recovered, or repatriated victims. These victims are referred to shelters and concerned government agencies for legal assistance.

Participants also discussed that the issue of interpreters of victims'/witnesses' statements being of the same nationality or ethnicity as the victims or witnesses. This situation can lead to discomfort and fear of speaking plainly on the part of the victims or witnesses and can therefore be a hindrance to the investigation. In this regard, steps can be taken by the individual country to engage interpreters from different countries with the assistance of international organizations working on TIP issues. The victims'/witnesses' opinions in the selection of interpreters should also be considered.

D. Preventive Measures against TIP

1. Border-Control Measures

Each participant explained their border-control measures to prevent trafficking. While not all countries have the same equipment and hardware, the procedures in monitoring are similar. A participant shared that convicted and suspected traffickers are monitored by the immigration authorities and can be immediately stopped from entering the country, including those involved in prostitution, as identified by the immigration authorities. A participant stated that while the immigration authorities are monitoring traffickers, there are too many blind spots in their country and that it is difficult to check traffickers. Thus, monitoring is limited to bus stations and airports. More challenging is the patrolling of both land or sea borders between countries. For a participant, monitoring is conducted by an inter-agency task force composed of different agencies, such as the immigration authorities, airport, port and maritime police, and other concerned law enforcement agencies.

All participants agreed that a database, use of finger print scanners, photographs, and machine-readable passports are effective tools in monitoring human traffickers. Not only names of international terrorists, convicted non-nationals and violators of immigration laws, but names of blacklisted non-nationals should also be in the database.

Most of the participants' countries are island nations or have very long land borders that are difficult to patrol. Thus, it is important to share information among countries. Concerned authorities of countries sharing borders should have sufficient information on border control.

2. Measures against Misuse of Travel and Identity Documents

All participants shared their respective immigration procedures regarding examination of passports and other travel documents. All countries issue machine-readable passports. Immigration authorities use electronic devices to determine the authenticity of the passport. If the authorities are not satisfied, a secondary inspection is conducted and the documents are checked again in another facility. A participant stated that his country has introduced the machine-readable passport system and immigration department is using software called "third eye" for detecting and identifying the genuineness of the travel document.

It was observed, however, that the use of machine-readable passports is not a big issue relative to trafficking. There are instances when minors use fraudulent birth certificates to secure a passport. Consequently, the issued passport is genuine, but the data contained in the passport is false, which is a challenge to immigration inspectors.

3. Awareness Raising

All the participants agreed that there should be efforts to raise public awareness as a preventive measure against trafficking in persons. Awareness raising should be done through public information campaigns, using broadcast, electronic and print media, to make the public, particularly vulnerable groups, aware that trafficking is a crime and that if they are victimised, they can seek legal protection.

The awareness campaigns should also be conducted in cooperation with civil society and NGOs to create public awareness about the forms of trafficking, including the methods adopted by traffickers and risks to victims.

Seminars or training should also be conducted for law enforcers, prosecutors and even judges. In the exercise of their duties, key players are aware of the existence of trafficking in persons. However, they still need to explore the other dimensions of trafficking as well. Increasing awareness about trafficking among immigration authorities, diplomatic personnel and other concerned persons is also important, as they are practically in contact with potential victims regularly.

Some participants' countries have institutionalised programmes against trafficking in persons, conducting training sessions and workshops to enhance the knowledge and capacity of front line workers and broadcasting information for the citizens. Some participants believe that in their countries, awareness raising is a challenge. While there are seminars conducted for academia and researchers, there are none for the general public. Likewise, not all concerned government officials, like labour inspectors, are even aware of what constitutes trafficking in persons. Thus, all related organizations/agencies in government should tackle the problem together. It was agreed that all allied law-enforcement agencies should be trained and provided a tool-kit to assist them in understanding and acting on TIP violations.

4. Forfeiture Proceedings

The participants agreed that high profit is one of the motivations for human trafficking and forfeiture of illegal proceeds earned from trafficking in persons can significantly contribute to preventing human trafficking. Thus, a law consistent with international conventions, norms and domestic laws relative to this matter is important.

5. Promotion of Inter-agency and International Cooperation from the Viewpoint of Victim Assistance and Prevention

All the participants agreed that trafficking in persons is a heinous crime with global dimensions. It is a high-income game, wherein traffickers change their *modi operandi* quickly to adapt to various situations. Thus, it is imperative for all countries to work together and cooperate to prevent trafficking in persons.

The participants explained that in their countries, they have on-going victim-assistance programmes in cooperation with NGOs, civil societies and social-welfare organizations, which provide shelter and other forms of assistance to victims of trafficking. Legal aid is also available to the victims. Task forces are also established to prevent and protect trafficking victims. Relative to some participants, while their country has no specific organization that exclusively takes care of the victims, its Ministry of Foreign Affairs takes measures to address this concern. There is cooperation among their domestic organisations, like the probation, coast guard, immigration, and even prosecution authorities.

Beyond the domestic sphere, some countries are already signatories to international conventions relative to trafficking in persons. Some have existing extradition and mutual legal assistance treaties. In one country, an Action Plan is in place, wherein international cooperation is effected through assistance programmes. In particular, assistance is extended to South-East Asian countries by providing education, support for victims, improvement of occupational capacity, and implementing stricter enforcement of regulations. There are also efforts through various international assistance programmes to reduce poverty and cooperate with each country to prevent trafficking in persons. But despite the existence of said Action Plan, there is no provision regarding international cooperation. Indeed, it is imperative for countries to participate in treaties and exchange information.

Different forms of international cooperation were also discussed, like extradition, mutual legal assistance,

exchange of investigation techniques and information, initiating co-investigation teams, law-enforcement co-operation and informal cooperation. In reality, extradition and mutual legal assistance requests take time. Thus, informal cooperation, also known as police-to-police or agency-to-agency assistance, is useful during the case buildup or the investigation stage. It is usually faster and easier to obtain information. Thereafter, the formal co-operation can follow. Informal and formal cooperation should be used to speed up proceedings.

Cooperation with international organizations, like the IOM, is also essential for victim prevention and protection. Aside from conducting research, data collection, information sharing and awareness-raising activities, it also helps in the review and crafting of legislation. IOM provides legal, medical and psychological aid to victims and helps them be reintegrated upon arrival in their countries of destination.

Some participants stated that while their governments do not provide shelter for the victims, NGOs do. They identified this issue as one in which international agencies can play a vital role.

III. RECOMMENDATIONS

Porous boundaries and globalisation are making it easier for traffickers to escape detection. Hundreds of individuals are lured into prostitution and forced labour around the world. Countries should come together and protect victims of human trafficking.

It is worthwhile to note that communicating with a traumatised trafficking victim is imperative in combating trafficking. Gathering an accurate account of the incidents leading to trafficking is always a challenge to any law enforcement agency. Thus, to facilitate interviews, specialized/small groups may be created to assist in the interpretation, obtaining of information, and other related issues from victims/witnesses and other concerned persons.

The participants suggested the following:

1. Victim assistance and protection:
 - Physical support for better investigation, i.e. forensic and technological support.
 - Technical and logistical assistance for TIP units, especially for victim protection and shelters; and financial assistance to victims.
 - There may be some internationally acceptable form of witness-protection measures consistent with domestic laws and customs.
2. Prevention measures:
 - Income generating programmes and mobilisation of socio-economic resources to avoid human trafficking; and rehabilitation and reintegration of the victims to prevent re-victimisation.
 - Advocacy campaigns for the general public targeting the vulnerable group of possible trafficking victims, such as comprehensive awareness and PR activities; making and distributing awareness-raising brochures on TIP; education, promoting compliance with laws and regulations related to TIP; and raising awareness of the demand which fuels sexual exploitation.
 - Enhancing the capacity of concerned agencies/institutions, particularly law enforcement, or front liners.
 - Investigation of the money earned by human trafficking may be given more importance and a mechanism of confiscating the illegal proceeds/income from TIP may be developed.
3. International cooperation:
 - Extended international co-operation for establishment of victim shelter homes; promoting the capacity of the key players.
 - Cooperation among NGOs, IOM and other civil-society groups to ensure rehabilitation and reintegration of TIP victims in the society.
 - Close liaison among key players of different countries, i.e. establishment of small working groups.

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- Governments, through international cooperation, need to improve education and employment to prevent migration and TIP.
- Extended opportunity for sharing of information regarding TIP.
- Special attention to vulnerable groups from countries that have been large-scale victims of war, internal disorder, gross economic crisis, climate change, etc.
- Mutual legal assistance for investigation, trial, repatriation, and extradition should be enhanced.

IV. CONCLUSION

UNAFEI provided the agenda for the group workshop. The participants talked about various issues, within and beyond the prescribed topics. There was a sharing of customs, current situations, challenges, and best practices of each participating country. After the spirited and lively discussions regarding several matters like domestic law, international conventions, the role of international agencies working on TIP, and other relevant issues, the group concurred on the contents of the group paper. Everyone agreed to take initiative and work on the recommendations made. Indeed, extended international co-operation on strengthening capacities of key players, victim support, preventive, and protective measures and mutual legal assistance are indispensable to improve the entire TIP scenario.