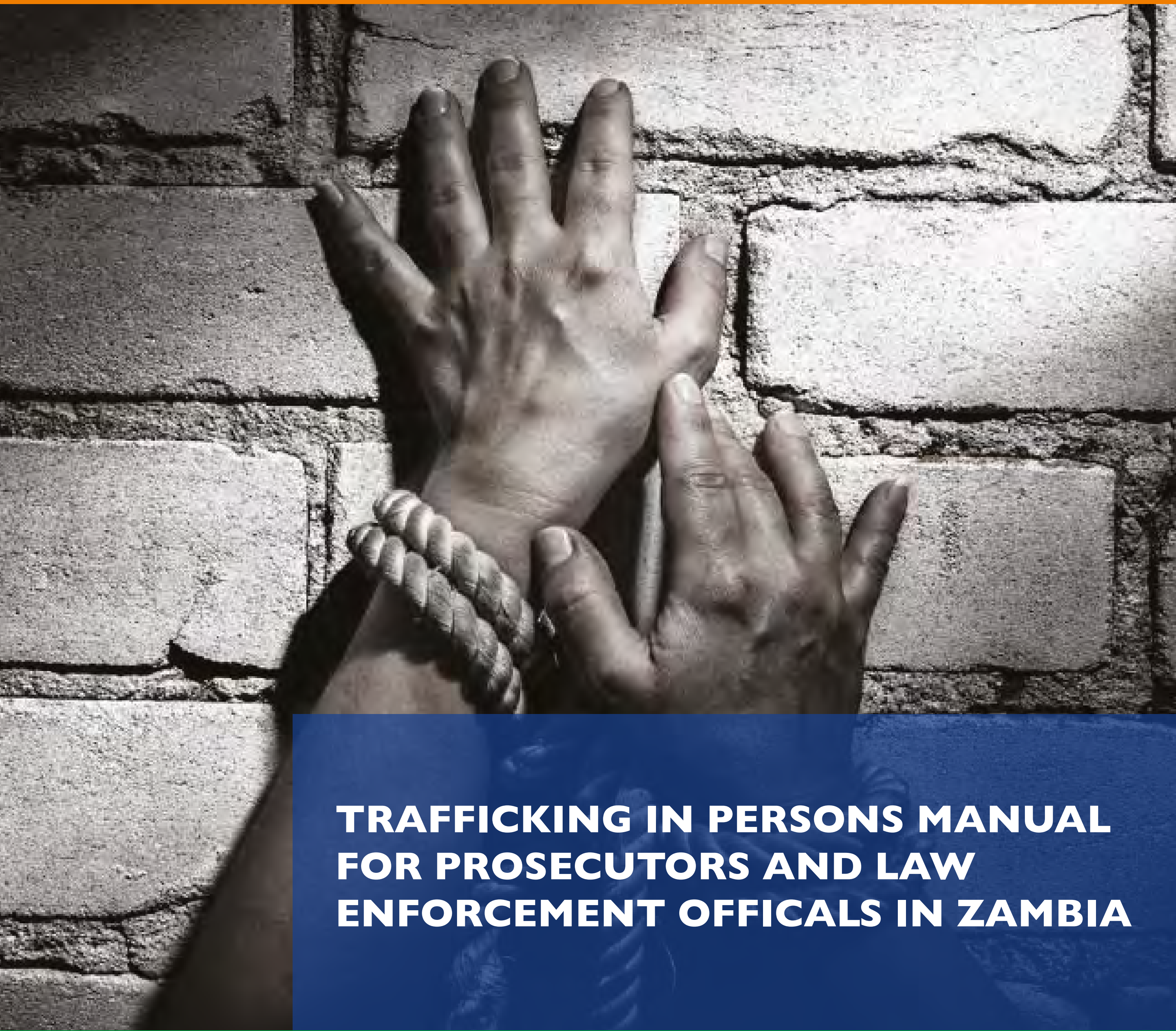

TRAFFICKING IN PERSONS MANUAL FOR PROSECUTORS AND LAW ENFORCEMENT OFFICALS IN ZAMBIA

IOM
UN MIGRATION

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to assist in meeting the operational challenges of migration, advance understanding of migration issues, encourage social and economic development through migration and uphold the human dignity and well-being of migrants.

This Training Manual was made possible through support provided by the United States Department of State and the United States Embassy in Lusaka, Zambia, under the terms of Award No. SSJTIP18GR0025. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the United States Government.

FOREWORD

Human trafficking is a global problem that has plagued many countries and accounts for the highest proceeds of crime after drugs, arms trafficking and prostitution without as much risk. It is a serious crime and a grave violation of human rights. Every year, thousands of men, women and children fall into the hands of traffickers in their own countries and abroad. Zambia is affected by human trafficking and has been designated as a country of origin, transit and destination of trafficking victims.

In order to effectively combat this crime, Zambia ratified the United Nations Convention Against Transnational Organized Crime on 24th April, 2005, the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Protocol against the Smuggling of Migrants by Land, Sea and Air. Zambia additionally domesticated these international instruments by enacting the Anti-Human Trafficking Act No.11 of 2008.The core objectives of the Act are, among others, to –

1. Provide for the prohibition, prevention, and prosecution of human trafficking.
2. Provide for the filing of and dealing with matters related to human trafficking.
3. Establish centres for victims of human trafficking.
4. Establish the human trafficking fund;

Domesticate the protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime.

The Anti-Human Trafficking (Amendment) Act No.16 of 2022:

a) Establishes the Anti-Human Trafficking Department and provides for its functions;
b) Reconstitutes the Committee on Human-Trafficking;
c) Provides for the certification of victims of trafficking;
d) Introduces authorized officers; and
e) Provides for the matters connected with, or incidental to the foregoing.

This Manual, therefore, provides practical tools to assist prosecution and law enforcement officers to understand the Anti-Human trafficking (Amendment) Act, and effectively apply the provisions of this Act to ensure the successful prosecution of human trafficking offences in Zambia.

It is our hope that with this Manual, human trafficking offences will be successfully prosecuted in Zambia and subsequently lead to the reduction and eventual eradication of this vice.

Dickson Matembo

Permanent Secretary

MINISTRY OF HOME AFFAIRS AND SOCIAL SECURITY

ACKNOWLEDGEMENTS

This training manual is designed to provide prosecution and law enforcement officials in Zambia with a reference tool to enable them to understand and effectively apply the provisions of the Zambian Anti-Human Trafficking Act as amended and is part of IOM Zambia's broader programme to operationalize the anti-trafficking legislation.

I wish to sincerely thank the International Organization for Migration (IOM) through the United States Department of States Office to Monitor and Combat Trafficking in Persons (TIP) for their financial and technical assistance in the review and updating of the prosecutor's manual. I further extend my gratitude to the Anti Human Trafficking Department, National Prosecution Authority, Judiciary, and all key stakeholders from the criminal justice system for their invaluable guidance and input in reviewing the manual.

Boris Mulengu

Director

Anti- Human Trafficking Department

MINISTRY OF HOME AFFAIRS AND INTERNAL SECURITY

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LIST OF ACRONYMS

ACC	Anti-Corruption Commission
AG	Attorney General
AHTD	Anti-Human Trafficking Department
CCTV	Closed Circuit Television
CID	Criminal Intelligence Department
CPC	Criminal Procedure Code
DEC	Drug Enforcement Commission
DM	Duetsche Mark
DRC	Democratic Republic of Congo
DSW	Department of Social Welfare
DPP	Director of Public Prosecution
GBV	Gender Based Violence
HARID	Home Affairs Research and Information Department
ICCPR	International Covenant on Civil and Political Rights
ICMPD	International Centre for Migration Policy Development
ID	Identity Document
IGO	Inter-Governmental Organization
ILO	International Labor Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labor
ISP	Internet Service Provider
IT	Information Technology
J-TIP	U.S. Department of State Office to Monitor and Combat Trafficking in Persons
MCDSS	Ministry of Community Development and Social Services
MoFA	Ministry of Foreign Affairs and International Cooperation
MoHAIS	Ministry of Home Affairs and Internal Security
MoJ	Ministry of Justice

NGO	Non-governmental Organization
NPA	National Prosecutions Authority
NRM	National Referral Mechanism
PEACE	Planning and Preparation, Engage and Explain, Account, Closure, Evaluate
PRC	People's Republic of China
SADC	Southern African Development Community
SOPs	Standard Operating Procedures
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act, United States of America
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
VSU	Victim Support Unit
VoT	Victim of Trafficking
WADA	Women Against Domestic Abuse
WHO	World Health Organization

GLOSSARY: WORKING DEFINITIONS AND TERMINOLOGIES

The terms detailed in the Glossary are presented in alphabetical order and are intended to be used for the purpose of this Manual. Unless specified, the definitions, are aligned with definitions provided in the Anti Human Trafficking (Amendment) Act No. 16 of 2022. In a different context, the definitions may vary.

Abuse of vulnerability: Physical or psychological abuse of a person and is not limited to taking advantage of the vulnerabilities of that person resulting from: (a)the person having entered the Republic illegally or without proper documentation; (b) pregnancy; (c) any disability of the person; (d) addiction to the use of any substance; and (e) reduced capacity to form a judgment by virtue of being a child.

Authorised officer: includes a police officer, an officer from the Anti- Corruption Commission, an officer from the Drug Enforcement Commission, an anti-human trafficking officer and an immigration officer.

Centre for victims: A facility for the provision of temporary accommodation in accordance with a programme referred to in sections forty-two and forty-three suited for the needs of victims admitted to the facility.

Child: means a person under the age of eighteen years.

Child labour: All forms of slavery or practices similar to slavery such as: (a) the sale of a child; (b) trafficking of a child for the purpose of engaging the child in work away from home and from the care of the child's family, in circumstances within which the child is exploited; (c) debt bondage or any other form of bonded labour; (d) serfdom; and (e) forced or compulsory labour, including forced or compulsory recruitment of a child for use in armed conflict.

Coercion: Violent physical or psychological pressure or persuasion and other forms of non-violent physical or psychological pressure or persuasion such as: (a) a threat of serious harm to a person or another person; and (b) the abuse or threatened abuse of the legal process.

Committee: The Committee on Human Trafficking established under section one hundred.

Court: For purposes of this manual, court is referred to the High Court or the Subordinate Court.

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

Department: The Anti- Human Trafficking Department established under section 2A;

Director: The Director of Anti-Human Trafficking Department appointed under section 2B;

Director of Public Prosecutions: The person appointed as such under the Constitution.

Exploitation: This includes: (a) all forms of slavery or practices similar to slavery, including debt bondage or forced marriage;

(b) sexual exploitation; (c) servitude; (d) forced labour; (e) child labour; (f) the removal of body parts; (g) forced involvement in armed conflict; or (h) any labour or services obtained through threats or other forms of coercion or the abuse of power or of a position of vulnerability.

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

Fund: The Human Trafficking Fund established under section one hundred and two.

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

Immigration officer: Has the meaning assigned to it under the Immigration and Deportation Act

Labor inspector: Has the meaning assigned to it under the Employment Code Act No. 3 of 2019.

Legal practitioner: Has the meaning assigned to it in the Legal Practitioners Act; Cap. 268.

Medical practitioner: A person registered as such under the Medical and Allied Professions Act.

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

Person: Has the meaning assigned to the word in the Constitution.

Practices similar to slavery: include - (a) debt bondage; (b) serfdom; (c) any institution in which, or practice under which -

(i) a woman who does not have the right to refuse is promised or given in marriage on payment of a consideration in money

or in kind to her parents, guardian, family or any other person; (ii) the husband of a woman, his family or his clan has the right to transfer her to another person for value received or otherwise; or (d) any institution in which, or practice under which a child is delivered by either one or both of the child's natural parents or by the child's guardian to another person, whether for reward or not, for the purpose of the exploitation of the child (iii) a woman, on the death of her husband, is liable to be inherited by any other person.

Premises: Includes a vehicle, an offshore installation and any other structure or shelter that is moveable or immovable.

Protocol: The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Public officer: Has the meaning assigned to it in the Public Service Pensions Act; Cap. 260.

Public Service: Has the meaning assigned to it in the Public Service Pensions Act; Cap. 260.

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

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

Slavery: The exercise of any or all of the powers- attaching to the right of ownership over a person.

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

State institution: Has the meaning assigned to the words in the Constitution.

Trafficking: To recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, 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.

Victim: A person who has suffered harm or is at risk of suffering harm, including mental and physical injury, emotional suffering, economic loss or substantial impairment of the person's fundamental human rights through acts that are a violation of this Act, and has been certified as a victim in accordance with this Act.

Welfare officer: A child welfare inspectors employed in the public service;

Worst forms of labour: Has the meaning assigned to it under the Employment Code Act, Section eighty-four.

CHAPTER ONE

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE MANUAL

1.1 Background to the Manual

While local conditions may vary greatly, certain challenges are commonly faced by prosecutors and law enforcement agencies throughout the world in their efforts to combat the crime of human trafficking,1 which is often dubbed as "modern-day slavery." Prosecuting cases of human trafficking can be a difficult task for law enforcement due the clandestine nature of the crime. Cases are seldom reported as victims of trafficking are often cowed into silence by the offenders, and the general public has minimal awareness of their plight. In many cases, victims are mistaken for criminals themselves, and face punishment instead of being offered help.

Trafficking in persons (TIP) is a transnational crime, crossing State borders and jurisdictions. It can also occur domestically, within national borders. The offence is best understood as a collection of crimes bundled together rather than a single culpable act; a criminal process rather than a criminal event. The need to conduct investigations or pursue criminals across international borders renders the work of prosecutors and law enforcement agencies particularly challenging. Substantive and procedural criminal law dispositions do not always support effective and proactive prosecutors responses. Existing laws, especially under circumstances where a specific anti-human trafficking legislation is lacking, are often difficult to enforce. Effective responses to human trafficking require strong cooperation among law enforcement and prosecution, both at the national and cross-border levels.

Trafficking offences are difficult to prosecute for the same reasons that they are difficult to investigate: the clandestine nature of the crime, the need to rely on evidence collected abroad and on the services of interpreters and translators, and the potential for victims and witnesses to be intimidated and for public officials to be corrupted. Enhanced international judicial collaboration, effective cooperation with victim assistance services, and the development of stronger witness protection measures must be part of the strategy to meet these challenges.

1.2 Purpose of the Manual

This training manual is designed to provide prosecution and law enforcement officials in Zambia with a reference tool to enable them to understand and effectively apply the provisions of the Zambia Anti-Human Trafficking Act No. 11 of 2008. It is aimed at offering guidance on how to handle some of the major challenges that might be faced in the prosecution of cases of human trafficking in Zambia.

1.3 Structure of the Manual and Presentation of Contents

Each chapter begins with a brief introductory paragraph that offers an overview of the content covered by the activities. Each chapter lists the specific learning objectives of the chapter along with the expected outcomes, the resources needed, the estimated time frame for facilitating the sessions, and

[1] In this manual, the terms human trafficking, trafficking in persons and trafficking are used interchangeably.

the key references used for the compilation of the material. There are several activities and case studies in each module, designed to prompt interactive sessions of discussion among participants on specific subjects dealt with by the respective chapters.

The manual is designed for use with approximately 20 participants. Facilitators are advised to adjust estimated time frames and sizes of work groups accordingly if there are more participants.

An extended, fictitious case study entitled "The Case of Precious Busang" is used for modules under Chapters 4 - 6. Where deemed necessary, guidelines for responding to questions within the activities related to this case study are included in the reading materials that follow the activities. Each activity has a stated objective and guidelines to the facilitator on leading the session, including the estimated timeframe for the activity. These details are presented in boxes directly before each activity for ease of reference. Questions for discussion or group work under each activity are also displayed in boxes for the same purpose.

Structurally, this manual is divided into six chapters, including this introductory chapter.

- **Chapter 1** gives a brief overview of the background for the development of this manual, describing its structure and introductory activities.
- **Chapter 2** provides guidance on methods of training and includes activities that are designed to set the scene for the smooth facilitation of sessions in the remaining chapters.
- **Chapter 3** is focused on the definition of TIP and the constituent elements and various stages of the crime of TIP. Based on the constituent elements of TIP, the chapter also delves into the distinction between trafficking of adults and children. In this chapter, the similarities and differences between trafficking in human beings and smuggling of migrants are explored. The chapter concludes by highlighting the role of prosecutors and law enforcement agencies and officers in responding to TIP.
- **Chapter 4** is centred on highlighting a human rights-based approach for victim identification and treatment. It discusses the basic principles involved and major indicators used in identifying victims of TIP. Related subjects such as interviewing victims, risk assessment and referral are also covered.
- **Chapter 5** focuses on investigations and provides guidance on three major techniques of TIP investigations with emphasis on proactive investigation, intelligence gathering and international cooperation.
- **Chapter 6** focuses on the prosecution of human trafficking offences and provides relevant information specifically for prosecutors. It also elaborates on and explains the different legal offences and other relevant provisions included in the Zambia Anti-Human Trafficking Act.

CHAPTER TWO

CHAPTER 2: APPROACH TO THE TRAINING

2.1 Introduction

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

2.1.1 Objectives

- Set up an atmosphere of trust, respect, participation and collaboration;
- Get acquainted with one another;
- State expectations; and
- Lay the ground rules for the training.

2.1.2 Expected Outcomes

- A conducive learning atmosphere;
- Open and frank interaction between participants and facilitators;
- Create a community of learning through delivery of training content that meets participants needs
- A set of rules to be observed for the duration of the training.

Resources: Flip chart, marker, pens and notebooks.

Time frame: 50 minutes in total, estimated.

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

2.2 The Challenge of Diversity

Trafficking in persons is a complex problem that requires cooperation among diverse stakeholders at the local, national, regional and transnational levels. This Training Manual has been developed for use by Zambian law enforcement officers and prosecutors from diverse institutions and backgrounds involved in the fight against human trafficking, who are likely to have varying levels of knowledge and experience on the topic.

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

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

REMEMBER

It's up to the facilitator to take the basic knowledge contained in the Manual and make it relevant and useful to those participating in the training.

2.2.1 Principles of Adult Instruction

- Adults want to achieve their learning goals by a direct route. When individual differences are respected, learners can connect their individual experiences to the material and learn in a way best suited to their needs. Facilitators should look at both process and content during the training. An effective session will strike a balance between presenting content and enabling interaction that connects the content with what learners need, want, and can do. When this balance is achieved, a group learns from its members as well as from the material, and a learning community develops.
- Facilitators can help a group become a learning community by:
- Spending the first part of each session on introductions, reviewing the learning plan for the session, and answering any questions about how the session will be conducted. This should include any "housekeeping" (for example, details about schedule, facilities, breaks and support services);
- Using plain language, multiple explanations and applications to participants' experience to support comprehension, without assuming that there is a uniform education level in a group;
- Providing frequent opportunities for learners to assess their knowledge, ask questions, offer comments, and apply course content to their own situations and expectations. This approach makes the material relevant and demonstrates respect for each person's needs and experience;
- Staying focused on the learning objectives of the training so that discussion can be managed in the right direction. At the same time, all responses need to be acknowledged and put into a context that respects participants' opinions and contributions;
- Presenting complex and detailed content in a logical way that is guided by unifying themes. Some key points are to enable trainers to focus on the most important information when adapting and carrying out the training;
- Participating as a colleague with facilitation responsibilities and interacting with learners as peers and colleagues who share an interest in learning about counter-trafficking. Everyone's

experience is welcome and valued, and you can set the tone by participating in discussion as well as by serving as a "master of ceremonies".

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

TIP

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

2.2.2 Training Facilitation

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

Use effective questioning techniques: Do not ask a question that suggests a predetermined answer. "Mind reading", or guessing what the trainer wants to hear, makes an answer right for the wrong reasons, and does not allow people to develop independent thoughts;

Avoid asking open-ended questions: For example, ask each person to make one comment about how an issue affects them in a particular situation, rather than asking the group "Who is affected by this issue?" or "What do you think about this issue?";

Record responses that require attention later and acknowledge them: Do not ignore comments because they do not address your needs or expectations. This will allow you to redirect communication without being authoritarian or insensitive;

opportunities' in ways that allow each person to participate: Use pairs, small group, and one-person-at-a-time interviewing methods to provide fair and considerate participation opportunities;

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

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

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

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

2.2.3 Expectation Setting

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

Refer to Annex A1 for Activity 2C on Expectation Setting

CHAPTER THREE

CHAPTER 3. UNDERSTANDING HUMAN TRAFFICKING

3.1 Introduction to Chapter

This chapter focuses on the definition of trafficking in persons (TIP) and explores the nature and scale of trafficking both globally and in Zambia. The chapter provides an overview of the international and national legislative frameworks as related to TIP and explores the similarities and differences between TIP and migrant smuggling. Participants are also exposed to the constituent elements and various stages of the crime of TIP. The chapter concludes by highlighting the role of law enforcement agencies and the criminal justice process.

3.2 Objectives

- Define "trafficking in persons";
- Understand the nature and scale of trafficking globally and in Zambia;
- Outline the provisions of the United Nations Protocol on Human Trafficking, the Southern African Development Community (SADC) Protocol on Trafficking and the Zambia Anti-Human Trafficking Act;
- Identify acts, means and forms of exploitation that constitute the crime of trafficking;
- Clarify the differences and similarities between smuggling and trafficking in persons;
- Understand child trafficking as a special case;
- Recognize the role of law enforcement in the response to trafficking in persons.

3.3 Expected Outcomes

- Be able to identify the salient features of trafficking in persons;
- Understand the nature and scale of trafficking globally, regionally and in Zambia;
- Be familiar with the United Nations Protocol on Human Trafficking, the SADC Protocol on Trafficking and the Anti-Human Trafficking Act;
- Understand the similarities and differences between human trafficking and smuggling;
- Understand why child trafficking constitutes a special case;
- Recognize the role that prosecutors and the criminal justice process play in ensuring an effective response to trafficking.

3.2 Legal Instruments and Normative Framework

This section provides an overview of the human trafficking legal framework from the international, regional and national perspective.

3.2.1 International Legal Framework

International law provides rules and principles that governs cooperation between and among of States. International law constitutes obligations and rights of States, just as domestic law provides obligations and rights of individuals. The international instruments relevant in addressing TIP include the following:

- The UN Convention against Transnational Organized Crime (UNTOC), which came into force on 29 September 2003, with 189 parties and 147 signatories

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), which came into force on 25 December 2003, with 173 parties and 117 signatories. The Palermo Protocol provides for the following:

1. Article 3 defines human trafficking;
2. Article 5 criminalizes human trafficking;
3. Article 6 provides guidelines for assistance to and protection of victims of trafficking in persons;
4. Article 7 provides for the status of victims of trafficking in persons in receiving States;
5. Article 8 provides for the repatriation of victims of trafficking in persons;
6. Article 9 provides measures for prevention of trafficking in persons;
7. Article 10 provides measures for information exchange and training amongst law enforcement, immigration and other relevant authorities. It places emphasis on the need for trainings to take a human right, child-sensitive and gender-sensitive approach; and
8. Articles 11, 12 and 13 provide for border measures; security and control of documents; and the legitimacy and validity of documents.

The Protocol against the smuggling of Immigrants by Land, Sea and Air which entered into force on 28 January 2004, with 146 parties and 112 signatories. This protocol provides for the following measures among others:

- Article 3 defines migrant smuggling;
- Article 5 provides for the protection of smuggled migrants against criminal liability
- Article 6 criminalizes migrant smuggling when committed intentionally and provides guidelines for such criminalization;
- Articles 10 through 15 provide for the prevention of smuggling and cooperation of state parties including information exchange, border measures, security and control of documents, legitimacy and validity of documents, training and technical cooperation and other prevention measures;
- Article 16 provides for protection and assistance measures for smuggled migrants; and
- Article 17 provides bilateral or regional agreements or operational arrangements or understanding aimed at preventing and combating migrant smuggling and enhancing provisions of the protocol; and
- Article 18 provides for the for the return of smuggled migrants.

International Labour Organization (ILO) conventions including:

ILO Forced Labour Convention (Convention No. 29 of 1930) and its newly adopted Protocol, which defines forced or compulsory labour.

ILO Abolition of Forced Labour Convention (Convention No. 105 of 1957), which sets up stricter principles regarding the exemptions from forced labour including use of forced labour as a punishment for holding specific political views or punishment for strikes; prohibits the use of forced labour for mobilising labour for economic development or as a measure of labour discipline.

ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour adopted by the International Labour Conference on 17 June 1999. For the purposes of this Convention, the term "the worst forms of child labour" comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

- The International Covenant on Civil and Political Rights (ICCPR) prohibits a number of practices directly related to trafficking, including slavery, the slave trade, servitude and forced labour.
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others Approved by the UN General Assembly on 2 December 1949 and came into force on 25 July 1951.
- The ICCPR prohibits several practices directly related to trafficking, including slavery, the slave trade, servitude and forced labour.
- Convention on the Elimination of All Forms of Discrimination against Women adopted by General on 18 December 1979 and came into force on 3 September 1981. Article 6 provides for States Parties to action to prevent all forms of traffic in women and exploitation of prostitution of women. General recommendation No. 19 identifies trafficking as a form of violence against women, putting women at special risk of violence and abuse.
- Decisions of International Courts and Tribunals provide subsidiary sources and soft laws for human trafficking
- Mutual Legal Assistance Agreements are foreign mechanisms of obtaining evidence located in foreign countries and are critical in investigations, prosecutions and judicial proceedings that are transnational in nature
- Extradition treaties between countries to enable sovereign states request and obtain custody of accused persons or perpetrators who are located in another sovereign state.
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3.2.2 Continental Legal Framework

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol 2003).
- The African Charter on Human and Peoples' Rights (1981).
- The African Charter on the Rights and Welfare of the Child (ACRWC) 2009.
- Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children, 2006.
-

3.2.3 Regional Legal Framework

- SADC Protocol on Trafficking (2022), yet to be ratified by Zambia;
- SADC Protocol on Gender and Development (2008);
- SADC Mutual Legal Assistance in Criminal Matters (2002);
- SADC on Extradition (2002);
- SADC Code of Conduct on Child Labour (2000); and
- SADC Protocol on Combating Illicit Drug Trafficking in SADC (1996).

3.2.4 National Legal Framework

Zambia has ratified various international, continental and regional instruments and enacted various national instruments to combat human trafficking including:

- Constitution of Zambia.
- Anti-Human Trafficking Act,11 of 2008 as amended by Act No 16 of 2022.
- Immigration and Deportation Act No. 18 of 2010.
- Refugee Act No.1 of 2017.
- Anti-Gender Based Violence No. 1 of 2011.
- Employment Code Act of 2019.
- Forfeiture of the Proceeds of Crime Act No. 19 of 2010.
- Cyber Security and Cyber Crimes Act No. 2 of 2021.
- Penal Code Cap 87 of the Laws of Zambia.
- Children's Act No. 12 of 2022.
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3.3 Defining Human Trafficking

3.3.1 Definition of Trafficking

Human trafficking is defined in international law in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol). This Protocol supplements the United Nations Convention against Transnational Organized Crime (TOC) 2000. Article 3 of the Protocol defines trafficking as:[2]

"Trafficking in persons shall mean recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs."

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

Article 5 of the Palermo Protocol requires State Parties to criminalize TIP as defined in Article 3, above. In addition to the criminalization of trafficking, the Protocol requires criminalization of:

- Attempts to commit the crime of trafficking;
- Participation as an accomplice;
- Organizing or directing others to commit human trafficking.

Refer to Annex B1: Case Study 3a: "Selling Olga"

Refer to Annex A2: Activity 2 - Defining Human Trafficking

3.3.2 Definition of Trafficking - Anti-Human Trafficking Act as Amended

Section 3 of the Act criminalizes human trafficking, as outlined in the Palermo Protocol. Part II, Section 3(1) of the Act states that Subject to subsections (2) to (11), *a person who intentionally and unlawfully trafficks another person commits an offence and is liable, upon conviction, to imprisonment for a term of not less than twenty years and not exceeding thirty years.*

[2] The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, is included in Annex I.

And Section 2 of the Anti-Human Trafficking (Amendment) Act No. 16 of 2022 defines trafficking in persons as:

"trafficking in persons" means to recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, 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.

3.3.3 Definition of Exploitation in the Anti-Human Trafficking Act

The Act defines exploitation to include:

- All forms of slavery or practices similar to slavery, including debt bondage or forced marriage;
- Sexual exploitation;
- Servitude;
- Forced labour;
- Child labour;
- The removal of body parts;
- Forced involvement in armed conflict; or
- Any labour; or
- Services obtained through threats; or
- Other forms of coercion; or
- The abuse of power or position of vulnerability.

3.4 Elements of Human Trafficking

On the basis of the Protocol definition, Article 3(a) and Section 2 of the Anti-Human Trafficking Act, TIP has three constituent elements: the **Act** (what is done), the **Means** (why is it done) and the **Purpose** (always exploitation). The table below highlights the element as provided for by the Anti-Human Trafficking Act.

3.4.1 Act

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

3.4.2 Means

The means (i.e. how) used to traffic a person refers to the manner in which a trafficker introduces or maintains an individual in the trafficking scenario. Means employed by traffickers can include fraud, deception and the abuse of power or of a position of vulnerability and can occur with or without the use of any overt (physical) force. The "use of power or of a position of vulnerability" contained in

Article 3 of the Protocol "is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the exploitation involved." This is to acknowledge that many trafficked persons are under the influence of someone to whom they are vulnerable, for example, a person holding a position of official authority or a parent or spouse.

3.4.3 Purpose (Exploitation)

The purpose of TIP is ultimately exploitation. The definition of trafficking in the Palermo Protocol includes the following forms of exploitation: prostitution of others; sexual exploitation; forced labour; slavery or similar practices; servitude and removal of organs. According to the Protocol, exploitation covers the forms of exploitation that shall be included "at a minimum." This means that the list provided in Article 3 is non-exhaustive. Individual states may include other forms of exploitation in their domestic criminal law, depending on national experiences with different forms of trafficking. "Exploitation of prostitution of others" and "sexual exploitation" are not defined in the Palermo Protocol or elsewhere in international law. They were intentionally left undefined so as to allow all States to ratify the Palermo Protocol, irrespective of their domestic laws relating to the legality or illegality of prostitution.

Elements for trafficking in persons (persons above 18 years)

ACT	+	MEANS	+	PURPOSE
(What is done)		**(How it is done)**		**(Why it is done)**
The Act:		By means of:		For the Purpose of Exploitation, including:
• Recruit, • Transport, • Transfer, • Harbour, • Receive or obtain a person, within or across the territorial boundaries of Zambia		• Threat; • Use of force; • Other forms of coercion; • Abduction; • Fraud; • Deception; • Abuse of power or of a position of vulnerability; • The giving or receiving of payments or benefits to achieve the consent of a person having control over another person		All forms of slavery or practices similar to slavery, including: • Debt bondage; • Forced marriage; • Sexual exploitation; • Servitude; • Forced labour; • Child labour; • The removal of body parts; • Forced involvement in armed conflict; • Any labour or services obtained through threats or other forms of coercion; • The abuse of power or of a position of vulnerability.
NOTE: As long as one condition from each of the 3 elements is met, the result is TRAFFICKING				

3.4.4 Consent as a Defence

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

3.4.5 Grounds that Cannot Serve as Defence Under the Anti-Human Trafficking Act

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

"(a) it shall not be a defense to a charge for an offence under this Act to prove that a victim consented to the act constituting the offence;

(b) that the victim had previously engaged in prostitution, or has any other history of a sexual or criminal nature;

(c) where the victim is a child, that the victim, the parent, guardian or other person who has parental responsibilities and rights in respect of the child consented to the act constituting the offence;(d) that the exploitation of the victim did not occur; or

(e) that the act constituting the offence is a customary practice".

Refer to Annex A3 for Activity 3 on Understanding Child Trafficking

3.5 Defining Child Trafficking and Understanding the Special Case of Children

Child trafficking is defined in Article 3 (c) of the Palermo Protocol as: "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation". In other words, for children, it is not necessary that there be force, fraud or coercion for trafficking to occur. In the case of a child, not only will consent fail as a defence, but there need be none of the prescribed means as well.

Definition of Child Trafficking in the Anti-Human Trafficking (Amendment) Act Section 3A

Child trafficking: The recruitment, transportation, transferring, harbouring, receiving or obtaining of a child, within or across the territorial boundaries of Zambia, for the purpose of exploitation.

3.5.1 Prohibition of Child Trafficking

3A. (1) A person who recruits, transports, transfers, harbors, receives or obtain a child, within or across the territorial boundaries of Zambia, for the purpose of exploitation, commits an offence and is liable, on conviction, to imprisonment for a term of not less than thirty years and may be liable to imprisonment or life. (2) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation, without proof of force, fraud or coercion, is sufficient to establish the offence of trafficking of a child.

3.5.2 Children as a Special Case

As in subparagraph c of the Trafficking Protocol, the Anti-Human Trafficking (Amendment) Act Section 3A (1), (2), (3) and (4) recognizes the special situation of children in , which removes the need for means to be present for trafficking to occur. In other words, for children, it is not necessary that there be "threat, or use of force, or other forms of coercion, of abduction, or fraud, of deception" for trafficking to occur. For children, consent is irrelevant because a child cannot voluntarily or willingly enter into an arrangement that resulted in trafficking, even if the child's parents were to give their consent. In the case of a child, not only will consent fail as a defence, but there need be none of the prescribed means as well.

3.5.3 Child Trafficking Explained

The Palermo Protocol defines a child as any person under the age of 18 years;[3] the Zambia Anti-Human Trafficking Act carries the same definition. (See Part I, Section 2 of the Act, Definition of "child").

Although several international instruments impose the obligation to fight child trafficking on States, the Protocol is the only one that actually defines the term. Prominent examples would be the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, both of which contain provisions on trafficking.[4]

The Anti-Human Trafficking Act defines a child as a person under the age of eighteen years.

3.5.4 Child Work, Child Labour, and Child Trafficking[5]

Child work: Consists of light work that is not harmful and does not interfere with a child's development;

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

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

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[3] Palermo Protocol Art 3(d).

[4] United Nations Convention on the Rights of the Child (CRC) 1989, Article 35, and The African Charter on the Rights and Welfare of the Child (ACRWC) 1990, Article 29.

[5] IOM Counter-Trafficking Training Modules, Children, pp. 15–16.

3.5.5 Child Trafficking (Forms of Child Exploitation)

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

Labour exploitation: Children may be trafficked for the purpose of labour, usually forced labour, related to forms of employment or unpaid work that violate child rights. Some sectors in which trafficked children may be found include: agricultural activities, trading, fishing, domestic servitude, mining, textile production, construction, street vending, small businesses such as bakeries, and forced begging;[6] The 2023 TIP Report state that Indian-Zambian nationals operating in India facilitate illegal adoption of Indian children for the purpose of exploiting them in domestic servitude in Zambia.

Sexual exploitation: Child victims of trafficking for sexual exploitation often suffer extreme physical, sexual and psychological violence and abuse by traffickers, pimps and customers. Sexually exploited children are also at risk for HIV and STI infections. While trafficking for sexual exploitation predominantly affects females, male trafficking for the purpose of prostitution, particularly of teenage and younger boys, is increasing and should not be excluded. The 2023 TIPP Report states that, near the Kasumbalesa border crossing into the DRC, families exploit children in sex trafficking through solicitation of truck drivers waiting to cross into the DRC; the children are often rebuffed with violence. The 2023 TIP report also states that truck drivers also exploit Zambian boys and girls in sex trafficking in towns along the Zimbabwean and Tanzanian borders, and miners exploit them in Solwezi;

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

Refer to Annex B2: Case study 3b: Antonio (referring to Activity 3 in Annex A3)

3.6 Human Trafficking: A Global, Regional and National Perspective

Human trafficking is a grave and pervasive issue that continues to plague societies around the world. It is a form of modern-day slavery, involving the recruitment, transportation, and exploitation of individuals, typically for sexual exploitation, forced labor, or organ trafficking. This illicit trade preys on vulnerable populations, such as women, children, and migrants, often subjecting them to unimaginable abuse and severe violations of their human rights. Every year millions of people are exploited within and across borders. They are forced to work in factories for little or no pay; harvest crops; toil in terrible conditions in mines, construction sites, and fishing boats; or work in private

[6] 2020 USG TIP Report

homes. Many victims are exploited for commercial sex, adults and children alike.[7] Human trafficking not only undermines the physical and psychological well-being of its victims but also poses significant challenges for law enforcement agencies and policymakers. Combating this heinous crime requires a multi-faceted approach, involving international cooperation, strengthening legal frameworks, raising awareness, and providing support and rehabilitation services to survivors. The prosecution of perpetrators and other efforts to eradicate human trafficking are crucial in ensuring the protection and freedom of every individual, and to build a world where all can live free from exploitation.

3.6.1 Global and Regional Perspective

TIP is a highly lucrative business for organized criminal syndicates, with profits of up to USD 32 billion a year.[8] This makes it the third most profitable international criminal activity, only surpassed by the drug trafficking and firearms trade. The International Labor Organization (ILO) estimates that there are 20.9 million people in the world today living under one or another form of slavery.[9] United Nations Children's Fund (UNICEF) estimates that more than 1 million children are trafficked each year.[10] An often-quoted estimate by the US Department of State puts the number of people trafficked every year between 600,000 and 800,000.[11] Based on ILO figures, it is now widely believed that, globally, the majority of victims are trafficked into forced labor.[12] Much media and academic attention has however been devoted to sex trafficking which "comprises a significant portion of overall human trafficking."[13]

Public attention was first drawn to the issue with reports of Eastern European girls trafficked for forced prostitution to the West following the fall of the Iron Curtain and the disintegration of the former Soviet Union.[14] Most of these reports focused on a growing sex industry characterized by the presence of brutal violence. As time went by, presumably as a result of shifting media attention, many began to consider TIP as a Southeast Asian problem.[15] It took several years for the world to realize that almost all parts of the world are affected by the problem, with countries being source, transit or destination points, or some combination thereof.

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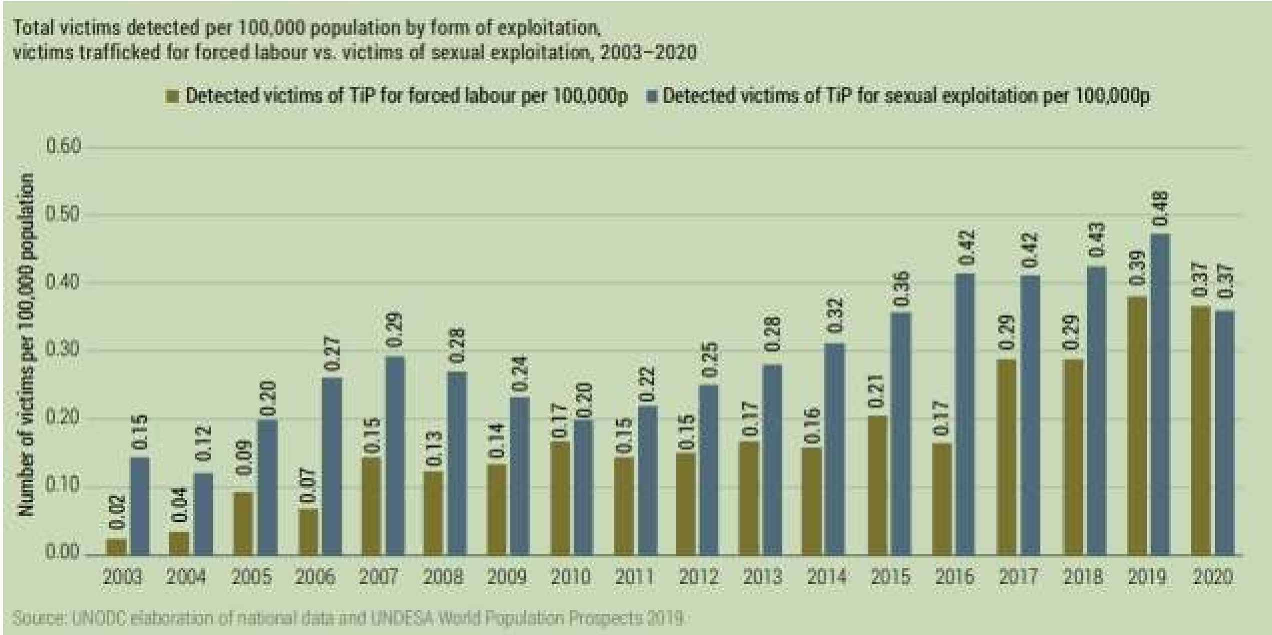
[7] https://www.state.gov/reports/2023-trafficking-in-persons-report/. Accessed on 2nd June 2023
[19] About Migration, www.iom.int/jahia/Jahia/about-migration/lang/en.
20IOM/Sonke Gender Justice Network, *An Action Oriented Training Manual on Gender, Migration and HIV* (2009), p. 22.
21www.iom.int.
[8] Belser, *Forced Labour and Human Trafficking: Estimating the Profits*, ILO Working Paper 42 (2005), p. 17.
[9] US Department of State Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report* (2005). Available from www.state.gov/g/tip/rls/tiprpt/2012.
[10] UNICEF, *The State of the World's Children: Excluded and Invisible* (2006), p. 50.
[11] US Department of State Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report* (2005). Available from www.state.gov/g/tip/rls/tiprpt/2005/46606.htm.
[12] Belser, *Forced Labour and Human Trafficking*, p. 4.
[13] US Department of State Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report: Major Forms of Trafficking in Persons* (2009) www.state.gov/g/tip/rls/tiprpt/2009/123126.htm.
[14] Okolski, Illegality, 2000 (38): 55, 77–80.
[15] Skeldon, Trafficking: A perspective from Asia, *International Migration*, 2000 (38): 7– 8.

The figure below shows the TIP trends between 2003 and 2020.



The 2022 Global Report on Trafficking in Persons, highlights that the number of detected victims reduced for the first time in 20 years as pandemic limited opportunities and potentially pushed trafficking further underground, while constraining law enforcement capacities to target the crime. There was an 11% reduction in the number of victims detected compared to 2019, largely driven by low- and medium-income countries. There was a 12% reduction in detected victims in Sub-Saharan Africa. The decrease is likely to due to lower institutional capacity to detect victims, fewer opportunities for traffickers to operate due to COVID-19 preventive restrictions, and some trafficking forms moving to more hidden and less likely to be detected locations. In comparison to 2019, the report also highlighted a global reduction of 27% in the number of TIP convictions. However sub-Saharan Africa showed a 22% increase in TIP convictions during the same period.[16]

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

[16] UNODC, Global Report on Trafficking in Persons 2022

US Department of State Tier Grading System

The TIP Report places each country onto one of three tiers, based on the extent of government efforts to reach compliance with the TVPA's minimum standards for the elimination of human trafficking under the "3P" paradigm: prosecution, protection and prevention. The tier placement is as follows:

- **Tier 1:** Countries whose governments fully comply with TVPA's minimum standards for the elimination of trafficking are placed on Tier 1. This is the highest ranking but does not mean that a country has no human trafficking problem. A Tier 1 ranking indicates that a government has acknowledged the existence of human trafficking, has made efforts to address the problem, and meets the TVPAs minimum standards. Each year, governments need to demonstrate appreciable progress in combating trafficking to maintain a Tier 1 ranking. Indeed Tier 1 represents a responsibility rather than a reprieve.
- **Tier 2:** Countries that do not meet the minimum standards but have been assessed as making significant efforts to do so.
- **Tier 2 Watch List:** Tier 2 countries that have been assessed as not making increased efforts to combat severe forms of trafficking from the previous year; or countries for which the "significant efforts," identified are commitments of future actions over the next year; or the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing.
- **Tier 3:** Countries assessed as not meeting the minimum standards and not making a significant effort to do so. Pursuant to the TVPA, governments of countries on Tier 3 may be subject to certain sanctions, whereby the U.S. government may withhold or withdraw non-humanitarian, non-trade related foreign assistance. Consistent with the TVPA, governments subject to sanctions would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development related assistance) from international institutions such as the International Monetary Fund (IMF) and the World Bank.

NOTE: ***No tier ranking is permanent. Each and every country can do more, including the United States. All countries must maintain and increase efforts to combat trafficking.***

3.6.2 Trafficking in Persons in Zambia - Excerpts from Trafficking in Persons Report 2023 – Zambia[17]

*(**Note**: This report is released annually. Users are advised to refer to the latest report available at the time of training.)*

According to the 2023 TIP report, the Government of Zambia did not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. The government demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-trafficking capacity; therefore, Zambia was upgraded to Tier 2. These efforts included amending the anti-trafficking law to criminalize all forms of trafficking and creating a new department to implement the government's anti-trafficking efforts. The government increased victim identifications and investigations of alleged traffickers, including complicit officials. The government mandated use of the NRM for referring trafficking victims to care by law enforcement, immigration officials, and other front-line officers. The government increased training for law enforcement and front-line officials on victim identification and

[17] US Department of State Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report*, Zambia (2023).

human trafficking investigations. The government opened an additional shelter for trafficking victims and increased resources allocated to overall anti-trafficking efforts. However, the government did not meet the minimum standards in several key areas. Due to gaps in awareness of victim identification procedures and lack of resources, the government inappropriately penalized some trafficking victims solely for unlawful acts committed as a direct result of being trafficked. Due to conflation between human trafficking and migrant smuggling in the anti-trafficking law, officials sometimes misidentified trafficking crimes.

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

For the 2023 TIP Report, the Government of Zambia demonstrated overall increasing efforts compared with the previous reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore, Zambia was upgraded to Tier 2. These efforts included amending the anti-trafficking law to criminalize all forms of trafficking and creating a new department to implement the government's anti-trafficking efforts. The government increased victim identifications and investigations of alleged traffickers, including complicit officials. The government mandated use of the NRM for referring trafficking victims to care by law enforcement, immigration officials, and other front-line officers. The government increased training for law enforcement and front-line officials on victim identification and human trafficking investigations. The government opened an additional shelter for trafficking victims and increased resources allocated to overall anti-trafficking efforts. However, the government did not meet the minimum standards in several key areas. Due to gaps in awareness of victim identification procedures and lack of resources, the government inappropriately penalized some trafficking victims solely for unlawful acts committed as a direct result of being trafficked. Due to conflation between human trafficking and migrant smuggling in the anti-trafficking law, officials sometimes misidentified trafficking crimes.

Zambia's national response to human trafficking is premised on prevention, prosecution, protection, and partnership. From the perspective of prosecution, the government increased law enforcement efforts. The Anti-Trafficking Act, as amended, criminalized sex trafficking and labor trafficking and prescribed penalties of 20 years to life imprisonment for offenses involving an adult victim, and 30 years to life imprisonment for those involving a child victim. These penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. In November 2022, with support from an international organization, the government enacted amendments to the anti-trafficking law which removed the requirement of a demonstration of force, fraud, or coercion to constitute a child sex trafficking offense, thereby bringing the definition of trafficking in line with the international law definition. The government initiated 42 trafficking investigations in 2022 and continued eight investigations, compared with 12 investigations initiated in 2021. The government initiated nine prosecutions involving 17 defendants and continued nine prosecutions, compared with initiating 16 prosecutions involving 17 defendants reported in 2021. The government convicted six traffickers in five cases, which is the same number as 2021. Courts sentenced convicted traffickers to terms ranging from 10 to 20 years in prison and acquitted one alleged trafficker. Due to conflation between migrant smuggling and human trafficking, the government may have prosecuted migrant smuggling crimes as human trafficking crimes. The government's focus on migrant smuggling and transnational trafficking diverted resources from investigating and prosecuting endemic forms of internal trafficking, such as exploitation of children in domestic servitude, sex trafficking, forced begging, and street vending. Observers and government officials reported cultural acceptance of child domestic servitude inhibited investigations and prosecutions of such crimes. Some immigration officers lacked understanding of the definition of human trafficking and expressed difficulty proving the necessary elements for trafficking crimes, hindering efforts to refer potential cases for investigation and prosecution. Corruption and official complicity in trafficking crimes remained significant concerns, inhibiting law enforcement action.

The government reported some government officials, including law enforcement, immigration officers, military, security, and other government officials were complicit in human trafficking crimes and reported several cases were under investigation. For example, the government investigated and prosecuted two government drivers and one police officer for allegedly transporting potential victims for the purpose of human trafficking. The AHTD, within the Ministry of Home Affairs and Internal Security (MHAIS), delegated authority to law enforcement officers with specialized anti-trafficking training in the Zambia Police Service (ZPS), Anti-Corruption Commission, Drug Enforcement Commission, and Department of Immigration (DOI) to investigate human trafficking in coordination with AHTD. ZPS appointed and trained 394 human trafficking focal points in Victim Support Units (VSUs) in all 156 police stations, typically responsible for sex trafficking and child exploitation investigations. ZPS's Criminal Investigative Division (CID) investigated trafficking crimes associated with labor or migration but did not maintain human trafficking focal points. In Lusaka, the subordinate court maintained two magistrates as trafficking focal points to increase capacity to hear trafficking cases. The government, in partnership with international, regional, and non-governmental organizations, trained more than 500 law enforcement officers, specialized investigators, immigration officials, and protection officers on trafficking, victim identification, referrals, and investigations. The government trained all newly recruited police officers on anti-trafficking policies and victim referral mechanisms in a five-day GBV course. With support from a foreign government, the AHTD instituted an on-demand, mobile training initiative to provide anti-trafficking training to government officials across the country on an ad hoc basis. The government reported collaborating on human trafficking investigations and victim repatriation with the Governments of Ethiopia and the Democratic Republic of the Congo (DRC) during the reporting period.

3.63 Zambia's Trafficking Profile

Zambia is a source, transit and destination country for victims of trafficking. Human traffickers exploit domestic and foreign victims in Zambia, and traffickers exploit victims from Zambia abroad.

Internal trafficking: Traffickers exploit women and children from rural areas in cities in domestic servitude or forced labor in agriculture, textile production, mining, construction, street vending, small businesses such as bakeries, and forced begging. Because of the perceived increase in status, families are enticed to send children to work in cities without verifying working or living conditions. Due to the cultural acceptance of children engaging in domestic work, physical and sexual abuse and exploitation in forced labor is rampant and often not identified. Extended families and trusted family acquaintances facilitate trafficking, including children in domestic servitude. Traffickers exploit Zambians, including children, from rural areas in Western Province in forced labor on cattle farms and domestic servitude in Namibia. Zambian children from Central Province and Malawian children escaping domestic servitude or other forms of forced labor in Lusaka are recruited by traffickers with the promise of employment but are forced to beg or engage in street vending. Traffickers sell addictive substances to children experiencing homelessness, which increases their vulnerability to trafficking and abuse. Near the Kasumbalesa border crossing into the DRC, families exploit children in sex trafficking through solicitation of truck drivers waiting to cross into the DRC; the children are often rebuffed with violence. Truck drivers also exploit Zambian boys and girls in sex trafficking in towns along the Zimbabwean and Tanzanian borders, and miners exploit them in Solwezi. Orphans and children from rural areas remain vulnerable to trafficking. Jerabo gangs may force Zambian children to engage in illegal mining operations, such as loading stolen copper or crushing rocks.

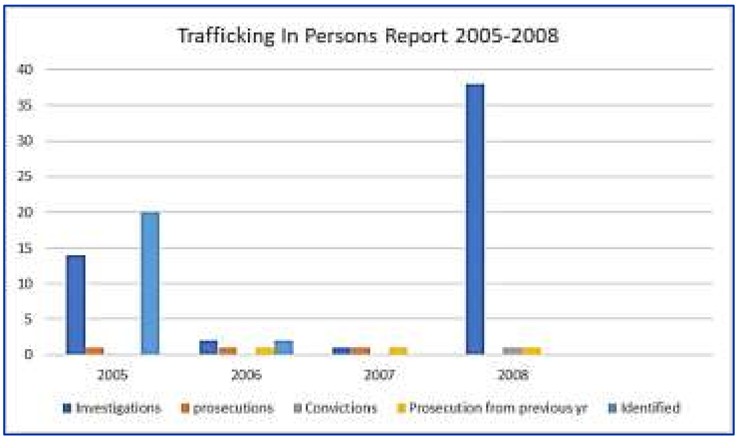
Transnational trafficking: Traffickers exploit Zambian boys in sex trafficking in Zimbabwe and exploit women and girls in sex trafficking in South Africa. Unaccompanied children fleeing violence in the DRC are recruited by traffickers in Zimbabwe and South Africa, and often transit alone through Zambia. Zambian farmers recruit Malawians to work on farms in Eastern and Muchinga Provinces, sometimes transiting as far as Western Province, where they are exploited in forced labor and, reportedly, some have been killed to avoid payment at the end of the growing season. Traffickers exploit women and children from neighboring countries in forced labor and sex trafficking in Zambia, including transiting migrants whose intended destination is South Africa. Zambian women are recruited for domestic servitude in Lebanon and Oman. Traffickers increasingly exploit victims from Tanzania and Malawi in the Zambian timber industry. PRC nationals bring PRC, Thai, and Vietnamese women and girls to Lusaka and Ndola for sex trafficking in brothels, massage businesses, and casinos, and bring PRC nationals for forced labor in grocery stores and restaurants; traffickers use front companies posing as travel agencies to lure PRC victims and coordinate with Zambian facilitators and middlemen. Indian-Zambian nationals operating in India facilitate illegal adoption of Indian children for the purpose of exploiting them in domestic servitude in Zambia.

There is currently no one comprehensive and centralized repository of human trafficking data in Zambia. Data on human trafficking is collected by different institutions and from various sources within the country. Given the different foundations and purposes for data collection, data from these sources does not necessarily triangulate each other. National institutions mandated to respond to human trafficking use different tools to collect data, consequently there was no uniformity in data fields presented throughout the span of nearly two decades.[18]

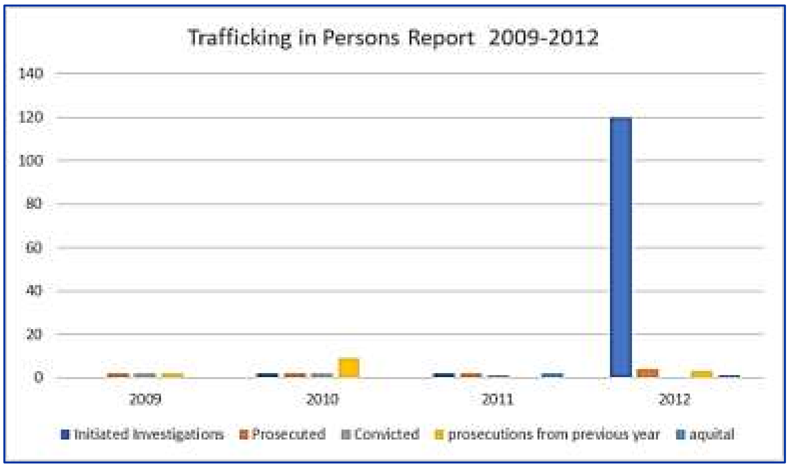
The statistics below are an excerpt from the 2023 National Survey on Trafficking in Persons Report, generated from the USG TIP Reports. They depict Zambia's anti human trafficking efforts with a focus on investigations, prosecutions and convictions reported from 2005 when Zambia was first covered in the trafficking in persons report to 2022. The statistics represent data for each previous year

[18] IOM, 2023 National Survey on Trafficking in Persons, Zambia

preceding the publication. For example, Trafficking in Persons Report, 2005 depicts statistics for the years 2004. These statistics are presented in spans of fours for easy analysis and comparison.

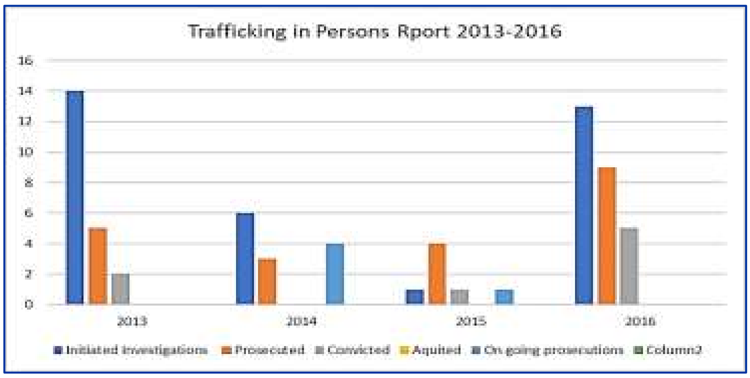


During this period 2004-2007 effective identification, investigation, prosecution of human trafficking was negatively affected by inadequate legislation, i.e lack of an express offence of human trafficking in the penal code. Further, a stop-gap penal code amendment prohibiting the 'sell or trafficking of a child or other person for any purpose or in any form', without defining human trafficking failed to effectively enhance identification, investigation and prosecution of human trafficking. However, an increase in identified cases was recorded in 2007 mainly attributed to increased awareness, inception of the national committee on human trafficking, finalization of national policy on human trafficking and the training of 400 combined criminal justice practitioners. The 2004-2007 statistics could not be disaggregated in gender, age and nationality due unavailability of such information on source documents. It should be noted that Data management has continued to be cited as a major challenge therefore, these statistics cannot be conclusively said to be a true reflection of the trafficking in persons activities during the said period. Unfortunately, the high rate of identification did not result in any conviction until 2007. In 2008, Zambia had made substantial progress in furthering its anti-trafficking law enforcement efforts, by enacting a comprehensive anti-trafficking law legislation. However, the country continued to record low identification, investigation, prosecution and convictions. A total of 55 cases where investigated during the above period out of which only 3 cases where prosecuted representing 5.5% while convictions stood at 1.8% for the same period.

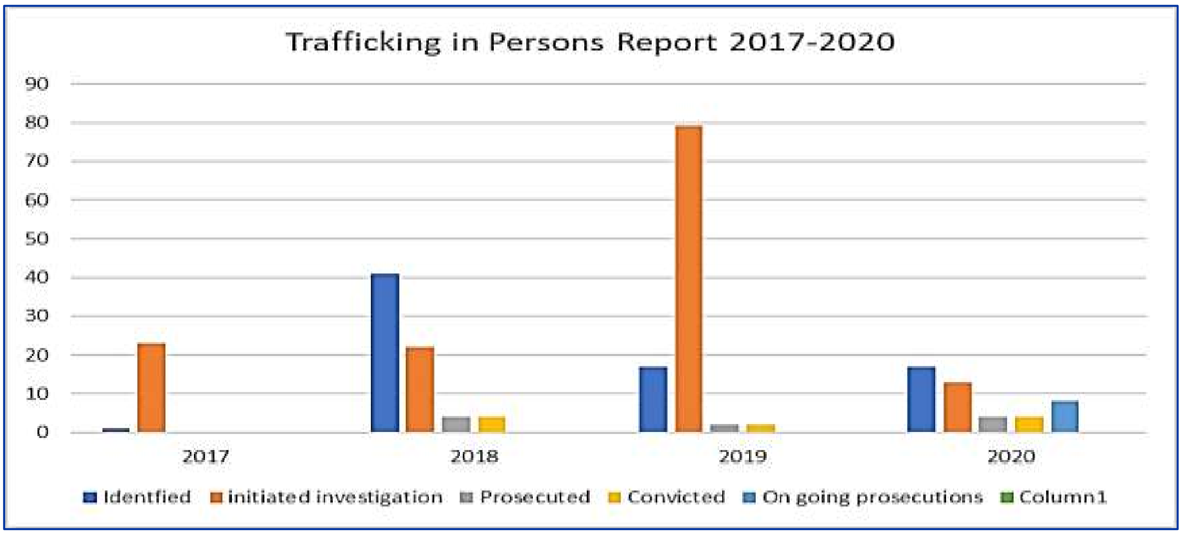


In 2011, there was a significant rise in investigation initiated due to among others an increased national anti-trafficking budget, increased victim protection capacity, implementation of the 2011-2012 National Action Plan and enhanced oversight by the secretariat. In 2012 the government doubled its anti-trafficking budget, tripled the number of labour inspectors, convened the national committee on human trafficking, finalised the development of guideline on the protection of Victims of trafficking, national referral mechanisms, prosecutor's manual and completed upgrades to one shelter among other measure. The above measures resulted in overall increased identification, investigation, prosecution and convictions. During the period under review 124 investigations were initiated out of which 10 cases where prosecuted leading to 5 convictions which represented 8.1% and 50% respectively.

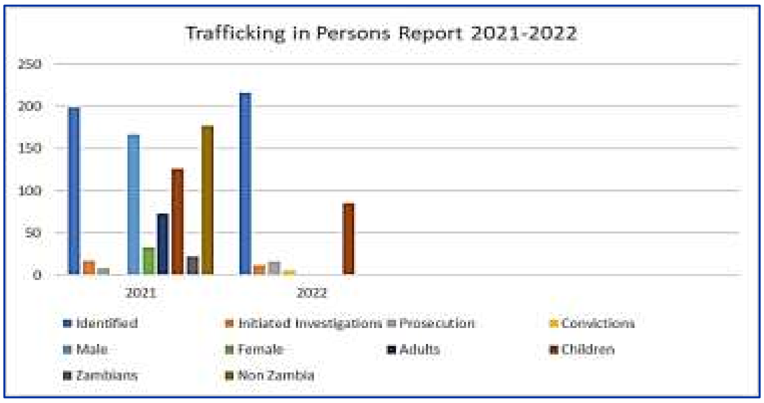
Graph showing Human Trafficking Cases by Investigation, Prosecution and Conviction in Zambia: 2012-2015



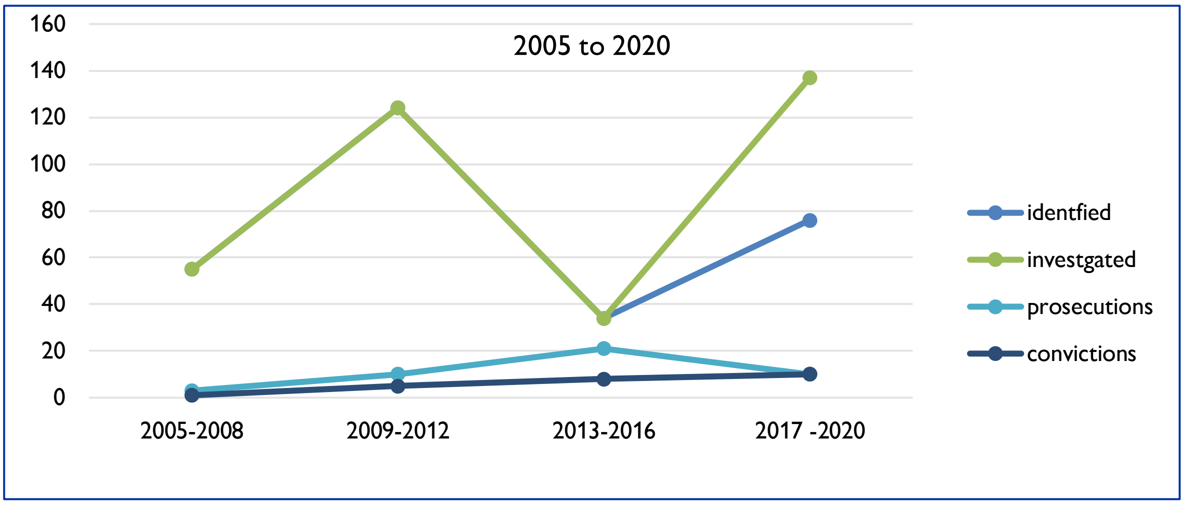
The period covering 2013 to 2016 was characterized by decreased anti-trafficking efforts. The country operated under an expired National Action Plan 2012-2015, did not host any annual symposium and did not provide anti-trafficking training to diplomats. Consequently, the beginning of this period recorded zero convictions despite a fair number of prosecuted cases. Law enforcement investigated 34 cases, prosecuted 21 of these cases and secured 8 convictions representing 62% prosecution rate and 38.1% conviction rate over the period of four (4) years. 6-2019.



The period 2017 and 2018 recorded an increase in identification, investigation which resulted in some prosecution and convictions attributed mainly to increased anti-trafficking budget for second year consecutively, the revival of the national secretariat, finalisation of the updated National Action Plan, integration of modules and training of 1,021 first line officials using those manuals. The country maintains the momentum till the end of the period under review. This may be attributed to the additional training of 50 criminal justice practitioners and 2500 police recruits in 2019. The period under review saw 137 investigation initiated with 10 cases successfully prosecuted representing 7.3% prosecution rate out of which 10 convictions were secured representing 100% conviction cumulatively.



The period 2021 and 2022, recorded high identification rates with nil to low convictions. The period coincides with the peak seasons of COVID 19 which affected anti-trafficking national responses including awareness raising, court operations and budgeting. However, 2020 recorded improved anti-trafficking efforts together enhanced reporting. Reporting protocol included all vital fields such as age nationality and sex among others. This was not the case in previous years.



The period 2020 to 2021 also reported enhanced proactive screening of vulnerable populations, revised and operationalised National Referral Mechanisms. The report highlights enhanced national and regional coordination aimed at addressing human trafficking. Therefore, statistical data for this period appears more comprehensive compared to that of preceding periods. In terms of cases investigations initiated, a total of 29 cases were recorded out of 415 cases identified. Prosecution stood at 24 cases representing 83% prosecution rate of total cases investigated while cumulative convictions stood at 25% of the cases prosecuted.

Human trafficking trends analysis 2005 to 2020**:** The overall trend from the year 2005 to the year 2020 reveal that identification and initiation of investigations increased from below 50 cases to over 120 cases between the year 2005 and 2012 and dropped gradually reaching less than 40 cases between the 2014 and 2015. However, identification and investigation bounced back and have continued to rise since 2015. Generally, the period under review has seen very few cases progress to court for prosecution. The year 2005 to 2014 recorded a steady increase in prosecution of human trafficking cases followed by a constant decline in prosecution from 2014 to 2019. Notwithstanding low prosecution, the rate of convictions has been increasingly evenly from 2005 to 2020 though at a very low rate of less than 20 case per each period of four years considered. The analysis therefore indicate that the prosecution pillar is the weakest link in the fight against human trafficking. Please note that this analysis has not considered statistics for 2021 and 2022. This survey analysed information in spans of four years, therefore information relating to 2021 and 2022 was provided on complimentary basis only.

3.6.4 Development of National Policy, Legal and Institutional Frameworks on Human Trafficking

Zambia acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Supplementing the United Nations Convention against Transnational Organized Crime) in April 2005, and by so doing committed itself to take effective action to prevent and combat trafficking in persons. Although human trafficking is an age-old practice, Zambia recorded its first case of trafficking in December 1999. An Australian male was arrested at the Chirundu border post while allegedly trying to transport five Zambian teenage girls to Australia for purposes of prostitution. The man was acquitted on grounds of inadequate legal provisions to deal with such cases[19.]

Five years later, another case of human trafficking occurred in Zambia when a Congolese woman was apprehended at the Zambian border with Zimbabwe, with 14 children aged between 5 and 17 years old. She did not have documentation to prove she was the legal custodian of the children, despite claiming so. Investigations revealed that the children were recruited from different families and were promised jobs in America and South Africa, yet the legitimacy of these jobs could not be verified. Although there were indications that this could have been a trafficking case, the limited capacity of law enforcement to conduct further investigations led the case to be dropped. The Congolese woman was fined two million Zambian Kwacha for passport fraud and was later released[20.] This propelled the need for the enactment of an anti-human trafficking law that would adequately deal with the scourge and bring it into the public spotlight.

Zambia subsequently passed amendments to the Penal Code[21.] The amendments, however, were not sufficiently comprehensive in that they did not clearly define all the elements of trafficking or prescribe

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[19] USAID, *Framework and Comprehensive legislation to Combat Human Trafficking in Zambia, Development of An Effective Policy*, May 2007, p. 1

[20] The Times of Zambia, 15 June 2005, as quoted in the USAID , *Framework and Comprehensive Legislation to Combat Human Trafficking in Zambia*, May 2007, p. 1.

[21] Amendment Act No. 15 of 2005.

specific penalties for these offences. There was therefore need for a single and comprehensive anti - human trafficking law.

Zambia initiated it national response to human trafficking by passing a policy to combat human trafficking and smuggling of migrants in the year ,2007.

As a result, in September 2008, Zambia enacted the Anti-Human Trafficking Act (Act No. 11 of 2008) which domesticated the Palermo protocol. Section 40 of the Anti-Human Trafficking Act is complimented by the Immigration and deportation Act, No. 18 of 2010 as amended by Section 11 of Amendment N0.19 of 2016, Section 31 of the Refugee Act No. 1 of 2017 and Section 80 (a) of the Employment code Act No 3 of 2019

However, this piece of legislation and the said policy exhibited gaps due to passage of time and the ever-evolving nature of human trafficking. Therefore, Zambia reviewed the policy on human trafficking in the year 2022 and subsequently amended its legislation on human trafficking. The National Policy on Human Trafficking and Smuggling of migrants responds to contemporary trafficking in persons trends in line with internal best practices. Zambia subsequently amended the Anti Human Trafficking Act in 2022.

3.6.5 Prohibition and Punishment for Human Trafficking in Zambia

Part II of the Anti-Human Trafficking Act provides for the prohibition of trafficking:

Section 3 (1) provides that subject to subsections (2) to (11), "a person who intentionally and unlawfully traffics another person commits an offence and is liable, upon conviction, to imprisonment for a term of not less than twenty years and not exceeding thirty-years."

Section 3a (1) of the Anti-Human Trafficking Act No. 16 of 2022 provides that:

"A person who recruits, transports, transfers, harbors, receives or obtain a child, within or across the territorial boundaries of Zambia, for the purpose of exploitation, commits an offence and is liable, on conviction, to imprisonment for a term of not less than thirty years and may be liable to imprisonment or life." The Act prescribes various penalties constituting trafficking in persons and/or the furtherance of the crime as highlighted in the table below.

Offences and Penalties Prescribed in the Anti-Human Trafficking Act, as amended		
Sections in the Act	**Offence**	**Penalties**
Section 17 (1)	Entering into or being involved in an agreement to conceal, remove from jurisdiction to facilitate the furtherance of an offence under this Act contrary to section 17(1) of the Anti-Human Trafficking Act No. 11 of 2008 Entering into or involved in an agreement to transfer funds to others to facilitate the furtherance of an offence under this Act contrary to section 17(1) of the Anti-Human Trafficking Act No. 11 of 2008	10 - 20 years
Section 18	Providing or making available or offering to provide or make available a financial service with the intention or reasonable	The penalty will be in accordance with the

Offences and Penalties Prescribed in the Anti-Human Trafficking Act, as amended		
Sections in the Act	**Offence**	**Penalties**
	suspicion that it will be used for the furtherance of an offence under this Act contrary to section 18 of the Anti-Human Trafficking Act No. 11 of 2008 Providing or making available or offering to provide any service of safe keeping of any property; forged or falsified document; with the intention or reasonable suspicion that it will be used for the furtherance of an offence under this Act contrary to section 18 of the Anti-Human Trafficking Act No. 11 of 2008 Providing or making available or offering to provide access to any premises, vehicle, vessel, aircraft or place; access to communication equipment or capability; or any services, skill or expertise of any kind with the intention or reasonable suspicion that it will be used for the furtherance of an offence under this Act contrary to section 18 of the Anti-Human Trafficking Act No. 11 of 2008	specific offence committed.
Section 19 (1) as amended	Engaging directly or indirectly in a business transaction that involves property acquired through proceeds of an offence under this Act; contrary to section 19(1) of the Anti-Human Trafficking Act, No. 11 of 2008 as amended by Act. No. 16 of 2022 Receiving, possessing, concealing, disguising, disposing, bring into Zambia any property derived directly or indirectly from proceeds of an offence under this Act; contrary to section 19(1) of the Anti-Human Trafficking Act, No. 11 of 2008 as amended by Act. No. 16 of 2022 Retaining or acquiring any property knowingly derived or realized, directly or indirectly from an offence under this Act contrary to section 19(1) of the Anti-Human Trafficking Act No. 11 of 2008 as amended by Act. No. 16 of 2022	15 -20 years
Section 22A (5) as amended	Submitting false information contrary to section 22A(5) of the Anti-Human Trafficking Act No. 11 of 2008	Three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.
Section 25(5)	Failure to report and refer victim to an authorized officer contrary to section 25(5) of the Anti-Human Trafficking Act No. 11 of 2008	Two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
Section 27(2)	Failure by authorized officer to respond to a request for assistance contrary to section 27(2) of the Anti-Human Trafficking Act No. 11 of 2008	Administrative disciplinary action

Offences and Penalties Prescribed in the Anti-Human Trafficking Act, as amended		
Sections in the Act	**Offence**	**Penalties**
Section 29 (3) (c)	Obstructing contrary to section 29(3)(c) of the Anti-Human Trafficking Act No. 11 of 2008	Sentence for obstruction of authorized officer not provided
Section 50 (3)	Delaying, an authorized officer in property tracking relating the offence of human tracking contrary to section 50(3) of the Anti-Human Trafficking Act No. 11 of 2008 Interfering with property tracking relating the offence of human tracking contrary to section 50(3) of the Anti-Human Trafficking Act No. 11 of 2008 Obstructing an authorized officer in property tracking relating the offence of human tracking contrary to section 50(3) of the Anti-Human Trafficking Act No. 11 of 2008	Up to 20 years
Section 63(4)	Failure to comply with an order under this Act contrary to section 63(4) of the Anti-Human Trafficking Act, No 11 of 2008	Five hundred thousand penalty units
Section 68(1)	Disclosure of information contrary to section 68(1) of the Anti-Human Trafficking Act, No 11 of 2008	10 - 15 years
Under the Schedule Rule 8(2)	Publication of disclosure of information contrary to rule 8(2) of the first schedule of the Anti-Human Trafficking Act No. 11 of 2008	Two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
Section 58(1)	Compensation to victim pursuant to section 58(1) of the Anti-Human Trafficking Act No. 11 of 2008	The Court may in addition to any punishment under the Act, order a person convicted to compensate the victim.
Section 59	Compensation to the State pursuant to section 59 of the Anti-Human Trafficking Act No. 11 of 2008	The Court may in addition to any, order for payment to the State.

Further Guidance to Prosecutor and the Court on Sentencing

Commission of five or more counts of trafficking in persons - Section 3 (7) as amended provides for those charged and convicted by a court to be sentenced to 25 - 35 years.

Section 13 provides for 20 – 30 years for offences by institutions with consent or connivance of an officer of institution or neglect on the part of an officer of the institution.

Finding by court that an employer or principal intentionally engages in trafficking in persons - Section 3 (11) as amended states that this a ground for revoking a license or registration of the employer or principal to operate

Directing institution engaged in offence under the Act - Section 14 provides that the penalty will be according to the specific offence that the institution would have committed. For example, if the institution was recruiting people who turned out to be trafficked and it is proved that an officer of the institution consented then the sentence will be as in section 3.

Section 16 (2) prohibits the possession of money or other property for furtherance of human trafficking – Anything done for the furtherance of TIP constitutes an offence.

Compensation to victim pursuant to section 58(1) of the Anti-Human Trafficking Act No. 11 of 2008 - The Court may in addition to any punishment under the Act, order a person convicted to compensate the victim.

Compensation to the State pursuant to section 59 of the Anti-Human Trafficking Act No. 11 of 2008 - The Court may in addition to any, order for payment to the State.

Note: Prosecutors should be on a look out for facts and evidence suggesting such conspiracy to further offences under the Act

Refer to Annex A4: Activity 4 on Understanding the Elements of Human Trafficking

3.7 Recruitment and Mobilization

Medium of communication used in recruitment: Recruitment may be carried out in various ways. Some traffickers use newspaper advertisements or other printed materials to attract their victims while others rely on word of mouth, social and interactive networks, the Internet, or personal contact.[22]

The internet has modified recruitment processes with social media being used by traffickers to recruit victims through relationship or dating sites or fake job advertisements. Structurally, they may be organized as travel or employment agencies, labor broker offices, mail order bride agencies, or agents of the entertainment industry. Recruitment may also be operated through a network of individuals or simply persons working independently. Members of the victim's family, such as parents, siblings, relatives, boyfriends or girlfriends, and spouses, may also carry out recruitment.

In the context of cross-border human trafficking, the movement of the trafficked person begins at the country (or place) of origin and is concluded in the country (or place) of destination. Should the victim pass through and spend time in a third country (or place) in between that would normally be referred to as a country of transit. Victims of trafficking are typically subject to exploitation upon arrival at the destination country. However, one should not lose sight of the fact that exploitation of many victims commences in transit, prior to their arrival at the country of destination.[23]

[22] Holmes et al., *Best Practice Manual*, p. 10.
[23] *The IOM Handbook on Direct Assistance to Victims of Trafficking* (2007), p. 43.

Modes of travel and documentation: Travel in cross-border trafficking can be by land, air or sea.[24] It should not be assumed that all documents used by traffickers during the movement of their victims are forged. Where documents such as visas, temporary travel documents or passports are used, they may be genuine or forged.[25] Many victims travel on valid passports and genuine work, study or tourist visas.[26] Traffickers often accompany their victims during travel and, in many cases, withhold their documents.[27] This arrangement allows the trafficker not only to retain control over the victim, but also approach immigration officials with a plausible story about the travel, concealing its true nature, and, where circumstances dictate, negotiate payment with corrupt officials who may otherwise foil the operation. In summary, victims of cross-border trafficking may be transported legally, having complied with all the requirements of immigration law, or illegally, on forged documents, including by way of smuggling.

However, all the requirements of the definition of human trafficking can be met without one necessarily having to leave a single country. This is known as internal trafficking.[28] Internal trafficking may in fact take place without the victim being moved at all. This is, for instance, the case where a victim is recruited or harbored for purposes of exploitation without having been moved from place to place.

Why traffickers often move their victims: In cross-border trafficking (and in internal trafficking when movement occurs), moving a victim away from their place of origin has a significant advantage to the trafficker. Primarily, it serves the purpose of alienating the victim from familiar surroundings or environment, which otherwise would have created a defense against abuse and exploitation.[29] Victims will find it very difficult to seek help if they do not know the geography, language, culture and setting of their new environment, rendering them easier to exploit. Continuous movement also serves to disorient the victim, making it impossible to retrace the way back to the place of origin.

3.7.1 Control Mechanisms (See Part I, Section 2 of the Act)

In order to secure a trafficking conviction, prosecutors will need to ensure commission of the culpable act through one of the listed means contained in Part I, Section 2 of the Act, e.g. threat use of force, deception, and abuse of power. The possible combination of means employed by traffickers share one significant characteristic, i.e. they all imply the absence of free and informed consent on the part of the victim. Any apparent consent by the victim is inherently vitiated, as it would have been extracted out of the victim through the use of one of these means. The means employed by traffickers against their victims can broadly be divided into two categories which may, at times, overlap: deceptive and coercive.[30]

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[24] Holmes et al., *Best Practice Law Enforcement Manual For Fighting Against Trafficking of Human Beings,* Chapter on Critical Concepts – What is the Modus Operandi? (2003), p. 10. Available from www.undp.ro/governance/Best%20Practice%20Manuals/user_manual/01_manual.html.

[25] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p.42.

[26] Ibid., p. 10.

[27] United Nations Office on Drugs and Crime (UNODC), *Anti-Human Trafficking Manual for Criminal Justice Practitioners*, Module 2: Indicators of Trafficking in Persons (2009), p. 7.

[28] A. Suwal, Community Action Center- Nepal and Bansbari Internal, *Trafficking Among Children and Youth Engaged in Prostitution in Nepal* (2002), p. 4.

[29] Tudorache, General consideration on the psychological aspects of the trafficking phenomenon, in Schinina (ed) *Psychosocial Notebook: Psychosocial Support to Groups of Victims of Human Trafficking in Transit Situations 4* (2004), p.19.

30 *The IOM Handbook on Direct Assistance to Victims of Trafficking*, pp. 38–41.

Deception: In the case of deception, a distinction will need to be made between complete deception and that which is only partial.[31] When a trafficker promises a job as an au pair to his victim and subsequently causes her to become a prostitute, the deception is complete. In some cases, however, the trafficker may be forthcoming about certain aspects of the arrangements but not others. Such would be the case when a victim knowingly accepts to be engaged in prostitution but is furnished with fraudulent information as to the abusive and exploitative conditions of what they will be doing. The apparent consent by the victim is thus vitiated.

Coercion: Coercive means include coercion itself, threat, and use of force, abduction, abuse of power or vulnerability. Under these circumstances, the victim's consent is totally absent.

The Protocol recognises that traffickers will find it easy to justify their conduct by claiming that the victim has consented to the act. This possible avenue for evading conviction is effectively closed by the provisions of sub-article (b), which clearly rules out the defense of victim's consent where the trafficker has employed any of the means in the preceding paragraph.[32]

Definition of Coercion under Part II, Section 2 of the Anti-Human Trafficking (Amendment) Act, 2022

Coercion" means violent physical or psychological pressure or persuasion and other forms of non-violent physical or psychological pressure or persuasion such as—

a) threat of serious harm to a person or another person; and
b) *the abuse or threatened abuse of the legal process.*

Whether deceived or coerced, once a victim is recruited, trafficking involves enduring continuous exploitation by the victim. One may wonder then why victims, who suffer so much at the hand of their traffickers, do not escape or seek help? This is often because their traffickers control them. Understandably, many victims protest and try to resist terms and conditions forced on them by their traffickers. Resistance is often quelled by violence and intimidation at the very beginning. Thereafter, traffickers employ numerous methods of control to ensure victims remain under their influence and submit to continuous exploitation.[33] Some of the most widely used methods of control include:

Isolation (Section 22(b)): A trafficked individual is in a broader sense isolated from familiar surroundings and associated support structures as soon as the victim leaves their country or area of origin.[34] The victim will be placed in an environment where they do not know the language, culture or geography, and will have to rely solely on the will of their trafficker for survival. In the narrower sense, traffickers usually lock up the victim in a separate room, as soon as the victim arrives at the point of destination and make sure that the victim does not contact anyone.[35] This restriction is often accompanied by denial of food and access to any form of communication with the outside world and

[31] United kingdom Home Office Crime Reduction Toolkits: Trafficking of People – The Extent of Coercion and Deception, www.crimereduction.homeoffice.gov.uk/toolkits/tp020202.htm (accessed 19 September 2009) .
[32] Palermo Protocol Article 3(b).
[33] United Kingdom Home Office, Crime Reduction Toolkits: Trafficking of People - Control www.crimereduction. homeoffice.gov. uk/toolkits/tp020303.htm (accessed 19 September 2009).
[34] Lifongo, Control mechanisms in human trafficking, *Eye on Human Trafficking*, IOM Pretoria 20 (2009): 4.
[35] Ibid., p. 4.

any other person who might be on the same premises.[36] The aim is to break the will of the victim and secure compliance by instilling a sense of helplessness. Isolation may very well continue after the victim complies with the demands of the trafficker to ensure that no escape mechanism is developed, or support is available.[37]

Force (Section 22(a)(i–vii)): Although the entire trafficking process is often ridden with violence, certain acts of coercion are worth special attention. Physical, verbal, emotional, psychological and sexual abuse of a newly arrived recruit is normally carried out to convey the message that the victim is completely at the mercy of the trafficker.[38] In many cases of TIP for sexual exploitation purposes, the victim is repeatedly raped by one or more men and is severely beaten until the victim agrees to engage in commercial sex.[39] Beatings are also administered as a form of punishment during the exploitation phase for "breaking rules" or for unacceptable behavior, such as failing to perform to the satisfaction of a client.[40]

Confiscation of documentation (Section 22(d)): This is particularly common in cases of cross-border trafficking. Travel documents and other identification documents, most importantly passports, are often the only official proof of the identity of victims. Passports are often retained by traffickers during the transit stage and are produced only when the need to cross an international border arises.[41] Victims are often persuaded to hand over their passports for safekeeping both during travel and after arrival. Once a trafficker gets hold of the document, it is used as leverage to keep the victim from running away. Not only will the victim be unable to establish their identity but would also risk arrest and deportation for immigration-related offences if found without papers. This message is in many cases unequivocally conveyed to victims by traffickers, who also warn against contact with officials or venturing out of the place of detention/exploitation.[42]

Drugs (Section 22(a)(iv)): The deliberate introduction of victims to narcotic and psychotropic substances, which are addictive in nature, continues to be one of the methods by which traffickers ensure that victims do not run away.[43] In order to feed the addiction and avoid the risk of going without supply, victims will have to work hard and show up with their earnings, in exchange for which the trafficker will offer drugs.

Intimidation (Section 22(a)): Intimidation applies to a variety of scenarios. The physical, sexual, emotional and verbal abuse of one victim is used to send a message to other victims that the same would happen to them should they fail to obey instructions.[44] Some traffickers resort to a "divide and rule" type of approach and encourage the victims to tell on each other, which makes it very difficult for the victims to develop any form of trust amongst themselves, and compel them to see the trafficker

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[36] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 45.
[37] IOM Counter-Trafficking Training Modules. Children. Facilitator's Guide, p. 5.
[38] Ibid., p. 4.
[39] Ibid., p. 4.
[40] Ibid., p. 4.
[41] UNODC, Anti Human Trafficking Manual Module 2, pp. 6–7.
[42] IOM Counter-Trafficking Training Modules. Children. Facilitator's Guide, p. 5.
[43] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 45.
[44] Counter-Trafficking Training Modules. Children. Facilitator's Guide, pp. 5–6.

as the only reliable "friend".[45] On a different level, traffickers threaten and sometimes actually cause harm to close family members and loved ones of victims.[46] It is important to note that, in many cases, the trafficker is known to the victim (e.g. a boyfriend), while in others, the victim is asked to furnish information about family ties and related details, either at recruitment or immediately upon arrival at the place of destination, while the victim is still in a state of confusion. These pieces of information are easily used against the victim later on to discourage any plans of escape or resistance to instructions.

Debt bondage (Section 22(g)): This is a most peculiar method of control that is not too easy to explain without taking a step back in the trafficking process. Targeted victims are usually lured with promises of well-paying jobs often accompanied by reminders that there are expenses to be incurred.[47] These include travel and living expenses en route to the destination. Sometimes the trafficker or agent will require commission for job-hunting services, which makes the story appear even more credible. Many victims may manage to raise resources through the sale of property or loans, but that is often not enough. The trafficker will take this opportunity to inform the targeted person that the expenses are covered but will need to be reimbursed later from the earnings of the job.[48] It is an irresistible offer that may be reduced to writing, creating the beginning of a debtor–creditor relationship. Others are unaware of any irregularity, until the time of their arrival at the place of destination, when they will be simply told that the trafficker has incurred a specified and often exaggerated amount of expenses to get them there, and they will have to work under the traffickers' instructions to win back their freedom.[49] Olga's is a case in point. In many cases, the debt is never fully paid as reasons are found by the trafficker to increase it.[50] Such would be the case when a victim is fined for discipline, tardiness or absence from work, be it for sickness or other reasons. Some victims have to pay their traffickers for food, accommodation, clothing and make-up. The idea is to keep the victim in a perpetual cycle of debt, until they are no longer "useful", or until they are sold off to another trafficker who is most likely to repeat the same process.

Voodoo/witchcraft (Section 22(a) iii): This form of control is mostly reported in connection with West African trafficking networks, particularly Nigerian.[51] Initial reports suggested that voodoo or black magic was used to frighten and retain control over the victim.[52] A traditional healer will acquire items of personal contact from the recruited person usually in the form of nail clippings, locks of hair or drops of blood.[53] A ritual is then conducted in which the relationship between the trafficker and the victims is, in a manner of speaking, cemented.[54] The trafficker agrees to arrange the travel in exchange for a specified amount of payment (again usually a large sum of money) and the traveler agrees to honor and pay back the debt.[55] The power of voodoo will be used to punish those who defy

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[45] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 191.
[46] Tudorache, General consideration on the psychological aspects of the trafficking phenomenon, *Psychosocial Support*, p. 20.
[47] Van Impe, People for sale, *International Migration* (2000) , 38 (113): 120.
[48] Ibid., p. 120.
[49] Ibid., p. 120.
[50] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 46.
[51] Dijk, Voodoo on the doorstep: Young Nigerian prostitutes and magic policing in the Netherlands, *Africa* (2001), 71 (558): 564.
[52] Ibid., p. 565.
[53] Ibid., pp. 569–570.
[54] Ibid., p. 569.
[55] Ibid., p. 565.

the terms of the agreement. Discovery of some personal contact items during brothel raids in parts of Europe gave impetus to the belief that the victim is forced to undergo the ceremony by the trafficker who later displays the items in places of exploitation by way of intimidation.[56] The idea is, should the victim run away from their exploiter, these items could be used to trace them and cause them harm through the medium of voodoo. More recent reports, however, indicate that the ritual is nothing more than a blessing ceremony in which the healer is asked to approve the travel, and pray for the good luck of the traveler.[57] Ceremonies with similar purposes are said to be carried out in churches where the traveler is Christian.[58] While this makes little difference for the victim (as traffickers abuse the arrangement and use it for purposes of control), it has important implications for the traditional healers who may otherwise be held accountable for complicity in the crime of trafficking.

3.7.2 Types of Exploitation

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

Sexual exploitation: Sexual exploitation may include forced prostitution or forced marriage, the use of persons for pornographic productions, or the performance of other sexual acts including erotic dancing.[59] Such exploitation may take place on streets, in brothels, bars, private residences, saunas and massage parlors.[60] The latter two appear as euphemisms for brothels as they often offer clients sexual services as well. Sexual exploitation of trafficked women is the most highly publicized and researched subject on the issue of TIP, so much so that at some point it was believed to be the only form of trafficking. Further research has dispelled this myth and has revealed the existence of not only other forms of exploitation but also the fact that men and boys are also trafficked for sexual exploitation purposes.[61] (See Part I, Section 2 of the Act for definition of "sexual exploitation".)

Labour exploitation: Conversely, it appears that men and boys are more prone to trafficking for labor exploitation purposes.[62] This type of exploitation may take place in factories, agricultural and mining fields, fishing, and construction work.[63] There have been recorded incidences of boys trafficked for camel jockeying as well, most notably in countries in the Middle East.[64] Girls are often trafficked for domestic servitude.[65] There have also been reports of young person's being trafficked for purposes of

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[56] Ibid., p. 565.
[57] Carling, Trafficking in women from Nigeria to Europe, *Migration Information Source* (2005). Available from www.migrationinformation.org/Feature/display.cfm?ID=318 (accessed 19 September 2010).
[58] Carling, *Migration Information Source*.
[59] US Department of Health and Human Services, Sex Trafficking Fact Sheet: Types of Sex Trafficking www.acf.hhs.gov/trafficking/about/fact_sex.pdf (accessed 22 September 2010).
[60] US Department of Health, Sex Trafficking Fact Sheet: Types of Sex Trafficking.
[61] Cepellín and Honduras ,Trafficking and sexual exploitation of boys and male adolescents in Central America, *Global Eye on Human Trafficking* (IOM, 2009), 5: 2–3.
[62] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, pp. 27–28.
[63] Ibid., p. 28.
[64] US Department of State Bureau of Democracy, Human Rights, and Labor, Country Reports On Human Rights Practices: United Arab Emirates – Trafficking in Persons (2002). Available from www.state.gov/g/drl/rls/hrrpt/2000/nea/index.cfm?docid=824 (accessed 20 September 2010) .
[65] *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 28.

engaging in begging[66] and criminal activities such as serving as drug mules and pickpocketing in the streets.[67] (See definition of exploitation under Part I, Section 2 of the Act.).

Harvesting or removal of organs: Trafficking in persons for the purpose of removal of organs is addressed in the Protocol. The inclusion of this form of exploitation into the Palermo Protocol is intended to cover those situations where a person is exploited for the purpose of a trafficker obtaining profit in the "organ market"; and situations where a person is trafficked for the purpose of the removal of their organs and/or body parts for witchcraft and traditional medicine.

Organ harvesting is a peculiar addition to the list in the provisions of the Protocol. It appears to have been fueled by growing concerns about several medical professionals who found a lucrative black market for human organ transplants in the 1990s.[68] There has been some discussion as to whether the term "organ" will include body parts such as blood, fingers, and skin. As can be expected, organ trafficking normally takes place in medical facilities that sedate patients under false diagnosis and remove their organs for sale.[69] Most reports on this subject refer to the stealing of kidneys.[70] (See section 2 of the Act as amended which includes removal or organs as a form of exploitation)

3.7.3 Other Forms of Exploitation

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

Forced marriage: Trafficking can exist for the purpose of forced marriage (as well as marriage for the purpose of trafficking). There have been cases of women and young girls being trafficked internally or transnationally for the purpose of marriage. Marriages that can comprise an exploitative purpose of trafficking include early marriages, forced marriages, arranged marriages, temporary marriages, marriages by catalogue (the mail order bride phenomenon[71]), and marriages for the purpose of

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[66] UNICEF, *The State of the World's Children: Excluded and Invisible* (2006), p. 50.
[67] Surtees, Trafficking of men: A trend less considered, *Global Eye on Human Trafficking* (IOM, 2007), 1: 1–2.
Also see *The IOM Handbook on Direct Assistance to Victims of Trafficking*, p. 27.
68 Pearson, *Coercion in the Kidney Trade?: A Background Study on Trafficking in Human Organs Worldwide* (GTZ, 2004), pp. 9–10.
[69] Ibid., p. 10.
[70] Ibid., pp. 17–19.
[71] R. Rosenberg (ed) *Trafficking in Women and Children in Indonesia*. Describes the "mail order bride phenomenon" as a trend in which men from industrialized countries find brides from developing countries. This phenomenon involves Internet sites that market women as potential wives to men. Often, the women are from Eastern Europe and Asia and are advertised on such Internet sites for men primarily from industrialized countries. This system of finding

childbearing. In some cases, marriages are used to facilitate human trafficking (e.g. to acquire travel documentation) or to conceal the crime of human trafficking (e.g. where victims are forced to marry their traffickers.)

Often, exploitation amounts to "servile forms of marriage", as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and the Institutions and Practices similar to Slavery, as "any institution or practice whereby:

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

Note that the Zambia Anti- Human Trafficking Act adopts this definition. (See Part I, Section 2 of the Act, "Practices similar to slavery".)

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

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

3.8 Smuggling of Migrants

Human smuggling also known as smuggling of migrants is closely related with human trafficking and adding of prohibited immigrants. Inadequate capacity of the offences of human trafficking, smuggling and that of aiding prohibited immigrants has emerged as a merger obstacle to effective investigation of human trafficking cases. Further, mis-identification has affected provision of protection services in that wrong status determination may lead to inappropriate treatment of the affected person. Due to conflation between human trafficking and migrant smuggling in the anti-trafficking law, officials sometimes misidentify trafficking crimes.[72]

a wife is referred to as "the mail order bride system", referring to the similarities between this system and buying goods through a mail order catalogue (p. 106).

[72] US Government 2023 TIP Report

Definition of Smuggling of Migrants Under the Ant Human Trafficking Act as Amended

Section 2 of the Anti-human trafficking provides that "smuggling" means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or permanent resident.

3.8.1 Criminalization of Smuggling of Migrants

The Immigration and Deportation Act of Zambia does not define smuggling as such. However, Section 46 (4) reads:

"Any person who knowingly facilitates the entry into, or the remaining in Zambia, of any person in contravention of this Act, commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or imprisonment for a period not exceeding three years, or both."

Note that the Immigration and Deportation Act does not provide for human smuggling while the Anti-human trafficking Act only makes mention of smuggling in section 9.

Following the amendment of the anti- human trafficking act, criminalization of smuggling has been aligned to international law as it no longer criminalizes the smuggled person for consenting to be smuggled under the trafficking in persons legislation. Note however, that this does not make good the smuggled migrants immigration status nor does it give the smuggled migrant status equal to that of a victim of trafficking.

Under Section 9. (1) Subject to subsection (2), a person who smuggles another person into or out of Zambia or participates in smuggling commits an offence and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and not exceeding twenty years. (2) Where the smuggling results in the death of the person being smuggled, the offender may be liable to imprisonment for life. (3) A person who produces, provides, procures, or possesses a fraudulent travel or identity document in furtherance of the offence of smuggling commits an offence and is liable, upon conviction, to imprisonment for a term of not less than ten years and not exceeding fifteen years.

3.9 Law Enforcement and Prosecution Responsibilities in the Response to Trafficking

Well-trained law enforcement officers are an indispensable part of a comprehensive response to human trafficking. The term "law enforcement" does not fully convey the complex responsibilities of immigration and authorized officers, and indeed other law enforcement agencies with respect to their role in countering human trafficking. The Palermo Protocol outlines three basic purposes in taking effective action to prevent and combat TIP (Article 2):

To prevent and combat trafficking in persons, paying particular attention to women and children.

To protect and assist the victims of such trafficking, with full respect for their human rights.

To promote cooperation among States Parties in order to meet those objectives.

These basic purposes accompany the four major pillars of countering trafficking, as laid out in the provisions of the Palermo Protocol: prevention, prosecution, protection, and partnership – which are commonly known as the four Ps.

This approach forms the basis of a national response to human trafficking and is relevant to the various branches of law enforcement that work to curb the crime. Law enforcement agencies are crucial players in the planning and implementation of national anti-trafficking strategies, which, out of necessity, require the participation of multiple stakeholders. Yet, there is often a tendency to confine the contribution of law enforcement to the prosecution aspect of counter-trafficking work. However, law enforcement agencies and their officers have specific duties that fall under each of the four pillars. Some of the generic duties of officers in this regard include duties to identify and assist victims of trafficking; adopt a human right based and victim-centered approach in investigations; form frameworks for cooperation with other actors to enhance counter-trafficking responses; and assume a proactive role in crime prevention.

The following chapters deal with the specific responsibilities of law enforcement officers in Zambia, and outlines other issues related to these duties, in the response to trafficking, as laid out in the Zambia Anti-Human Trafficking Act.

CHAPTER FOUR

CHAPTER 4. HUMAN RIGHTS BASED APPROACH FOR IDENTIFICATION AND TREATMENT OF VICTIMS

4.1 Introduction to Chapter

The chapter addresses the principles of identifying and interviewing victims of trafficking, as well as approaches to ensuring they are appropriately protected as witnesses. Victims of trafficking (VoTs) have immediate and acute physical, sexual, and psychological health needs, which need to be addressed at the earliest opportunity. The fundamental aim of victim identification is to ensure that appropriate measures can be taken to assist a victim. However, victim identification can also aid the effective investigation and prosecution of traffickers.[73]

4.2 Objectives

Appreciate the importance of victim identification and basic principles involved in the treatment of victims;

Identify major indicators used in the identification of victims of human trafficking.

Understand the process of interviewing victims of trafficking;

Be familiar with risk assessment and related safety and security concerns;

Know the role of law enforcement officers and prosecutors in referral of victims for assistance, including addressing the immigration status of victims.

4.3 Expected Outcomes

- Participants will have the skills to identify victims of trafficking and at the end of the module:
- Understand why it is important to accurately identify victims;
- Recognize the basic principles and procedures involved in victim identification and protection;
- Be able to identify the major indicators used in the identification of victims;
- Gain knowledge about the process and techniques of interviewing victims of trafficking;
- Understand the role that prosecutors and law enforcement play in response to and referral of victims of trafficking;
- Familiarize themselves with the provisions of Part III of the Zambia Anti-Human Trafficking Act No, 11 of 2008 as relevant to the identification and treatment of victims of trafficking.

[73] IOM Counter-Trafficking Training Modules, Victim Identification and Interviewing Techniques, p. 15.

4.2 The Importance of Victim Identification[74]

Trafficking in human beings constitutes a serious infringement of a person's integrity and human rights. Identifying trafficked persons is vital to ensure that they are granted access to protection and support services. If a victim is not identified as such, they might be treated as an irregular migrant or left without resources, protection or appropriate support in order to recover from the trafficking ordeal. This is to the detriment of both the trafficked victim and the trafficking investigation. Without access to protection and support services, trafficked persons might not have sufficient confidence and security to cooperate with law enforcement officials in their criminal investigations. Without evidence and testimony from trafficked persons, it is difficult to prosecute traffickers.

Refer to Annex A5: Activity 5 on the Basics of Victim Identification

In addition, focusing on the well-being of and justice for victims and witnesses of human trafficking reflects positively on the professionalism of child welfare inspectors, prosecutors and law enforcement officers and constitutes a best practice in addressing human trafficking cases. Given that, in many trafficking cases, the witness/victim is the only person who experiences the entire trafficking process; the witness/victim serves as the most crucial and accurate source of information. As such, it is important to give special attention to the conduct of prosecutors and law enforcement officials when they are called upon to interact with these witnesses/victims. The willingness of victims to report to the police and cooperate in prosecutions and criminal proceedings is strongly related to the general treatment that they receive from the police and judicial authorities, the protection of their safety and privacy, and the availability of assistance.

4.3 Guiding Principles in the Treatment of Victims

The Anti-Human Trafficking Act highlights the following responsibilities of law enforcement officers with respect to victims of trafficking:

- Officials and members of the public who have reasonable grounds to believe that a person is a victim of trafficking shall report to a Authorised officer (Sections 25, 1 and 2);
- Authorised officers who have reasonable grounds to believe that a person is a victim of trafficking shall ensure the safety of the victim, if the victim's safety is at risk (Section 25, 3a);
- If the victim is a child, the Authorised officer shall refer the victim to a designated social worker, and if the victim is an adult, to a centre for adult victims (Section 25, 3b);
- A Authorised officer shall assist the victim to obtain medical treatment, where necessary (Section 28 d), and shall inform the victim of their rights and any basic support that may be available to assist the victim (Section 28, d).

[74] IOM Counter-Trafficking Training Modules, Victim Identification and Interviewing Techniques, p. 15.

The primary guiding principle in the treatment of victims by prosecutors and law enforcement officers is to "do no harm". Subsidiary to this principle, are the following approaches and issues, which should be considered during interactions with victims of trafficking.[75]

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

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

- Not treated as an offender;
- Not "re-victimized";
- Not branded as a "soliciting person";
- Not arrested;
- Not stigmatized;
- Extended all help and assistance as a matter of right.

Multidisciplinary approach: A comprehensive knowledge of trafficking requires it to be understood from a process-centric perspective. The offense of human trafficking is best understood as a collection of crimes bundled together rather than a single culpable act; a criminal process rather than a criminal event that may involve multiple offenders. Accordingly, the response to trafficking requires simultaneous attention by various agencies mandated to carry out different tasks, viz. police agencies, social services, prosecutors, counselors, NGOs – all of whom perform several functions in the process of combating human trafficking. Therefore, prosecutors and law enforcement agencies need to coordinate efforts with other stakeholders to develop a synergy and partnership with them.

In Zambia, law enforcement's response to trafficking is supported by the Ministry of Community Development and Social Services - MCDSS (in particular, the Department of Social Welfare) and the Anti-Human Trafficking Department, which are two government entities that have an active role in addressing human trafficking in Zambia. Their mandates allow for coordination amongst various stakeholders in order to ensure that the various needs of victims, including, but not limited to, shelter, psychosocial counselling, medical/physical care and legal assistance are met.

The Anti-Human Trafficking Department in the ministry responsible for home affairs, is established under Section 2A (1) of the Anti-Human Trafficking Act. The Department is responsible for the administration of this Act under the general direction of the Permanent Secretary in the ministry responsible for home affairs.

[75]UNODC, Standard Operating Procedures On Investigating Crimes of Trafficking for Commercial Sexual Exploitation (2007), pp.6–7.

Functions of the Anti-Human Trafficking Department

Section 2A (2) of the Anti-Human Trafficking Act provides for the functions of the Department, namely to:

a) Co-ordinate activities of all relevant institutions on matters connected with trafficking in persons;
b) Establish effective measures for the prevention and eradication of trafficking in persons;
c) Investigate, arrest and prosecute cases of trafficking in persons;
d) Sensitise and educate the public on dangers of trafficking in persons;
e) Collect and share information related to trafficking in persons;
f) Advise the minister on policy matters connected with trafficking in persons;
g) Liaise with government agencies and non-governmental organisations to promote the rehabilitation and reintegration of victims;
h) Develop guidelines on the establishment of the status of a victim of trafficking in persons and certify for purposes of confirming the declaration of a status of a person as a victim of trafficking in persons;
i) Prepare guidelines for disbursements from the fund; and
j) Collaborate with a state institution, government department and international organisation on matters relating to trafficking in persons.

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

Provides care and support to victims of trafficking, in collaboration with partners;

Provides basic services and ensures that the human rights of victims are upheld, in collaboration with partners.

Moreover, under the Anti-Human Trafficking Act, the MCDSS:

Shall establish and operate centres for victims of trafficking and ensure the provision of counselling and rehabilitation, and, in collaboration with the Ministry of Education, shall provide educational services; and

Shall trace family members of victims in collaboration with the Zambia Police Service.

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

To work with ministries and other stakeholders to design and implement counter-trafficking and victim assistance programmes and strategies;

To coordinate, monitor and evaluate the implementation of those measures;

To work with local stakeholders to establish inter-sectoral coordinating committees on trafficking at the regional and/or district level, and/or to integrate trafficking-related concerns and strategies into existing community-based coordinating structures;

To monitor the treatment, referral, care, legal status, and repatriation of identified victims of trafficking in Zambia, including internally trafficked Zambians, non-Zambians, and Zambians who have returned or are still in other countries, to ensure that victims receive treatment and assistance consistent with the National Policy and implementing guidelines and protocols;

To develop and maintain a national database to support effective monitoring and evaluation; and

To compile and disseminate data, informational resources, and research findings on human trafficking.

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

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

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

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

**Based on the IOM Counter-Trafficking Handbook for Law Enforcement Officers in Southern Africa, Chapter 4 (2006).*

4.4 Special Considerations

Gender considerations:[76] Though the victim could be any person, research shows that the majority of trafficked victims, particularly those trafficked into commercial sexual exploitation, are females. An inadequate response to the trafficked victim by various agencies further exacerbates gender discrimination and gender violations that already exist in society. Hence, gender sensitivity is an essential requirement in addressing human trafficking. The procedures and steps undertaken by the responders should conform to gender rights.

[76] IOM, *The IOM Handbook on Direct Assistance for Victims of Trafficking* (2007), p. 42.

Child rights considerations:[77] Research has shown that there is a high demand for children for purposes of exploitation. Being more vulnerable, children are subjected to extreme violations during and after trafficking, and an improper response aggravates the harms already inflicted on them. Therefore, the response during prosecution has to be specifically oriented to child rights.

When providing assistance to potential victims of trafficking, one must always remember that victims of trafficking are victims of a crime; they are not criminals themselves.

The Anti-Human Trafficking Act, Section 24 provides victims with immunity from prosecution, stating that:

"Despite the provisions of any other written law, a victim of trafficking in persons shall not be criminally liable for an offence regarded as illegal in the Republic or for a criminal act that is a direct or indirect result of being trafficked."

Organized crime: Trafficking is often an organized crime extending beyond national and state boundaries. It is multidimensional because of the following:

- It involves the elements of several crimes, like selling, buying, sexual abuse and exploitation, criminal confinement and abduction;
- The scenes of crime extend from the source area through the transit area to the destination area;
- It entails multiple abuses and abusers, who are often networked and organized;
- It is a "continuing offence" that starts with recruitment/procurement and continues until the victim is rescued;
- By "trading" in human beings, offenders make "profits" at various levels of their activity.

Demand for cheap labor: Trafficking clearly generates a flow of profits, not only for the agents who provide transportation or cross-border movement of people, but also for the employers who exploit forced laborers at the place of destination.[78] The exploitation of trafficked persons often takes place in any of these three: (a) forms of economic activity that are either illegal or informal; (b) poorly regulated or unregulated economic sectors in which it is difficult to enforce regulatory controls and where profit margins are deemed extremely low; and (c) settings that are beyond labor regulation, for instance, private households.[79] As such, demand should be understood as that of cheap and flexible labor driven by employers.[80] Employers, in almost all cases, provide goods or services and are in the position to demand cheap labor. For instance, the high demand for cheap labor in cocoa fields has led

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[77] IOM, IOM Counter-Trafficking Training Modules, Children (2006), p. 41.
[78] ILO, *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, 2005), p. 55.
[79] B. Anderson and J. O'Connell Davidson, *Trafficking: A Demand-led Problem. A multicountry study* (Save the Children Stockholm, 2002), p. 23.
[80] ILO, The Vienna Forum to Fight Human Trafficking 13–17 February, Austria Background Paper (Geneva, 2008), p. 2.

to the trafficking of children and adults into Ivory Coast from surrounding countries (this has been occurring since the mid-1990s).[81]

4.5 Victim Identification

Refer to Annex B3: Case study 4a: Kim (referring to Activity 6 in Annex A6)
Refer to Annex B4: Case study 4b: Dan (referring to Activity 6) in Annex A6)

4.5.1 Initial Indicators Explained[82]

Part III, Section 22 of the Anti-Human Trafficking (Amendment) Act provides guiding principles for identification of victims of trafficking. Recognizing key indicators of human trafficking is the first step in identifying victims and can help save a life. In addition to the provisions of the Anti-Human Trafficking Act, below are some common indicators to help recognize human trafficking. [83]

Indicators of Human Trafficking

- Does the person appear disconnected from family, friends, community organizations, or houses of worship?
- Has a child stopped attending school?
- Has the person had a sudden or dramatic change in behavior?
- Is a juvenile engaged in commercial sex acts?
- Is the person disoriented or confused, or showing signs of mental or physical abuse?
- Does the person have bruises in various stages of healing?
- Is the person fearful, timid, or submissive?
- Does the person show signs of having been denied food, water, sleep, or medical care?
- Is the person often in the company of someone to whom he or she defers? Or someone who seems to be in control of the situation, e.g., where they go or who they talk to?
- Does the person appear to be coached on what to say?
- Is the person living in unsuitable conditions?
- Does the person lack personal possessions and appear not to have a stable living situation?
- Does the person have freedom of movement? Can the person freely leave where they live? Are there unreasonable security measures?

Not all indicators listed above are present in every human trafficking situation, and the presence or absence of any of the indicators is not necessarily proof of human trafficking. Note that other indicators not mentioned may manifest.

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[81] C. Neil, *Our Guilty Pleasure: Exploitative Child Labour in Chocolate Industry – 10 years on from the Harkin-Engel Cocoa Protocol* (East Burwood, World Vision Australia, 2011), p. 10.

[82] Based on *IOM Handbook on Direct Assistance for Victims of Trafficking* (2007), pp. 26–30.

[83] *https://www.dhs.gov/blue-campaign/indicators-human-trafficking. Accessed on 30/06/2023 at 10:00am*

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

Initial identification of indicators is important, in order to determine if a victim has been trafficked or if the officer suspects circumstances of human trafficking. The presence or absence of initial indicators should not mean that trafficking has been established or discounted. If an investigating officer suspects initial indicators of trafficking, further investigation is required. It should be noted that the indicators listed below are intended to assist in the overall assessment process, are generalizations, and that exceptions exist in relation to all of them. Local circumstances and experience may indicate the need for additional indicators or adaptation of the indicators. Law enforcement officers and prosecutors should adapt and expand the process accordingly. All indicators should be considered cumulatively as none will provide the answer on its own. The following initial indicators should accordingly be taken into consideration:

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

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

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

Documentation: Depending on regional and geographical circumstances, identity and travel documentation is often seized from victims of trafficking, as part of the control mechanisms of the traffickers and victims will not normally be in possession of their identity and travel documents, although exactly the same observation could be accurately made in respect of most asylum-seekers and, in some cases, of victims of migrant smuggling.

Last location: The location where the victim was immediately prior to coming to the notice of law enforcement officials will always be significant. A brothel, call-girl agency or lap dancing club, and places of labor exploitation such as "sweatshops", restaurant kitchens or agricultural sites will all be indicators of exploitation.

Context/circumstances: The circumstances leading up to the referral will always be a key indicator and as much information as possible should be obtained from the referee. Circumstances such as removal from brothels by "client rescue", or identification and rescue by intergovernmental organizations (IGOs) and NGOs, will simplify the screening process.

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

Certification of Victims of Trafficking in Person

Certification of victims of trafficking is provided for under Section 22A of the Anti-Human Trafficking Act, as amended. Section 22A of the Anti-Human Trafficking Act provides for certification of victims of trafficking in persons as follows:

- A person shall be considered a victim of trafficking in persons if that person is certified by the Department as a victim of trafficking in persons in accordance with the procedure as prescribed.
- Where the declaration of the status of a victim of trafficking has been granted to a person, that person shall be issued a certificate in the prescribed form.
- Where the declaration of the status of victim of trafficking in persons is not granted to a person, that person may appeal against the decision to the Court.
- A certificate granted in accordance with this section may be terminated where it is found that the decision to grant a declaration was based on false information.
- A person who submits false information in accordance with subsection (4), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Refer to Annex A7: Beyond initial indicators

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

Refer to Annex A7: Activity 7: Beyond Initial Indicators
Refer to Annex B5: Case study 4c: Precious Busang – Phase I (referring to Activity 7)

5.5.2 Corroboration of Indicators[84]

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

Corroborating the initial indicators can be achieved by a number of methods, from making specific overt or covert enquiries to asking the victim additional questions. Following enquiries, a decision on further action should be made. The course of action depends on the nature and circumstances of the particular trafficking case and the well-being of the trafficked victim.

4.5.3 Further Action[85]

Following corroboration of indicators, there is a range of further action that can be taken depending on the nature of the case. It is important to determine which course of action is most appropriate for a particular case. Further action can include:

Certification of victim of trafficking as provided for in Section 22A of the Anti-Human Trafficking Act, as amended;

Starting or continuing a formal investigation;

A formal evidential interview of a person believed to be a victim of trafficking, or an interview to determine if a person should formally be declared a victim of trafficking (see specific questions to guide the interview process under Section 4.6.3);

A raid/operation to rescue a victim from the place of exploitation; and

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

[85] Ibid.

Arrest of suspects and other enquiries such as conducting investigations into how a person was recruited.

4.5.4 Specific Identification Questions[86]

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

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

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

3. Was any money handed to the recruiter in advance? Financial arrangements are important; the crime of trafficking usually operates on the basis of some form of debt bondage, whereby the victim incurs debts to the recruiter that are to be paid off after arrival in the country of destination. Trafficked victims are generally impoverished and rarely have the financial means to fund their own travel arrangements and confirmation of this fact is a strong trafficking indicator.

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

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

6. Were any borders crossed and, if so, were they crossed clandestinely or openly? If openly, were the documents used to gain entry the trafficking victims' own IDs or false ones, or were

[86] Taken with adaptations from the IOM Counter-Trafficking Training Modules Victim Identification and Interviewing Techniques (2007), pp. 43– 45.

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

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

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

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

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

11. Was the person coerced into engaging in any activity? If so, how? Any coercive relationship is central to the trafficking crime. The extent of coercion is related to the activity in which the victim is expected to engage. In abduction, the victim is coerced from the outset, and in deceptive recruitment, the victim is coerced from the point that the deception is revealed. Coercion can take a variety of forms; for example, threat or use of physical, sexual or psychological violence against the victim or the victim's family, social or linguistic isolation, creation of fear of exposure, stigmatization and/or rejection, mistrust of authorities and deprivation of free will and dignity. Traffickers may create dependence through physical (drugs or alcohol) or psychological dependence, or even through limited access to food and water.

12. How much money has the individual earned through this activity? The amount earned will vary according to the activities the victims are involved in. Prostitution can potentially earn many times more than manual labour. Often the victim never sees this income as the traffickers, who sometimes make promises of payment at a future date, appropriate it.

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

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

15. What were the working conditions? The more inhumane and restrictive the working conditions, the greater the likelihood that the case is one of trafficking. Continuous control of the victim in conditions of extreme exploitation is a central feature of the modus operandi of traffickers.

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

During the identification stage, any identified victim should be referred to protection or support services that provide safe housing, medical, psychological and legal assistance and other welfare benefits. If a victim is identified, a period of reflection should be offered to the victim, regardless of their immigration status. A reflection period allows the victim to remain in the destination or transit country to recover from the trafficking ordeal and to make an informed decision on whether or not they wish to cooperate with law enforcement officials in their investigations.

The Zambia Anti-Human Trafficking (Amendment) Act: Guiding Principles for Identifying Victims of Trafficking

(Part III

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

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

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

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

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

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

f) **Whether evidence exists that the person had been forced to lie to the person's family or friends about the person's safety, well-being and whereabouts;**
g) **Whether the person has been subjected to debt bondage;**
h) **Whether the person has been forced to work whilst earning little, if any, money; and**
i) **Whether the person has been required to do work that is different than originally promised to the person.**

4.5.5 Review of Actions[87]

It is necessary for the investigating officer/s to review their course of action in the identification of trafficked victims in order to check that initial indicators are present, that the indicators have been and to check if further indicators are present. The review of actions may also reveal that initial suspicions of trafficking were not founded, or, alternatively, that additional information and intelligence relating to the trafficking case was discovered.

[87] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to Fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, p. 4.

With regard to child victims of trafficking, authorised officer responsibilities may include:

- Reporting instances of children in need of protection to relevant child protection agencies;
- Contributing to the development of victim profiling with other agencies;
- Undertaking joint interviews with social workers of children identified as victims or potential victims to assess risk and assist in the development of protection plans;
- Carrying out checks on sponsors and "uncles" and "aunts" who claim to be the relatives of children already identified as being at risk of trafficking;
- Receiving and seeking intelligence, undertaking investigations with immigration officials and any other appropriate parties;
- Using and contributing to the development of investigation toolkits for trafficking work;
- Participating in local child protection networks with related organizations
- (Immigration, social services, NGOs, health and education) to develop joint approaches to the issue at the local level and contribute to wider forums as appropriate;
- Responding to media inquiries and utilizing publicity as appropriate to raise awareness and hence improve the quality of intelligence and investigations;
- Logging intelligence material as specified and ensuring links with other forces and national/international policing organizations;
- Initiating missing person's procedures, investigating circumstances and circulating information, undertaking investigations, and linking with other agencies as required, when children disappear.

4.5.6 Conflict of Interest[88]

It is important to recognize that different partners may have differing motives and priorities in the response to trafficking. For example, law enforcement officers often focus on detecting and preventing crime. Arresting and prosecuting authorities may be more focused on the prosecution and enforcement components of the trafficking response, while child welfare inspectors and civil society organizations, and NGOs in particular, may be more likely to focus on the victim's protection and well-being.

A National Referral Mechanism (NRM) is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of migrants, coordinating their efforts in a strategic partnership with civil society. Victims of trafficking require a NRM, which is a comprehensive framework designed to effectively respond to cases of trafficking in persons. The NRM involves the coordination of various actors to ensure the identification, protection, and assistance of trafficking victims. Law enforcement should collaborate with service providers to ensure all relevant services and legal advice are availed to victims. Social services provide immediate support and long-term rehabilitation to victims. NGOs provide shelter, legal aid, and advocacy. The private sector is responsible for preventing and addressing trafficking. The judiciary ensures fair legal proceedings, and international organizations provide guidance and support. The NRM promotes coordination among actors to meet immediate, medium, and long-term protection needs. It upholds the human rights of

[88] Based on the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to Fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, p.5.

victims by referring them to appropriate service providers. It improves procedures on various trafficking-related issues.

Zambia has established an NRM based on the Anti-Human Trafficking Act to combat trafficking. The NRM involves government agencies, civil society organizations, and international partners. Its purpose is to ensure victims receive care, support, and justice, and to increase cooperation among stakeholders. The NRM has clear procedures for identifying and referring potential trafficking victims. Specialized assistance is provided through shelters and service providers. Case managers oversee the coordination of services for each victim. Different government agencies collaborate with civil society organizations and partners to address trafficking. Regular meetings, trainings, and information sharing strengthen coordination.

The following box is borrowed from the Crime Reduction Toolkit, produced by the United Kingdom Home Office Crime Reduction Information Centre, and is amended for Zambian law enforcement and provides a quick and useful checklist.[89] Although the contents of the check-list are developed for authorised officers, it should be noted that they apply to other front-line officers.

- Authorised officers have generic responsibilities relating to:
- The identification of victims;
- The protection of victims and support workers;
- The protection of life;
- Investigation, intelligence gathering and surveillance, including liaison with national and international enforcement agencies;
- Gathering all evidence, both scientific and material, to ensure there is a fair trial (this includes the disclosure to the defence of any evidence that may assist the accused);
- The recording of crime (this includes rape and assault, and abduction); and
- Identification of and support for vulnerable or intimidated witnesses.
- With regard to adult victims of trafficking, police responsibilities may include:
- Contributing to the development of victim and offender profiles on an inter-agency basis;
- Identifying adults at risk (e.g. following raids on off-street sites, responding to referrals from other agencies and members of the public);
- Informing victims/potential victims of their rights (e.g. right to obtain legal advice);
- Informing victims/potential victims who are not Zambian citizens or permanent residents of their options with regard to immigration status;
- Identifying support services and referring victims/potential victims to specialist NGOs and safe accommodation, where these are available, and arranging safe transport;
- Undertaking interviews, receiving and seeking intelligence, undertaking investigations with immigration officials and any other appropriate parties,
- Logging intelligence material and ensuring links are made with other forces and national/international policing organizations;
- Providing protection to victims and staff supporting them. When appropriate, involving the appropriate Witness Protection Programme;

[89] Source: United Kingdom Home Office Crime Reduction Information Centre , Crime Reduction Toolkit – Trafficking in Human Beings, www.crimereduction.gov.uk/toolkits/tp0501.htm.

- Making referrals to Victim Services for witness preparation and court familiarization;
- Language support (translation services);
- Initiating missing person's procedures, investigating circumstances and circulating information, undertaking investigations, and linking with other agencies as required when adults, who have been identified as victims/potential victims, disappear;
- Collaboration: Police should work closely with the Department of Immigration, provincial/territorial and municipal agencies, with Social Services, child welfare authorities, and with any NGOs involved in service delivery to provide protection to the children;
- Authorised officers need to utilize existing liaison structures with authorities in the countries of origin;
- Providing some specific services, including protection to a trafficked victim during his/her court case, and after, if the victim remains in Zambia;
- Working with immigration and border authorities to help identify victims leaving the country with their traffickers at exit controls;
- Liaising with other authorities for assistance in preventing persons being removed from Zambia by traffickers;
- Authorised officers need to provide front-line information/intelligence to local intelligence offices and data banks;
- Authorised officers should work with other agencies trying to ensure that those who are removed or who choose to return are not re-trafficked. This should include a risk assessment of the danger to returning victims and ensuring effective reintegration. Reintegration entails enabling the individual to reassume life as an active member of the social, economic, civil, political and cultural aspects of a society. Successful reintegration should also diminish vulnerability to re-trafficking and re-victimization.

4.6 Interviewing Victims of Trafficking

4.6.1 Interviewing victims of trafficking[90]

Interviews with victims of trafficking should ultimately serve the law enforcement objectives of the trafficking case and should be used as a method of gaining evidence and intelligence in order to achieve a successful prosecution. The purpose of an interview is to establish the full facts of the case, to use the facts to corroborate the victim's story and establish their credibility as a witness. The overall aim is to use the evidence to identify, arrest, and successfully prosecute the traffickers. It is essential to continually assess the risk to the victim and those associated with the victim.

When interviewing trafficked victims, good practice interview techniques are necessary in order to achieve high quality information and intelligence[91] that can be used to support a proactive prosecution case. Employing good practice interview techniques will increase the likelihood that a credible prosecution case can be developed. Without a statement or testimony from a victim, law enforcement authorities are unlikely to have a solid case. Interviewing a trafficked victim requires a lot of careful consideration and time to gather or establish the full facts of the case from the victim. In particular the needs, safety and well-being of the victim should be a priority at all times. Trafficked victims are vulnerable and should be treated as such. A trained and specialized interviewer should interview them in a sensitive manner.

The PEACE interview model has been developed as a good practice tool for interviewing trafficked victims as vulnerable witnesses. PEACE stands for: Planning and preparation, Engage and explain, Account, Closure, Evaluate. Each of these stages of the interview process will be explained in more detail below.[92]

Refer to Annex B6: Case study 4d: Precious Busang – Phase II (referring to Activity 8)

4.6.2 Planning and Preparation[93]

There are several important things to consider when preparing to interview a victim of trafficking. Both strategic and tactical planning are required of the investigating officers when they are about to interview a victim. Strategic planning includes the availability and *use of resources and equipment*, including staff and their abilities to interview, recording equipment and the possible use of translators.

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[90] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, p. 5 .

[91] See Section 5.2.2

[92] National Evaluation of the PEACE, Investigative Interviewing Course, Police Research Award Scheme-Report No: PRAS/149, Colin Clarke And Rebecca Milne, Institute of Criminal Justice Studies, 2001, pp. 17–18. Also accessible at http://webarchive.nationalarchives.gov.uk/+/http://www.homeoffice.gov.uk/docs/peaceinterviewcourse.pdf

[93] Reproduced with adaptations from the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006,The Vienna Forum to fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, pp. 6–8.

Tactical planning concerns the management and conduct of interviews. It is important that investigating officers use the best resources that are available to them. Issues to consider include:

Existing information: It is important to find out as much about the case as possible before conducting the interview. The information gained from such enquiries can help to develop a general profile of the case and provide a foundation for interview planning.

Safety of victim: At the planning stage, the safety and wellbeing of the victim should be assessed. This might require investigating officers to ask direct questions at an early stage in order to establish if there is any risk to the victim or others associated with the victim, including other victims and the victim's family. At this stage protection and support services should be made available to the victim. Cultural and religious observances should be accommodated if need be. If victims are able to access a high level of protection and support, they are more likely to recover from their ordeal, develop trust towards the investigating officers and agree to cooperate with the criminal investigation.

Assessment of victims' health: Victims may need to undergo a psychological assessment before the interview commences. Their basic health should also be assessed. Victims should be offered alternative clothing, meals should be planned for them and suitable and safe accommodation should be organized.

Logistics: Practical considerations in planning for the interview are also important. This includes the location of the interview, recording equipment for the interview, who will conduct the interview, the duration of the interview, and translation needs. When considering the location for the interview, it is important to provide a comfortable setting for victims. For example, a special interview suite may be available to investigating officers that are welcoming, comfortable and non-threatening. If victims are interviewed in a location that they are not familiar or comfortable with, they may become distressed and/or distracted which may then impact upon the purpose and quality of the interview. Witnesses should be given a choice as to the location of the interview; however, interviews should not take place at the victims' home or place of residence. The location should be safe, secure, and free from distractions and intimidation.

Recording the interview: Recording the interview can be done in a number of ways. These include an audio recording, video recording or written recording. The method employed depends on the availability of equipment, the comfort of the victim and domestic legal requirements. It is most important that the victim understands why recording equipment is going to be used and that their informed consent is given before the recording begins. Although recording the interview is important and has the benefits of making the interview easier, reducing legal challenges in court and improving the quality of the witness testimony, it is not the most important aspect of interviewing.

Interview as a human process: Interviewing is a human process that should not rely on technology. Good practice recommends that it is ideal to have two interviewers in a trafficking investigation. One interviewer should be given the task of developing the victim's account and pose questions, whilst the other should act as an observer, taking notes on the progression of the interview as it happens. Ideally, law enforcement officials who are specialized and trained in interviewing vulnerable persons should be employed to interview trafficked victims. Those who are not specially trained may not have an understanding of the sensitive nature in which these persons must be treated in an interview situation.

The gender of the interviewer is also something that should be considered. Whilst there is no direct evidence that the particular gender of an interviewer guarantees better or worse interview outcomes, it may be desirable for vulnerable female witnesses to be interviewed by female officers. However, some victims may relate better to members of the opposite sex. In keeping with the interests of victims, they should be given the choice as to which gender officer they wish to have conducting the interview. When interviewing a trafficked victim, the interviewers will need to be aware of and use the language and concepts that the trafficked victim understands and make a concerted effort to work with the victim's capabilities and not with their limitations.

Duration of interview: The duration of interviews of trafficked victims is something that must be considered when preparing and planning for an interview. This includes planning for breaks. It is possible that the interview will take more than one day given the vulnerability of the victim and the trauma they have suffered. However, the number of interviews should be kept to a minimum. The use and role of translators in the interview may be necessary and will be explained in Section 5.6.8 (see below).

Conducting the interview: The interview can be started once a comprehensive interview plan has been fully developed. The victim should freely give their consent before being interviewed and should be briefed on why they are being interviewed and the purpose of the interview. The victim should be introduced to all persons who will be present in the interview room along with a clear explanation of each person's role and reason for being present. This is essential in building the victim's trust of the authorities. When conducting the interview, it is important to keep victims separate from each other and from suspects at all times. This may particularly apply at the initial interviewing stage.

Initial stages of the interview: The victims should be able to sit wherever it is they feel most comfortable and allowances should be made for any furnishings to be moved around the interview room if necessary. The first interview should be kept very general, allowing for the victim to give a "free recall" account of their situation. This is where the victim recounts their ordeals without interruption or questioning. The interview can then progress to open and closed questioning where appropriate.

4.6.3 Interview Guidelines[94]

There are a number of basic guidelines that facilitate a fruitful interview that puts the well-being of the victim into the centre of interest and increases the chances of a meaningful outcome:

- Conduct the interview in an environment that ensures privacy: While this basic rule is often difficult to follow, depending on the circumstances, every effort should be made to minimize disruptions during the interview.
- Put the interviewee at ease: Emotions and stress play a big part in any type of interview. The interviewer will have a difficult time evaluating a nervous person. Starting the interview casually with no threatening conversation can have a calming effect. By defusing negative feelings and

[94] Reproduced from ICMPD, Anti-Trafficking Training for Frontline Law Enforcement Officers Training Guide (2006), pp. 48–49.

reinforcing positive ones, the interviewer can properly handle the emotions exhibited by the interviewee.

- Define the objective: The interviewer should ask questions carefully in view of the objective of obtaining as much essential information as possible (e.g. trying to establish if the person is a suspected trafficked victim).
- Good questioning techniques: Knowing how to ask questions is just as important as knowing what questions to ask. Also making questions easy to understand is critical.
- Let the person being interviewed do the talking: One of the biggest mistakes for an interviewer is to talk too much. Accurate evaluations of persons or gathering crucial information regarding a crime depends on letting the interviewee talk under controlled conditions. The interviewer should control the interview, but not dominate it.
- Be a good listener: A good interviewer is a good listener. Interviewers must discipline themselves to focus on what is being said and how it is being said. They should not look ahead to subsequent questions or begin to analyse an answer before the person finishes, nor should they anticipate what the answer will be.
- Body language: Reassuring body language is extremely important to gain the confidence of the person being interviewed. Be aware of body language techniques and apply them to circumstances as appropriate.
- Do not challenge answers given: Interviewers must keep emotional reactions private and should not let personal feelings interfere with the interview. They should not show disgust or disbelief should some of the information be repellent or simply incredible. Victims of trafficking may have lived through situations that are beyond comprehension.
- Do no harm: Treat each potential trafficked person and the situation as if the risk of harm was extreme, until there is evidence to the contrary. Do not undertake any interview that will make a person’s situation worse in the short-term or longer-term
- Know your subject and assess the risks: Learn the risks associated with trafficking and with specific cases.
- Prepare referral information: Be prepared to provide information about appropriate legal, health, shelter, social support and security services and to help with referral, if appropriate.
- Ensure anonymity and confidentiality: Protect a respondent's identity and confidentiality.
- Listen to and respect each person's assessment of his/her situation and risks to safety: Recognize that each person will have different concerns and that the way they view them may be different from how others might assess them.
- Do not re-traumatize the victim: Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a person's distress and to encourage/support the victim.
- Be prepared for emergency intervention: Be prepared to respond if a trafficked person says they are in imminent danger. Contact the specialized units and the necessary support services if the person needs special assistance. If in doubt as to how to address a specific case or in the presence of difficult circumstances, the correct action to take is always to call the specialized anti-trafficking unit. If the person is in immediate need of support, refer the person to a local NGO or State

services supporting trafficked people and inform the specialized unit accordingly. There are some more specific guidelines, developed by the World Health Organization (WHO), which are particularly important in case of first contact with trafficked persons.

4.6.4 Guidelines for Interviewing Children

Engage and explain[95]: It is important for the investigating officers and prosecutors to positively engage with the victim they are interviewing. Given their experience of having been trafficked, victims may react in an unpredictable way towards authorities and display distrust towards them. A rapport must be built between the interviewer and the interviewee in order to achieve the victim's trust and to provide them with comfort and security when the victim is giving their account. This can begin before the interview commences when the victim is introduced to the interviewing officers informally. At this time neutral subjects that are not related to the investigation should be discussed, however the reasons for the investigation can be raised. Creating a positive rapport before the interview begins has benefits for the interviewing officer(s) in the planning and preparation of the interview. It allows them the chance to assess the victim's preferred method of communicating, the chance to explain the interview process to the victim, and to establish if the victim would feel comfortable for the interview to be recorded. This can also help the interviewer to feel more relaxed and comfortable to interview the victim. Developing a positive relationship between the interviewing officer/s and the victim helps the victim to feel at ease in the interview and increases the likelihood that the victim will provide a high-quality account. At each stage of the interview process, the victim should be given a clear explanation of how the interview is progressing and the reasons why the victim is being interviewed. The interviewer should maintain respect, sympathy and understanding of the victim during the interview and particularly during questions relating to personal matters. At no stage of the interview should the interviewer suggest to the victim that a particular offence has been committed or that a particular person has been responsible for any offence. This is important to the success of the criminal prosecution case and to the value f the evidence provided by the victim.

[95] WHO Ethical and Safety Recommendations for Interviewing Trafficked Women (2003), p. 48, in ICMPD, Anti-Trafficking Training for Frontline Law Enforcement Officers Training Guide (2006).125 IOM, IOM Counter-Trafficking Training Modules Victim Identification and Interviewing Techniques (2007), p. 30.[95] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, pp. 8–9.

Recommended Guidelines for Interviewing Children:

A child shall only be questioned or interviewed by a law enforcement officer in relation to an alleged offence if a parent, guardian, child welfare inspector, legal representative, close relative of the child or the person having parental responsibility for the child is present at the questioning or interview (Section 55 (1) of Children's Code Act No.12 of 2022).

Where the law enforcement officer fails to contact a child's parent, guardian, legal representative, close relative of the child or the person having parental responsibility for the child to be present at the questioning or interview of the child, the law enforcement officer shall request the presence of a child welfare inspector (Section 55 (2) of Children's Code Act No.12 of 2022).

Where a law enforcement officer considers that it is not in the best interests of a child for the child's parent, guardian, legal representative, close relative of the child or the person having parental responsibility for the child to be present, the law enforcement officer shall arrange for a child welfare inspector to be present at the interview (Section 55 (3) of Children's Code Act No.12 of 2022).

Only staff trained in the special needs and rights of children should question potential victims. When possible and appropriate, children should be interviewed by interviewers of the same sex.

Create an interview space that is age-appropriate, possibly containing toys, books or games.

Establish rapport by talking about or doing things that are not related to the trafficking experience (discuss things that the child is familiar with).

Keep the atmosphere simple and informal. Communicate with children at their eye level.

Use appropriate and child-friendly language (pick up the terms that the child uses).

Explain things in a manner that the child can understand. Questions should be adapted depending on the age and mental capacity of the child.

Begin with open-ended questions, allowing the child to give their own account. Avoid leading questions (e.g. "did the person abuse you?").

Do not pursue and press for details where there are signs that the child has told everything that they know. Keep in mind that children may leave information out, or may give an answer that they believe the interviewer wishes to hear.

Interviews should take place in the presence of a parent, guardian, or a trained social worker or psychologist.

End the interview in a way that reassures the child that they have done well and that the interviewer will be available if they need to talk again.

4.6.5 Account of Events[96]

It is unlikely that a victim will give a good-quality account of events if a positive rapport has not been established with the interviewing officer(s). Once the interview begins, the victim should have the chance to give an account of the trafficking events in their own words. A victim may assume that the

[96] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13-15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, pp. 9–10.

interviewing officer(s) know(s) what has happened to them and may therefore not be so forthcoming with information in their account. It is important for interviewing officer(s) to make it clear that they do not know what has happened to the victim and can only find out once the victim has told them through their account. It is also useful for investigators to explain to the victim the need and value of a full account without putting pressure on the victim. At the first stage of interviewing, questions should be of a general nature in order to reaffirm a positive rapport and allow the victim to feel comfortable. Inquiries at this point are of a non-specific nature. If the victim responds positively, then the interviewing officers should encourage the victim to give a "free recall" account of their trafficking ordeal without being interrogated, interrupted or challenged.

Risk assessment is crucial throughout the progress of the interview. Risk to the trafficked victim and others associated with the trafficked victim may become clear at the "free recall" stage and should be responded to appropriately. If the victim does not provide information that is relevant to the investigation during the first interview, consideration should be given as to whether the interview continues. If the interview is stopped, the needs of the victim should be considered and a review of what has been told by the trafficked victim should take place. Through the process of review, some important information may be uncovered that could be of benefit to proactive investigations. Even if the information provided by the victim is not of use to support the criminal court case, it may still be useful as intelligence.

As much control as possible should be given to the trafficked victim in the interview process. Giving the victim a degree of control can help to instil a feeling of empowerment, giving them the confidence to provide a good account. It is important for interviewers to exercise patience and understanding of the difficulties the victim may experience when being asked to recount the traumatic events they have suffered as a result of being trafficked.

It is not uncommon for trafficked victims to forget certain details from the event because of painful memories and symptoms of trauma. Answers to questions may often be "I don't know" or "I don't remember" and this should be expected and understood by the interviewer. Interviewers should avoid interrupting the victim during a recount as it takes power and control away from the victim. Questions should preferably be kept open-ended, allowing the victim to respond in an unrestricted manner, which then gives the victim control over the flow of information. Specific or closed questions should only be asked to add to the detail of the information already given.

Leading questions that imply an answer should be avoided when interviewing trafficked victims. The interviewing officer should be cautioned and should exercise restraint if they begin to lead the witness or question in a manner that suggests certain answers. Such a style of questioning will lead to arguments in court that the evidence was "suggested" to the witness by the interviewees, which then impacts on the quality of the evidence provided by the trafficked victim. Questions should develop from the information the trafficked victim has given rather than be based on the assumptions of the interviewing officer. The response to questioning will be different in every case. Not every victim will respond well to "free recall" or to closed questioning and others will. Some may respond well to open but not closed questioning and vice versa. It is very important to remain attuned to the victim and their level of comfort as the interview progresses.

4.6.6 Closure[97]

The interviewing officer must ensure that the interview has a closing stage. At this stage of the interview, the victim should be left in a positive state of mind. This is the case even if the victim has provided little or no information. No praise or congratulations should be given although the victim should be thanked. Good practice promotes that the victim should be given a copy of the formal written statement he/she provided and be allowed the opportunity to read through it and, lastly, sign it. The victim should then be given an explanation of what is to happen next. A contact name and phone number of the investigating officer/s should be given to the victim should they wish to provide any further information at a later date.

It is good practice to allow the victim to ask questions of the interviewer/s. If victims are in need of protection and support, this should be arranged and offered to them. Victims may have found the interview distressing in addition to the trauma they have suffered as a result of being trafficked. No promises should be made to victims that cannot be kept, especially in regard to residency permits, that the witness will not have to give evidence in court and/or that a person will be charged with causing offence against the victim.

4.6.7 Evaluation [98]

It is important to conduct an evaluation of the interview once it has been concluded no matter how short the interview was. At this stage the interviewers should consider whether the aims and objectives of the interview have been achieved and how the information obtained from the interview will impact upon the investigation. Referring to the interview plan will help to evaluate the interview. Judging from the interview, the investigating officers should also discuss if any improvements could be made to their interviewing techniques in the future. Further inquiries may need to be made and if another interview is to be conducted, certain points may need to be followed up or clarified. The mental and physical condition of the victim should also be assessed considering the interview process might have caused them distress.

4.6.8 Using Interpreters[99]

It might be necessary to employ interpreters to assist in the conduct of the interview or during the court proceedings if the trafficked victim is unable to communicate with the investigating officers in a common language. The role of the interpreter is to facilitate communication between the victim and the investigating officers who could otherwise not communicate in the absence of the interpreter.

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[97] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13-15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, pp. 10–11.

[98] Ibid.

[99] This Section is a reproduction of the United Nations Global Initiative to Fight Human Trafficking, UN.GIFT B.P.: 006, The Vienna Forum to fight Human Trafficking, 13–15 February 2008, Austria Center Vienna, Background Paper, 006 Workshop: Criminal Justice Responses to Human Trafficking, pp. 11–12.

When employing the service of an interpreter, prosecutors and investigators need to be aware of the interpreter's credentials and status, particularly in regard to their relationship with the victim. It is good practice to use an interpreter who is independent from the prosecution and one who is familiar with the investigative and/or court proceedings and interview procedures. It is important for the interpreter to have been vetted psychologically and emotionally "fit" for their role in the interview. It should also be a consideration that the interpreter is culturally, ethnically and/or religiously suitable to work with the victim.

Lastly, it should be established whether there is a conflict of interest between the victim and the interpreter. The victim may know the interpreter and the investigators/prosecutors should endeavour to find out if such a connection exists and the nature of the relationship if one appears to be present. Traffickers have been known to infiltrate the investigation process through posing as interpreters or through having associates pose as interpreters. If the interpreter senses a conflict of interest at any time during the investigation, it should be reported to the officers immediately.

Interpreters should be allowed time to prepare for the interview and should be briefed on the investigation and/or prosecution and purpose of the interview. It is also necessary that interpreters are aware of their role in the interview process and do not deviate from it. Interpreters are not responsible for conducting any part of the investigation or questioning the witness. They are not in a position to give advice to the victim or advocate for their rights. This is the role of social service support that should be offered to the victim separately. Interpreters are simply available to translate the questions from the investigating officers and/or prosecutors and the answers of the trafficked victim as literally as possible. The trafficked victim should be introduced to the interpreter before the interview begins and should understand his/her part in the interview. In keeping with the prioritization of the victim's interest, the victim must be able to work with the interpreter and it is preferable that the same interpreter work with the investigation/prosecution throughout the duration of the case to provide consistency and stability for the victim.

The best interests and safety of the interpreter should also be a consideration. Interpreters may be at risk of intimidation or threats from the traffickers, even if they are not connected to them. Traffickers can sometimes approach the interpreter as a way of infiltrating an investigation/prosecution and the interpreter should be made aware of this possibility. In some circumstances, interpreters may need to be accommodated in safe housing and every effort should be made to address any concerns the interpreter may have, regardless of how trivial they may seem. Interpreters should avoid becoming emotionally or personally involved in the case and should have access to psychological support if they need it because of the distressing material the interview may reveal.

A good practice by interpreters is to only conduct translation between the victim and the prosecutors/investigators during interviews in the presence of both the prosecutors /investigating officers and the victim. Interpreters should never be left alone with the victim in court. When engaging in translation, the interpreter should not use "third person" or change the structure or wording of a question and under no circumstances, should they request a confidential discussion with the victim.

Interpreters should translate directly and as literally as possible and translate only one question at a time. If the interpreter experiences difficulty in understanding what one of the parties is saying, they should be free to interrupt the interview to seek clarification. Another point to consider for interpreters is that victims may not give an answer that matches the question. The role of the interpreter here is to explain to the investigators that although his/her translation of the answer is correct, the victim may not have correctly understood the question. All of these points of conduct should be made clear to the interpreter when they are briefed by the investigating officers/prosecutors before the interview commences.

4.7 Security and Confidentiality of Data[100]

Paper Copies of Data

Good practices relating to printed material containing confidential data on trafficking:

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

It is of critical importance to handle confidential data concerning the victim and the trafficking process with all due regard for security considerations.

The sensitive nature of confidential data on trafficking and the importance of handling such data with all necessary care cannot be overemphasized. At all times trafficking case files, including those on victim statements, should be handled with the utmost care and confidentiality.

The Zambia Anti-Human Trafficking Act (Section 25, sub-section (4)) provides that the identity of a person who makes a report shall be kept confidential. Section 44 of the Public Interest Disclosure (Protection of Whistle-blowers) Act No.4 of 2010. Further, section 7 of the Public Interest Disclosure (Protection of Whistle-blowers) Act prohibits protected disclosure and imposes liability on state agents who violate the provisions of this Act.

[100] IOM (2007) The IOM Handbook on Direct Assistance for Victims of Trafficking , pp. 7–10.

Data Protection Principles

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

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

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

4.7.1 The Safety of Victims[101]

Law enforcement officials and prosecutors have an unequivocal humanitarian and legal duty to treat victims of trafficking/witnesses in accordance with their fundamental human rights. The following summarizes some of the best practices in that regard:

- The safety of victims and their families and loved ones is the paramount consideration at all times and the direct responsibility of the investigator/prosecutor. The fears of victims are often fully justified by the very real prospect of retaliation if they assist authorities. It is therefore essential that programmes to protect victims both during and after they have cooperated be implemented and adequately resourced. Protection measures may include actual physical protection, anonymous relocation, and in some cases relocation to another area. Contacts with State authorities are usually problematic for the victims, especially when traffickers have used fear of such authorities to intimidate victims. In such cases, non-governmental support organizations may play an important role as an intermediary. Even when a victim escapes exploitation and receives shelter and assistance, a serious risk to their security may still exist. The victim's escape may trigger serious reprisals from the traffickers. The latter may do this by taking action against the victims or against victims' families and relatives. When the victim agrees to become a witness for the prosecution, the risks of intimidation and reprisals immediately increase considerably. Finally, given that the victim is receiving support, the risk extends to those who are providing this support and may come between the trafficker and the victim. A risk assessment therefore needs to be carried out as soon as possible after a trafficking victim has come to notice and then be regularly reviewed. Security issues apply to: accommodation (including emergency alarms/video cameras/ immediate access to police if needed); communication within and outside of the country, secure transport (to and from services, for hearings and proceedings, airports, etc.); interpretation and translation services; and the safety of the victim's family and relatives. Special security issues may relate to children, including their security while being provided with education services, and the fact that they may have been instructed by their traffickers to make contact. Notwithstanding that the only effective response to trafficking victims is a multi-agency one, the issue of safety resides and remains with law enforcement– it cannot be abrogated or delegated to other agencies.
- The investigator/prosecutor has a clear duty to conduct a continuous process of risk assessment with respect to the safety and welfare of the victims/witnesses and their families at every stage of the investigative and judicial process and beyond. Safety and the possibility of reprisals against the victims and their families will always be a feature of human trafficking, and it will never be possible

[101] Reproduced from Human Trafficking: Reference Guide to Canadian Law Enforcement, UNODC Global Programme on Trafficking in Person 2005, pp. 40–41.

to completely eradicate the risk factors. However, the duty of the investigator/prosecutor is to ensure that the risks in each case are assessed from the outset and that the assessment is continuously reviewed and updated. Moreover, where the victims have testified, the duty of care does not end with the conclusion of the trial.

- The investigator/prosecutor has a clear duty to be open and honest at all times with the victims so that they are made fully aware of the issues, responsibilities, and potential consequences and risks attached to any decision that they may be called upon to make.
- Cooperation during prosecution will always involve an element of risk for the victims of trafficking and possibly their families. The critical point is that the victims are made fully aware of all the issues and risks attached to any decision they are asked to make by the authorities so that they can reach a fully informed decision. Deception of the victims is a constant theme in trafficking crimes. The situation should never arise whereby trafficked victims can justifiably claim that they were deceived for a second time by officials or prosecutors.
- The investigator/prosecutor must ensure that all victims are made fully aware of available support services and help them establish initial contact with these services in line with the existing national referral systems. Trafficked victims may never recover from the physical, psychological, or sexual harm that they have suffered. The Anti Human Trafficking Act provides for referrals in mandatory terms.[102] It is vital that they are given access to the full range of support and care services that exist to aid them in the recovery process. It is the role of the investigator/prosecutor to ensure that the victim being prime witness is in a good state of mind and provided with appropriate care and support. However, provision of such care is a responsibility of the Ministry responsible for social welfare. To achieve this, officials within the criminal justice system must develop a network of contacts with relevant governmental and non-governmental organizations providing support services in line with the regulations which may exit from time to time and National Referral Mechanism for victims of trafficking.[103] The Government with support from United Nations Joint Programme on Human Trafficking has published a Directory of Service Providers in Zambia[104] that offer support and protective services to victims of human trafficking. The Directory is intended to facilitate links and improve coordination among Service Providers with a focus on the "protection" mandate of the Act.

[102] Foot note section 25 of the Anti-Human trafficking Act as Amended

[103] Regulation 110(20(D) OF THE AHTA (as amedend)

[104] Counter Trafficking Service Provider Directory, UNJPHT, Zambia 2012

4.7.2 Risk Assessment

4.7.2.1 Guidance on Case Study Questions[105] (Referring to Activity 9)

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

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

Her physical safety from any reprisals that might be taken by Amir Ahmed and his associates.

The other three victims: There are two main areas of risk in relation to the other women:

Their physical and psychological health as a result of continuing physical abuse, imprisonment and exploitation;

The abuse continuing if they are moved to another location before police can intervene to rescue them.

Other potential victims: Potential victims face risks in the same areas as the three victims who currently remain at the address where Precious was previously located.

The key difference is that any new victims will suffer these traumatic events for the first time and the issue arises as to whether the police could justify permitting this possibility. The critical distinction between the three known victims and any potential victims is the fact that for the three known victims, their abuse and trauma has already occurred and there is nothing that the police can do to undo this reality. In the case of additional potential victims, the police are in a position to intervene to prevent them from being trafficked in the first place and it is difficult to see how it could ever be justified to allow such a risk to occur.

What is the level of identified risk?

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

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

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

The level of risk of relocation of the brothel is difficult to assess but is likely to be low – for the reason that relocation of a brothel is a major undertaking and would take time for Amir Ahmed to organize and achieve. He would have to find new premises, organize new telephones and advertising, and accept radically reduced profits until his clients became fully aware of the new venue. In general terms and

[105] These guidelines are strictly for the purpose of assisting the manual users answer questions related to the Precious Busang case study (Prepared by Paul Holmes for IOM, 2004, Model Answer - Precious Busang). They relate to operational issues and are therefore not directly derived from the provisions of the Zambia Anti-Human Trafficking Act No. 11 of 2008. They offer tips to law enforcement officers for the conduct of anti-trafficking investigations.

based upon case analysis, most traffickers are unlikely to move solely on the basis of the escape of one victim. This issue will always be difficult to judge; there are highly professional traffickers that will relocate immediately following the escape of one of their victims, but they are usually in a minority. In most cases, traffickers rely on the fear that they have instilled in their victims to prevent them from reporting the facts to the police. This factor, coupled with their greed for continuous profits, reduces the risk of relocation. However, if any specific information is available to indicate that Amir Ahmed suspected that Precious would go to the police, the level of risk will increase.

Potential victims: Regarding new or possible victims, it is very difficult to quantify the level of risk. According to the information available from Precious, it appears that no new victims have arrived at the brothel since the date of her arrival. Therefore, it might be assumed that the recruitment process is slow and that there may be sufficient time to implement and conclude the proactive techniques before any new arrivals (to be discussed in more detail in Chapter 5). Conversely, Precious' escape may trigger an immediate replacement by Amir Ahmed in order to reinstate his normal level of profitability based upon four females forced into prostitution. In this instance, the level of risk should be determined as medium, because it is difficult to be more precise but also too serious a risk to be categorized as low.

Increase in identified risks created by the proposed course of police action: The risk of physical and psychological harm to the three victims who are still being abused and exploited is increased all the while that police do not take action to rescue them. The same applies in relation to potential victims. The risk that Khan will relocate may increase during the period in which the police delay the rescue operation.

Refer to Annex B7: Case Study 4e: Precious Busang – Phase III (Referring to Activity 9)

4.7.3 Risk Management Plan

It is possible to justify the delay of the rescue of the women but not for an indefinite period of time. It will soon become necessary for the officer in charge of the investigation to specify the length of time of the postponement of the rescue operation.

At this stage in the case, the proper course of action would be to authorize the twin-track approach of both securing the cooperation of Precious combined with proactive investigation only until next Tuesday, when it is believed that Lottie will return to the address and move the other women to Ayham.

This anticipated event provides a promising opportunity for securing high-grade evidence, but the key elements of the risk management plan should be as follows:

If any additional information comes to light to indicate that the three women face a level of risk that is greater than that already identified, immediate action will be taken to rescue them.

Surveillance should be placed on the address as a matter of urgency and immediate intervention action should be taken if it appears that any new victims are being taken to the address.

Whilst it can be justified to allow the existing exploitation of the three women to continue for a few days, to allow any situation in which it appears that a new victim is being taken to the address and will therefore become coerced into prostitution and abused is not acceptable and cannot be justified.

Strict instructions on these points should be provided to all officers engaged in this case, especially those engaged in surveillance at the address.

The risk assessment will be kept under daily review.

CHAPTER FIVE

CHAPTER 5: HUMAN TRAFFICKING INVESTIGATIONS

5.1 Introduction to Chapter

This chapter focuses on investigations and offers the opportunity to study three major techniques of TIP investigations with emphasis on proactive investigation and intelligence gathering. The chapter also addresses the major sources of intelligence and vulnerable points regarding traffickers. This chapter, presented here in the prosecutor's manual has been amended from its original version, included in the law enforcement manual, to provide a sufficient but brief overview for prosecutors.

5.2 Objectives

Gain general understanding of the three approaches to investigating human trafficking cases, that is, the reactive, proactive and disruptive investigation approaches;
Appreciate the type of intelligence sought in investigating cases of human trafficking; and
Identify major sources of intelligence and vulnerable points of traffickers.

5.3 Expected Outcomes

Investigators/prosecutors will have a better understanding of the investigation techniques and actions required in human trafficking cases.

5.2 Intelligence and Investigations

Investigation of TIP cases involves a meticulous process of gathering intelligence to build evidence proving all three requirements of act, means and purpose, as defined in the Act. It is important to note that information will need to be collated, evaluated and analysed before it can be taken to be intelligence.[106]

5.2.1 Types of Intelligence

The focus of investigation, and consequently the type of intelligence sought to establish the commission of TIP, varies on whether a particular jurisdiction happens to be a place or country of origin, transit or destination.[107]

In countries or places of origin, investigation is likely to focus on the recruitment aspect of the crime.[108] Intelligence on methods of coercive or deceptive recruitment of victims will need to be gathered. Places of transit are in a more suitable position to gather intelligence on modes of transport, routes used by traffickers, "safe house" en route to the destination, and crimes related to the use of travel documentation.[109] Places of destination have the unique advantage of having the most concrete component of the crime of TIP being committed in their jurisdictions.[110] Investigation in these cases is most likely to focus on the exploitation aspect of the crime.

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[106] UNODC, Global Programme On Trafficking in Persons Human Trafficking: Reference Guide for Canadian Law Enforcement (2005), p. 31.
[107] UNODC, Assistance for the Implementation of the ECOWAS Plan of Action against Trafficking in Persons: Training Manual (2006), p. 54.
[108] Ibid., p. 54.
[109] Ibid., p. 53.
[110] Ibid., p. 54

The challenges related to conducting investigations are manifest particularly in cases of cross-border trafficking. The crime is taking place in as many as three or more jurisdictions and investigators in countries of origin or transit may not have much to work with unless they have a clear insight into what happens in the country of destination. Those in the countries of destination may equally miss the link with the crimes committed in source or transit jurisdictions. The solution lies in cross-border cooperation and joint operations, which can be complex. We shall return to these issues shortly.

What can be said with certainty is that investigations will have to gather sufficient and admissible evidence on the three constituent elements of TIP (i.e. act, means and purpose), if they are to build a successful case against one or more traffickers.[111] This requires not only the gathering of intelligence on a variety of trafficker activities, but also operating within existing legal frameworks to ensure that the evidence is not thrown out of court during trial.

Broadly speaking, however, there are two main intelligence types: strategic and tactical. [112]

Strategic intelligence: The objective of this type of intelligence gathering activity is to conduct an overall intelligence assessment of the various strategic factors that underpin the existence of human trafficking activities in a particular State or group of States. A large proportion of the data used to generate a strategic overview of the situation is usually derived from intelligence gathered at the operational level.

Tactical intelligence: This type of intelligence affords immediate and timely support to on-going investigations, by identifying criminals and providing advance information on their movements. It leads to specific action, including arrests, further investigations and prosecution.

5.2.2 Sources of Intelligence

There are several sources of information at the disposal of investigators when they set out to investigate cases of TIP.

The easiest sources of information to access for law enforcement officials are their own records. These in-house resources normally consist of police reports, witness statements, interview transcripts and information available on databases of other law enforcement agents, for example, Interpol.[113] The following sources can also provide valuable information for TIP investigations:

Reports from border officials and NGOs may also be easily accessed and put to good use;

The US State Department's Annual Report on Trafficking in Persons (TIP report), prepared by the Global Office to Monitor and Combat Trafficking in Persons (TIP), includes information gathered from a variety of strategic sources, and is updated on a yearly basis (see Section 3.6.2 of this manual which provides information from the 2023 TIP report for Zambia.);

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[111] Ibid., p. 55
[112] UNODC, Global Programme On Trafficking in Persons Human Trafficking: Reference Guide for Canadian Law Enforcement (2005) , pp. 31–33.
[113] Police Development Unit of the Organization for Security and Co-operation in Europe (OSCE) Spillover Monitor Mission to Skopje Specialized Training on the Trafficking of Human Beings- Lesson 7: The Application of Criminal Intelligence Gathering in Organized Crime- Trainer Notes (2005), pp. 8–10.

Certain activities carried out by traffickers in the course of running their business bring them into contact with the public and make them susceptible to intelligence gathering (see Section 6.3, The "Achilles Heel" of traffickers). Members of the public may report unusual kinds of advertisements for recruitment, which, for instance, may be targeting only young women with no particular qualification; suspicious business premises where only male clients are observed; or financial transactions that involve large sums from unclear sources. Law enforcement officers to launch investigations can use such information from the public;

Individual authorised officers can also offer useful information in their periodic reports through making observations related to suspicious activity while patrolling. Public records, such as licence applications as well as print media and advertisements[114];

Informants, usually someone closely connected to a criminal enterprise or directly involved in one but is cooperating with law enforcement officials.[115] Investigators will, of course, be well advised to approach such sources with caution. An informant may or may not be reliable and, consequently, the accuracy of his/her report should always be critically assessed[116];

Physical and photographic surveillance, along with the use of undercover operatives, is a very reliable yet tricky source of information.[117] While such information is excellent in terms of quality, failure to adhere to legal, even procedural, guidelines may render the information or intelligence gathered as useless. Investigators should ensure that they observe all legal requirements prior to engaging in their surveillance techniques;

Perpetrators of other crimes who are known to the police, suspects or persons under custody may volunteer important pieces of information.[118] While their motives are often not clearly known, it should be understood that they usually expect something in return. The reliability of their word is thus akin to those of informants. Some may attempt to "plea bargain" − discussion of which should be handled only by the prosecution and not authorised officers[119];

The value of victims**,** as the richest source of information, has already been pointed out (see Chapter 5). It suffices to say that officers, who work with victims, need to be trained on victim identification and interviewing, so as to avoid harm to the person and to understand how trauma can affect the quantity and quality of the information obtained from the victim.[120]

In all of this, it is important to remember that intelligence is only useful if it is transmitted in a timely manner, to those who are in a position to use it. Expeditious transfer of intelligence between relevant agencies is often an important factor in effective investigations. Intelligence can very quickly become obsolete in the fast-moving field of human trafficking. Intelligence should be centrally managed to avoid

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114 Ibid., p. 9.
115 UNODC, Toolkit to Combat Trafficking in Persons, p. 84.
116 Police Development Unit of OSCE Specialized Training on Trafficking: Lesson 7 9.
117 UNODC, Toolkit to Combat Trafficking in Persons, p. 77.
118 UNODC ,Reference Guide for Canadian Law Enforcement, p. 26.
119 Police Development Unit of OSCE Specialized Training on Trafficking: Lesson 7, p. 10.
120 UNODC, Anti Human Trafficking Manual for Criminal Justice Practitioners Module 3: Psychological Reactions of Victims of Trafficking in Persons (2009), p. 12.

duplication and ineffective use of resources. Intelligence and information must be reported objectively without any preconceived ideas. Relevant information and intelligence must be readily available to intelligence analysts and users.

5.3 The "Achilles Heel" of Traffickers

Keeping in mind the above discussion on the types and sources of intelligence in TIP cases, it is time to devote some attention to areas where traffickers will be most susceptible to surveillance and intelligence gathering by investigators.

TIP is a highly commercial crime. As with all forms of organized criminal activity, trafficking is all about profit and gains for the traffickers.

The three principal elements behind trafficking can be stated quite simply:

Within the origin countries, a seemingly endless supply of victims remains available for exploitation, this is true also in cases of domestic trafficking;

Within the destination countries, constantly growing markets maintain a seemingly endless demand for the services of the victims, this is true also in cases of domestic trafficking;

In many cases organized criminal networks have taken control of this economic "supply and demand" situation to traffic and exploit the victims in order to generate enormous profits for themselves.[121] In some cases trafficking is carried out by a small group of people or even an individual.

It is this market-driven, commercial or economic character, which is the weakest point of the trafficking chain − often described as the "Achilles Heel" of traffickers.[122] Like any other marketable product in the eyes of the trafficker, the trafficked person needs to be:

- Marketed (both in acquiring and selling the victim) unless directly exploited by the trafficker such as in some cases of domestic servitude or forced marriages.
- Transported from place of supply to place of demand (either across a border or internally in cases of domestic trafficking);
- Rented or sold, unless directly exploited by the trafficker such as in some cases of domestic servitude or forced marriage.

As a business necessity**,** the trafficker has to be involved in one or a combination of the following activities:

- Advertising: As part of the recruitment and/or exploitation process,[123]the trafficker could use the Internet, newspapers and other print or electronic media and can include personal contacts or word of mouth.

[121] United Nations Development Programme(UNDP) Romania, Best Practice Law Enforcement Manual for Fighting Against Trafficking of Human Beings: Trafficking Methodology - An Overview - Background www.undp.ro/governance/Best%20Practice%20Manuals/user_manual/01_manual.html (accessed 24 September 2010) .
[122] UNODC, Toolkit to Combat Trafficking in Persons, p. 71.
[123] UNODC, ECOWAS Training Manual, p. 52.

- Renting of premises: There is often paperwork or verbal arrangement for the rent of “safe houses” during transit or after arrival at the destination, or the rental of brothels, factory or sweat shop premises to be used during the exploitation process.[124]
- Transportation: This may include preparation and acquisition of forged or illegal identity and travel documents to be used in transit (in cross-border trafficking cases).[125] The transportation process may involve purchasing air, bus or train tickets; rental of vehicles; and selection of routes to be used.
- Communications: The task of organizing the recruitment and exploitation of the victim often requires phone calls, exchanges through electronic and printed form such as faxes and e-mails.[126]
- Financial transactions: Financial transactions may be applicable to all of the above as expenses are usually incurred at each stage of the trafficking process and considered a necessary investment in the course of trafficking humans.[127] Bank deposits, transfer documents and financial records are good examples in this regard.
- Of paramount value to investigators and common in the activities above is that each:
- Brings the trafficker in contact with members of the general public; and
- Usually leaves some form of paper trail in the form of rental agreements, tickets, newspaper ads and bills.[128]
- It is precisely these characteristics that render traffickers susceptible to intelligence gathering. These activities of the trafficker offer valuable evidential opportunities, which should fully be exploited by investigators to build their cases.

5.4 Investigative Approaches[129]

From a more strategic point of view, investigators may choose to adopt one or a combination of the three principal investigative approaches depending on circumstances. These options are what are known as the reactive, proactive and disruptive investigation techniques.

5.4.1 Reactive Investigations

A reactive investigation is one that begins as a result of a complaint from one or more victims or members of the community. In such cases, the need for immediate intervention to protect the victims affords little time to implement a proactive investigation to obtain independent evidence.

The result is that investigators are often left with suspects but limited evidence upon which to prosecute them other than victim testimonies. In all cases where victims come to the attention of a law enforcement agency, the following responses are applicable:

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124 UNODC, Toolkit to Combat Trafficking in Persons, p. 67.
125 UNODC, Anti Human Trafficking Manual for Criminal Justice Practitioners Module 7: Crime Scene and Physical Evidence Examination in Trafficking in Persons Investigations (2009), p. 7.
126 Ibid., p. 8.
127 UNODC, ECOWAS Training Manual, p. 45.
128 UNODC, Reference Guide for Canadian Law Enforcement, p. 31.
129 Section 5.4 and subSections 5.4.1 to 5.4.4 are based on the UNODC Reference Guide for Canadian Law Enforcement(2005), pp. 21–31, and the UNODC Toolkit to Combat Trafficking in Persons (2006), pp. 69–70.

Immediate intervention against the trafficker(s) in order to rescue other victims, to prevent further potential victims from being trapped, or to secure evidence that might otherwise be lost or compromised;

Use of the intelligence or statement of the victim or third party as the basis for developing and conducting a proactive or disruptive investigation (see sub-sections 5.4.2 and 5.4.3) into the trafficking occurrence;

Use of the victim's intelligence or statement as the basis for an in-depth, intelligence-gathering operation into the trafficking scenarios.

In cases where the risk assessment of victims indicates the need for immediate intervention, it is necessary to take prompt action. Where the level of risk to outstanding victims or the need to secure vital evidence demands an immediate intervention, the case must move to the arrest phase.

The following points should be kept in mind:

- Every suspect against whom there is sufficient evidence to justify the action should be arrested, no matter how minor or peripheral their role appears to be. Experience has shown that the major players in any network will usually take every precaution to conceal their part in the crime. They will be extremely unlikely to retain possession of any incriminating documentation and are likely to remain silent throughout any interview process;
- It is advisable to have a skeleton arrest plan prepared and ready to be used from the early stages of every operation. This plan can then be refined as the operation progresses. It is often necessary to proceed with an arrest at very short notice, for example, when the cover of surveillance or undercover officers has been compromised or when there is a sudden increase in the risk to victims or witnesses are exposed;
- The arrest should be timed and coordinated, to maximize the opportunity, to simultaneously arrest as many of the suspects as possible and to rescue as many victims as possible. In addition, the objective is to execute the plan at a time that will offer the best chance of securing all available evidence;
- If time permits, when premises are raided or searched, consider deploying an undercover or covert officer, before launching the raid and proceeding with the arrest of the suspects. This provides an opportunity for an inspection of the premises, to estimate the number of persons present and the layout of the premises, such as means of entry, the presence of reinforced doors, or the number of rooms. The risks posed by the arrest operation and the resources required to overcome them, can then be properly assessed. It also specifically helps determine, whether victims are likely to be directly at risk during the raid and whether anything can be done to minimize that risk.

5.4.2 Proactive Investigations

Proactive investigations are not provided for by law, with officers acting based on intelligence information or reports. They involve the investigating of TIP where there is no report on a case and can be facilitated through proactive screening of vulnerable populations. A proactive approach usually involves proceeding with the investigation, arrest, and prosecution of traffickers without relying on the active cooperation and testimony of the victims. The use of this approach often stems from an acknowledgement on the part of law enforcement agencies of the difficulties confronting victims of trafficking who might not wish or be able to testify against their exploiters. By using a combination of intelligence, human and technical surveillance, undercover deployments – when authorized under the law – and standard investigative techniques, investigators can identify the traffickers and ensure that they are prosecuted.

The proactive approach provides the means through which law enforcement agencies can take steps to apprehend the traffickers without relying on the testimony of victims. However, it is not intended to disenfranchise the victims from the prosecution process. The testimony of victims will always remain one of the prime sources of quality evidence. Experience and best practice have shown that the proactive investigation is an effective method in apprehending and thus combating trafficking. This is because the crime has a commercial aspect. Traffickers regard men, women, and children as commercial commodities to be recruited, transported, harboured, received and exploited for profit. It is criminal business and, as with most crime, it is ultimately about financial gain. The traffickers vary their modus operandi, alter routes, switch their identities, and use a range of other tactics to maximize their profits and avoid detection. This means that, provided an investigator knows where to look, the exploitative work or forced prostitution that is the basic foundation of the crime can always be identified and located – and if one can locate the victim, one can usually locate the traffickers.

Conducting proactive investigation into cases of TIP is a resource-intensive, time-consuming and perhaps expensive exercise. However, it pays off in the end. It is the most effective technique to ensure the successful prosecution of traffickers, and investigators are well advised to follow this approach.

5.4.3 Disruptive Investigations

In cases where neither the reactive nor the proactive approach is viable, law enforcement can use a number of tactics to disrupt human trafficking operations and force offenders to reveal themselves; disruptive investigation is thus police-led. The disruptive approach requires a flexible framework and the utilization of various agencies to cause the maximum level of discomfort to offenders. Tax authorities, labour inspectors, fire services, immigration officials, municipal authorities and the like will need to pay the offenders a visit on legitimate grounds. The idea is to convey the message that the law is keeping an eye on the operation and consequently cause the traffickers to abandon their trade or at least relocate.

The use of the disruptive approach is appropriate in a variety of circumstances:

a) Where the level of risk to the victims demands an immediate response that precludes the proactive approach but might require an immediate intervention and disruption;
b) Where the proactive approach is not viable for operational reasons, such as where geographical and/or topographical features make surveillance on target premises impracticable, or where it is impossible to achieve undercover penetration of the network;

c) Where legislative, procedural or resource implications preclude the use of a proactive approach; and,
d) Where the disruptive approach provides a faster response to specific complaints from local residents or other affected groups.

Irrespective of why the disruptive option may be the most appropriate response under certain circumstances, two key points should be noted:

a) Although disruption may temporarily relieve the situation, it does not usually solve it, but displaces it to another location;
b) Displacement of the trafficking activities to another location, one that is perhaps not as well equipped to face the problem, can sometimes aggravate the challenges of fighting the crime.

The key to disruptive interventions is using creative and innovative multi-agency tactics to make it difficult for traffickers to continue to operate with their current methods and networks, and at their current location. A number of agencies can be mobilized to contribute to disruptive activities. These include: law enforcement agencies, immigration services, customs agencies, ministries of foreign affairs, health service providers, environmental actors, labor officials, fire services, municipal authorities, airlines and transportation agencies.

Disruptive activity creates intelligence opportunities, so it is important to ensure that all available intelligence is captured and properly recorded**,** since it might become the basis of proactive operations at a later date. On the other hand, disruptive activity can also interrupt existing criminal patterns and render previously useful information and intelligence obsolete.

Refer to Annex A10: Activity 10: Intelligence and Investigations

5.4.4 Special Investigative Techniques

It might be necessary to resort to the use of special investigative techniques in human trafficking cases, particularly when dealing with sophisticated transnational criminal organizations. Article 20 of the TOC Convention specifically endorses the investigative techniques of controlled delivery, electronic surveillance, and undercover operations if permitted by the basic principles of a State's domestic legal system. These techniques are particularly useful in dealing with sophisticated organized criminal groups because of the dangers and difficulties inherent in gaining access to their operations and gathering information and evidence. In many cases, less intrusive methods are not effective, or cannot be carried out without unacceptable risks to those involved. Undercover operations may allow law enforcement to infiltrate a criminal organization in order to gather evidence.

In cases where a close-knit group of traffickers cannot be penetrated by an outsider or where physical infiltration or surveillance would represent an unacceptable risk to investigations, electronic surveillance, specifically the interception of communications, may be the most useful alternative to ensure that the best possible evidence is available for court. Special investigative techniques, including electronic surveillance, may also be part of the law enforcement initiatives undertaken across borders as part of a joint investigation or a mutual assistance scheme.

5.4.5 Guidance on Conducting Investigations (Using the Case of Precious Busang)

This Section is intended to guide participants in responding to the questions in relation to the Precious Busang case study presented in chapter 5 as well as present examples of effective pro-active investigative tool that can be used in a large verity of trafficking cases. It must be noted that the information provided is merely indicative and should not be taken as an exhaustive answer to the questions. Participants are encouraged to explore further avenues for addressing the issues raised by the questions. Following the discussion of this Section, participants should read the rest of the Precious Busang case to:

1. Review what they have just learned
2. Prepare for the continuation of the work on the case in the course of studying chapter 6 of this manual.

5.4.6 Evidential Corroboration of Precious' Account

In chronological order, the following investigative enquiries should be made to corroborate Precious' account:

1. Interview Precious' mother to:
  - Confirm her medical condition;
  - Confirm what Precious told her about the offer made by Lottie;
  - Find out if she witnessed Lottie collecting Precious from the house in the Mercedes car.

2. Obtain a copy of Precious' birth certificate to prove her age and confirm her status as a minor. If this is not available, the statement of her mother could cover this point.

3. Ascertain whether Precious still has the business card given to her by Lottie.

4. Make enquiries in Esania into the status and background of Global Opportunities Incorporated.

5. Investigate Lottie's mobile phone number and ascertain the full purchase and call history associated with the phone.
6. Ascertain which telephone Precious used to call Lottie and obtain the call history of the phone to confirm the details of this call.
7. Make enquiries about the rental of accommodation within the business centre of the Marriott Hotel, Laboville, including the use of telephone and fax facilities, particularly the fax message received by Lottie from Ayham.
8. Ascertain whether any CCTV exists in the lobby of the hotel and whether any recording still exists for the period in question.
9. Check hospital records to establish which day Precious left to meet with Lottie and the date upon which she gave her notice at the hospital.
10. Make enquiries at the photographer's shop in the lobby of the Marriott Hotel regarding the purchase of the four passport photographs.
11. Make enquiries at the Passport Section of the Foreign Ministry concerning the issue of Precious' passport – obtain the full documentation and ascertain whether any CCTV records are available for the period in question.
12. Trace and interview the member of staff known as Mary (note: this enquiry should not be made until Khan and Nkoso are in custody as it is possible that Mary is criminally involved with them).
13. Make enquiries at the Consular Section of the Zambian Embassy to obtain all of the documentation relating to the issue of the visa, and find out if CCTV records exist within the consular Section.
14. Make enquiries in the vicinity of Precious' home in Laboville to establish if there were any witnesses to Lottie visiting the address.
15. Make enquiries with immigration officials on both sides of the border at Mapala Crossing to obtain all of the documentation relating to the crossing of Precious and Lottie, especially the interview notes and embarkation and entry cards.
16. During the course of searching 2 Ash Road, officers should seek to find the following corroborative items:
    - Precious' personal belongings, including photographs and study books;
    - Precious' passport and the fax letter taken from her by Khan;
    - Forensic traces of the sexual assault on Precious – on the floor and Khan's clothes;
    - Facial photographs of Precious taken by Khan;
    - Take a detailed crime scene video to corroborate Precious' description of the house.
17. Precious should be asked to consent to forensic sexual examination to establish the vaginal injuries that she suffered during the sexual assault on her by Khan.

The range of proactive techniques most suitable to this case: The following proactive investigative measures should be considered:

Interception of communications on the telephone lines in the premises, in particular on landline and mobile telephones, and the e-mail address shown on the advertising for "Aristocrats High Class Services";

Human surveillance on the premises;

Placing of covert visual and audio devices to monitor the activities within the premises;

Deployment of undercover officers to join the criminal conspiracy;

Deployment of test purchase officers to act as clients or potential recruits;

Covert seizure of rubbish from the house.

Interception of communications: In this case, interception of communications is likely to be very productive as it is likely to adduce evidence of:

- Khan's activities and control of the business;
- His association with other suspects, particularly Lottie;
- Knowledge of the sexual exploitation taking place at the address;
- Interception of the telephone lines and e-mail for "Aristocrats High Class Services" will almost certainly show very heavy call traffic and will include conversations between Mbeka and clients concerning the provision of sexual services;
- It may provide evidence of arrangements between Khan and Lottie concerning Precious Busang's return to the premises and planned trip to Ayham with the other three women;
- It may disclose plans to bring in new victims;
- It may also disclose conversations concerning the whereabouts of Precious Busang.

Covert human surveillance: Videotaped surveillance on the premises may also adduce evidence of:

- The movements of Khan, Dorothy and Charles and possibly Lottie, if she returns to the address;
- Which suspects have keys to the address;
- Whether the three female "victims" are allowed out of the premises at all and/or whether they are allowed out under supervision;
- Evidence of the visits to the premises of large numbers of male visitors: This will enable an accurate estimate to be made of the average number of clients that visit the address on a normal business day. This will also assist financial investigators in calculating the financial turnover of the brothel.

Covert filming and listening devices: If it is possible to deploy these devices, they will provide high-grade evidence of:

- The activities within the brothel;
- The method by which Khan and his associates control and exploit the three victims.

Deployment of undercover officers to join the criminal conspiracy: Given that the risks to the three victims have placed severe time constraints on the use of proactive techniques, it is highly unlikely to be practical to prepare and introduce an undercover officer as a potential accomplice within Khan's trafficking network. The objective of the deployment of an undercover officer is to insert an authorised officer into the criminal group to act as an accomplice whilst gathering high-quality evidence against the individuals in the group. To achieve this takes time and careful planning to identify the best means of creating a credible scenario within which the undercover officer could be introduced to Khan or one of his associates. In this case, there is simply not enough time to undertake this task; therefore, the technique does not apply to this case.

Deployment of test purchase officers as clients or potential recruits: This lower-level undercover deployment is especially suitable to this case for a number of reasons. As the clients of the establishment are men seeking sexual services, a male test purchase officer may be deployed to gather information posing as a client.

The deployment of a male test purchase officer (client) or a female potential sex worker (employee) into the brothel would provide the following advantages:

It would enable the officer(s) to get closer to the three women and make a more in-depth assessment of their physical and psychological condition and the level of risk that they face within the address. This information can then be used to review the risk assessment process;

It will provide high-quality evidence of the provision and control of the prostitution at the address and the specific roles of Khan, Dorothy and Charles;

It will provide an opportunity to identify the prices of sexual services and to make controlled payments, which will provide strong evidence of financial gain from exploitation and allow financial investigators to monitor payments, if made using a credit card;

It will provide an opportunity for the officer(s) to make a detailed plan and assessment of the layout and security measures inside the building that will prove invaluable in planning and preparing for any arrest operation at a future date.

Depending on who conducts the employee interview – Khan or Dorothy – this could provide good evidence of who controls the organization, the conditions attached to the job and any salary scale that is in place.

Covert seizure of rubbish from the premises: It makes investigative sense to covertly seize any rubbish bags that are discarded from the premises. Even professional criminals may discard useful intelligence material, such as copies of bills, work records and scrap pieces of paper containing data such as names and telephone numbers. It is likely in this case that a range of evidential items will be discarded; this may include used condoms and tissues, empty lubricant tubes and miscellaneous documentation relating to the advertising and management of "Aristocrats High Class Services".

In addition to the proactive techniques set out above, confidential background enquiries should also be undertaken in relation to the suspects, the address at 2 Ash Road and the activities of the two companies, "Global Opportunities Incorporated" and "Aristocrats High Class Services".

Additional points:

Post-arrest operation - Investigation of TIP cases does not come to completion upon the arrest of suspects. A great deal of work related to seized evidence and rescued victims will follow once suspects have been arrested. The primary purpose of post-arrest operations is to complement intelligence and evidence acquired during the pre-arrest and arrest phases.[130] All evidence seized at the arrest stage (and before) should now be carefully analysed and pursued parallel with financial investigations, which should always be considered in any TIP investigation as it can add weight to other investigations. The

[130] UNODC, Toolkit to Combat Trafficking in Persons, p. 70.

basic premise here is that TIP remains a highly commercial crime and the acquisition and preservation of wealth related to it normally constitutes a grave financial crime (e.g. money laundering). Findings in this regard can be used for separate legal action against the trafficker, including prosecution and asset forfeiture.[131]

Investigators who have preferably undergone training in TIP prior to engaging in such a task should interview victims who have been rescued during the arrest phase with due consideration for their precarious state. Suspects should also be rigorously interrogated to thoroughly understand the operation, rescue potential victims and gather further evidence.[132]

International cooperation and joint investigation teams[133] - as with any form of international organized crime, the successful investigation of international cases of TIP depends on the ability of law enforcement officers to investigate it while identifying and gathering evidence from other jurisdictions. Past experience shows that joint proactive operations tend to be the most effective counter-trafficking approach for law enforcement. There are several reasons for this:

- Traffickers operate in more than one jurisdiction and a joint investigation reflects that situation;
- A joint operation facilitates the collection of evidence in each of the jurisdictions involved in the crime;
- investigators in origin or transit States can use evidentiary opportunities and gather valuable corroborative evidence of the pre-exploitation phases of the crime;
- Joint proactive operations increase the ability of law enforcement agencies to apprehend traffickers because they allow the investigators to agree in advance on the overall strategy best suited for ensuring the conviction of offenders. This includes not only agreement on the focus of the main investigative effort, but also decisions about method(s) of coordination, the tactics to be employed to collect the evidence, the specific offences being targeted, and the best venue for the prosecution of the offenders.

The question for law enforcement agencies often becomes one of determining which offence and which location offers the best prospects of securing sufficient evidence upon which to base a successful prosecution.

A number of important points need to be considered before carrying out a joint investigation. The law enforcement agency seeking to establish a joint proactive operation must first identify an investigative counterpart in that State. That counterpart must not pose a security risk to the operation or to the victims involved and it must have the capacity and ability to conduct the type of investigation that is being proposed. The security risk is particularly troublesome when there is a possibility that some members of the counterpart agency are corrupt, or that they may be involved or complicit in trafficking.

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[131] UNODC, ECOWAS Training Manual, p. 56.
[132] UNODC, SOP on Investigating Crimes of Trafficking for Commercial Sexual Exploitation, pp. 26–27.
[133] This Section is based on the UNODC Reference Guide for Canadian Law Enforcement(2005) and the UNODC Assistance for the Implementation of the ECOWAS Plan of Action against Trafficking in Persons: Training Manual (2006).

At the legal level, extradition agreements and mutual legal assistance arrangements must also exist to support law enforcement collaboration by allowing the collection and transfer of supporting evidence from one State to the other including, if need be, the extradition of offenders.

Financial investigation[134] - is critical in the successful investigation of human trafficking. The key rule is: "Follow the money and you will find the trafficker."

The financial aspect of the crime of human trafficking presents itself in at least two important ways:

The crime itself is usually about money. In addition to the initial investment to create the infrastructure and deliver people for exploitation, the on-going management of the proceeds of the exploitation and the laundering and movement of the profits have to become part of the activities of the human traffickers;
Trafficking is a crime that takes time to establish and develop. Therefore, it becomes a lifestyle crime. Other offender lifestyle aspects, such as the mode of travel, expenditure on luxury items such as cars and jewellery, and leisure activities will point to the illegitimate revenues of offenders.

In transnational cases, diversity of legislation, procedures and resources can become an issue. This is especially the case with financial investigations.

Refer to Annex B8: Case Study Precious Busang – Phase IV: Pre-arrest, Arrest and Post arrest Action

[134] Reproduced from UNODC, Toolkit to Combat Trafficking in Persons (2006).

CHAPTER SIX

CHAPTER 6: PROSECUTION OF HUMAN TRAFFICKING CASES

6.1 Introduction to Chapter

This chapter focuses on the prosecution of human trafficking offences and provides relevant information specifically for prosecutors. Human trafficking offences are complex and relatively new in Zambian law. Furthermore, a clear understanding of the human trafficking phenomenon and its manifestation in Zambia has only begun in recent years. This chapter elaborates on and explains the different legal offences and other relevant provisions included in the Zambia Anti-Human Trafficking Act, such as compensation, forfeiture and deportation. The chapter further discusses issues relevant to the prosecution of human trafficking, including responsibilities towards the victims, different types of collaboration and possible complexities such as the prosecution of cases of trafficking where exploitation has not yet started, the special case of child trafficking, avoiding secondary trauma for victims, and how to proceed with limited victim/witness collaboration.

The following chapter includes references to some relevant Zambian anti-human trafficking cases. It is expected that over time Zambian anti-human trafficking case law will increase and provide further common law guidance to prosecutors and judges over time. It is, therefore, highly recommended that prosecutors and trained trainers keep up to date with new trafficking cases and related anti-human trafficking court decisions, in Zambia and internationally, and that such information is used in day to day work as well as discussions during future trainings.

6.2 Objectives

- Equip participants with a clear understanding of the role of the prosecution in the fight against human trafficking;
- Familiarise participants with different offences and related legal provisions under the Anti-Human Trafficking Act;
- Understand the role of the victims in the prosecution of an anti-human trafficking case, as well as responsibilities towards their safety, respect of their rights and relevant legal provisions;
- Enable the effective use of witnesses and exhibits in an anti-human trafficking case;
- Become familiar with the Anti-Human Trafficking Act provisions regarding forfeiture, compensation, international legal cooperation and deportation;
- Understand the importance of multi-agency cooperation as well as the prosecutor's relationship with the media.

6.3 Expected Outcomes

- Participants have familiarized themselves with the provisions of parts II, V, VI, IX, X and relevant provisions in parts III, XIV of the Anti-Human Trafficking Act;
- Participants are better equipped to prepare a case of human trafficking for prosecution;
- Participants are better prepared to appear in court and prosecute a case of human trafficking;

- Participants understand the need to balance the requirements of the legal case with the needs of the victims;
- Participants are able to work with police, immigration, the court and social services to secure victim safety and avoid re-traumatization;
- Participants are able to use or suggest the use of different procedural and other tools provided by the Act;
- Participants know how to cooperate with all relevant partners and fully understand their respective roles.

6.2 Zambian Criminal Justice and the Prosecution of Trafficking Cases

Prosecution is one of the four basic pillars of the counter trafficking response, as laid out in the provisions of the Palermo Protocol and the Zambia Anti–Human Trafficking Act, together with prevention, protection and partnership.

Prosecuting, convicting and punishing traffickers and their associates benefit both society and the individual victim. Prosecution, conviction and punishment support society's need for justice as well as maintenance of law and order, while promoting future prevention of the crime through deterrence. Prosecution, conviction and punishment support the protection of the victim from any further exploitation and abuse by the traffickers and give the victim opportunity for redress.

The crime of trafficking poses several challenges for prosecution. By nature, it is clandestine and complex; it may take place over several jurisdictions and involve several perpetrators holding different roles in different locations. The victims, who are usually the main witnesses, are often traumatized and fearful of their exploiters. Additionally, the human trafficking definition is relatively new and there is still no significant number of case law decisions to rely on for the interpretation of the Act. Finally, the globally recognized approach for effective counter trafficking action, as expressed in the Palermo Protocol and the Zambian legislation, calls for a victim centered approach, to ensure both effective prosecution of traffickers and non-criminalization and prevention of re-victimizing trafficking victims.[135] A victim centered approach may also be a new concept for the justice system. Proper understanding of the nature of the of the human trafficking phenomenon, of the victims and their needs, of the concept of victim centered approach and of the Anti-Human Trafficking Act will allow prosecutors to properly prepare and present trafficking cases to the court. State prosecutors have the opportunity to be among the first to implement the Anti-Human Trafficking Act and help in shaping the Zambian legal framework to combat this complex crime.

Refer to Annex A11: Activity 11: Ground Discussion - The Role of the Prosecutor

[135] UNODC, Anti-human trafficking manual for criminal justice practitioners, UNGIFT 2009.

6.2.1 The Role of the Prosecutor

The role of the Director of Public Prosecutions' Office (DPP) is established under article 56 of the Constitution of Zambia. The DPP is given the responsibility to prosecute all criminal cases.[136] It is also given the authority to discontinue any criminal proceeding at any stage before judgment is delivered. Sections 82 and 86 of the Criminal Procedure Code (CPC) authorises the DPP to delegate his or her powers to state advocates and public prosecutors respectively.

A decision to prosecute will depend on several factors including the sufficiency of evidence, which provides a reasonable prospect of securing a conviction[137] and the public interest in the matter being prosecuted. Human trafficking is a serious crime, which involves severe exploitation, abuse and harm to victims and large monetary benefits to the traffickers. Human trafficking can also involve organized criminal groups. In view of this, it is assumed that it will always or almost always be in the public interest to prosecute a trafficking case, if sufficient evidence exists.

In addition to their prosecutorial responsibilities, prosecutors are also responsible for ensuring that criminal procedures do not affect negatively on the wellbeing or rights of the victims; this is done together with the police, and in relevant cases, with the immigration department. Prosecutors are also required to ensure sufficient protection of victims to ensure their safety before, during and after the trial.[138]

6.2.2 Non Prosecution of Trafficking Victims

As a general rule, victims of trafficking are not to be charged for offences they allegedly committed while they were trafficked. The idea behind this concept is that during the time of exploitation, the victims did not have a say and were unable to decide for themselves whether or not to carry out the criminal act.

Section 24 of the Anti-Human Trafficking Act, as amended, provides for immunity from prosecution of victims of trafficking, stating that "Despite the provisions of any other written law, a victim of trafficking in persons shall not be criminally liable for an offence regarded as illegal in the Republic or for a criminal act that is a direct or indirect result of being trafficked".

This provision is in line with the international standard not to criminalize victims of trafficking for actions taken while they were trafficked.[139] Such offences may include engagement in prostitution, illegal border crossing or illegal stay. However, there have been cases where victims of trafficking were forced to engage in other criminal activities such as pick-pocketing, theft or even drug trafficking. The fear of being prosecuted may stop a victim from providing law enforcement or prosecution officials with a full statement that could be used against the traffickers.[140] The victims' fear of self-incrimination

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[136] Article 56(3) of the Constitution of the Republic of Zambia.

[137] Office of the Director of Public Prosecutors [DPP], Prosecutor's Manual, internal document, page 4.

[138] United Nations declaration of basic principles of justice to victims of crime and abuse of power, 1985; Code of Ethics (for State Advocates and Public Prosecutors), Zambia, internal document.

[139] See for example: European Union and African States: the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children As adopted by the Ministerial Conference on Migration and Development, Tripoli, 22-23 November 2006, Section II point 6.

[140] ICMPD, Anti–Trafficking Material for Judges and Prosecutors, Background Reader, AGIS 2004, page 78.

may prevent them from providing a complete account of their trafficking experience. Furthermore, victims may fear the traffickers will report their criminal actions if they provide incriminating information against the trafficker. Traffickers often threaten victims with a scenario in which the victim is prosecuted.

6.2.3 The Prosecutor's Role

A prosecutor must pay special attention to cases in which the alleged offender, for example, a smuggled migrant, might be a victim of trafficking and check for signs of trafficking (see Section 22 of the Anti-Human Trafficking Act and chapters 3 and 4 of this manual). The prosecutor should provide the potential victim with initial protection and allow for a reflection period,[141] preferably in a shelter and not in detention,[142] while continuing to establish if the person was a victim of trafficking when at the time he/she allegedly committed the offence relating to his or her trafficking situation. If that is the conclusion, efforts should be made to prosecute the alleged traffickers; however, the victim should not be prosecuted for associated offences, even if it is not possible to prosecute a trafficking case. This legal protection is available pursuant to section 24 of the Anti-Human Trafficking (as Amended) by Act No. 16 of 2022 The victim should be provided with protection services provided for through the NRM, in line with established guidelines for protection of victims of trafficking.

6.2.4 Discontinuance of Criminal Proceedings and Changing Criminal Charges

Side by side with the authority to launch criminal proceedings, the Zambian Constitution gives authority to the DPP to discontinue any criminal proceedings at any stage before judgment is delivered.[143]

A decision to discontinue a criminal process may be the result of a change in circumstances surrounding the case, the discovery of new evidence, or a change in the weight of existing evidence or status of a key witness. Criminal proceedings may also be stopped if they are deemed to no longer serve the public interest.[144] Plea-bargaining might also lead to change or a withdrawal of charges.

In view of the severity of the trafficking crime, it is expected that a criminal procedure would rarely be stopped, usually only if the prosecutor is convinced, in view of change in circumstances, that the chances for conviction are extremely low.

6.2.5 The Victim's Role in a Decision to Discontinue Prosecution

When a decision is made to discontinue proceedings, the victims of the alleged crime must be informed, and their views should be heard before a final decision is made. The prosecution must

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141 Further information on a reflection period later in this chapter under "witnesses".

142 United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines, on Protection of Victims of Human Trafficking, Zambia, 2012, page 16.

143 Article 56(3) of the Constitution of the Republic of Zambia.

144 DPP Manual page 9.

consider the repercussions on the victim's safety, wellbeing and prospects of both mental and physical rehabilitation in view of a possible discontinuance before the decision is made.

6.2.6 Changing Charges as an Alternative to Discontinuance

Before a decision to withdraw a case is made, the prosecution should carefully examine the evidence and check if there is a possibility to change the charges. If it seems no longer possible to convict an alleged trafficker for human trafficking, charges for a lesser offence may apply. Such charges might include a person living on the proceeds of, and/or, aiding prostitution of another for gain (Section 147 of the Zambia Penal Code Act). This ensures that the defendant is not totally relieved of any punishment for his/her actions. This may, of course, mean a lesser punishment and should be used as measure of last resort. *Further discussion on the issue of alternative charges is included in Section 6.3 of this chapter.*

Refer to Annex A12: Activity12: Reviewing Trafficking-Related Offences and the use of Sections 22 and 24 of the Anti – Human Trafficking Act

6.3 Offences Under the Anti-Human Trafficking Act

6.3.1 The Trafficking Crime: Section 3 of the Anti-Human Trafficking Act

Following the definition of trafficking in Part I of the Act,[145] Part II, Section 3 of the Act defines the crime and establishes the related punishments, including a list of circumstances that will affect the length of mandatory imprisonment.

Remember to present and establish all the relevant circumstances of the case to ensure the most appropriate punishment in case of conviction, which may include:

The age of the victims - aggravated penalty for the trafficking of children 3(2);

The type of exploitation - aggravated penalties for sexual exploitation 3(3), worst forms of labour and child labour 3(4), trafficking for organ removal 3(11);

The method of recruitment - aggravated penalty for abduction 3(5);

The result of the trafficking Act – life imprisonment for trafficking that resulted in serious bodily harm or death 3(6);

Who the trafficker is – aggravated penalties for a parent/guardian 3(7), public officer 3(8), part of an organized criminal group 3(9);

The number of victims - aggravated penalty for trafficking five or more victims 3(10).

[145] The definition is explained in detail in chapter 3 of this manual.

The case of a company - under the circumstances of Section 3(12) an employer can be held liable for actions of an employee or an agent acting on its behalf together with the employee or agent who carried out the trafficking action (Section 3(13)). The business licence or registration can also be revoked (Section 3(14)).

For example, if trafficked victims were used for work in a garment factory, both the employee who supervised them and the employer who owned the company could be charged if the employee acted within his or her responsibilities and with the consent of the employer. In such cases, the factory's licence could be revoked.

6.3.2 Section 3A of the Anti-Human Trafficking Act

Part II, Section 3A of the Act defines and prohibits child trafficking and provides for the following offences:

- A person who recruits, transports, transfers, habours, receives or obtain a child, within or across the
- territorial boundaries of Zambia, for the purpose of exploitation, commits an offence and is liable, on conviction, to
- imprisonment for a term of not less than thirty years and may be liable to imprisonment or life (Section 3A. (1)).
- The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, without
- proof of force, fraud or coercion, is sufficient to establish the offence of trafficking of a child. (Section 3A (2)).
- Despite subsection (1), where the offender is a parent, guardian or a person having parental responsibility for a child
- and the offender trafficks a child or permits the trafficking of the child, the offender is liable, on conviction, to imprisonment for a term of not less than thirty-five years and may be liable to life imprisonment. (Section 3A (3)).
- Despite subsection (1), where the trafficking results in the death or grievous bodily harm of a child, the offender is
- liable, on conviction, to imprisonment for a term of not less than thirty-five years and may be liable to imprisonment for life. (Section 3A (4)).

6.3.3 Additional offences under the Anti-Human Trafficking Act

Part II of the Act also describes additional offences related to trafficking. Most of the offences included are derivatives of the main human trafficking offence, such as attempted trafficking (Section 12); use of the services of a victim of trafficking (Section 6); facilitating human trafficking (Section 7 (1), (2) and (3) as amended); providing types of support and protection to the offender (Section 10); aiding and abetting (Section 11); support services to the offenders (Section 18); tampering with identity or travel documents of the victim (Section 5), and others. A group of offences relating to institutions (Sections 13 and 14), including different types of financial aid or use of property to support the offence and to launder its profits (Sections 15, 16, 17 and Section 19 (1), (2) and (3) as amended).

Most of the derivative offences can "accompany" a trafficking offence or another offence described in the Act, including attempt to traffic, or, an offence under Section 4 or 9 of the Act.

6.3.4 Debt Bondage and Smuggling

Section 4 on debt bondage and Section 9 (as amended) on smuggling of persons present stand-alone offences which may or may not relate to a case of human trafficking or attempted trafficking.

Section 8 is unique in Anti-Trafficking legislation in that it puts a direct and explicit responsibility on an Internet Service Provider (ISP) to report any information supporting trafficking on sites on its server, while Section 7(1) (c) refers to printed and broadcasted media. Section 8 prescribes a fine of up to 300,000 penalty units or up to 3 years imprisonment.

An important element in trafficking and related offenses is criminal intent. Section 20 allows a defense to anyone involved in money or property transactions, (Sections 15-19 (1), (2) and (3) as amended) if as soon as they realize their action is related to an offence under the Act, they approach an authorised officer and disclose their suspicions, and furthermore stop their involvement if so ordered by the authorised officer. A court may accept such a defence if the lack of timely reporting is accompanied by reasonable justification for the failure to report (Section 20(3)).

6.3.5 No defence

Section 21 provides a list of arguments that cannot serve as defences against any charge under this Act, these are:

a) That the victim consented to the acts constituting the offence: The logic behind this "no defence" clause lays in the core definition of trafficking, (if consent was given, then it was given as a result of coercion or deception)– the "means" element in the trafficking definition, the second of the three elements of which the trafficking offence consists. Hence, it cannot be considered real consent. This provision is also included in Article 3b of the Protocol. Importantly, this defence cannot be used in cases of debt bondage under Section 4 either, meaning that the fact that a person incurred and agreed to provide his/her labour in return is not a defence, if the services provided are in excess of the amount owed, as in the "debt bondage" definition in Section I of the Act.
b) The history of the victim as a prostitute or any other sexual or criminal background: Indeed trafficking of a prostitute or a criminal should not carry any less weight than the trafficking of any other person. The crime of trafficking involves forcing a person to act with no regard to his/her personal wishes. The fact that the person could have previously been involved in similar activities for his/her own personal gain is irrelevant, and does not justify the traffickers' action.
c) The consent of a child, parent, guardian or anyone else with parental responsibilities is no defence. This is true even in absence of 'Means' such as coercion or deception. Therefore, whenever confronted with a suspected case of child trafficking it should be sufficient to prove two elements of the crime only – element 1: the 'Act' and element 3: the 'Purpose' (Article 3c of the Protocol). Section 3A (2), as amended provides that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, without proof of force, fraud or coercion, is sufficient to establish the offence of trafficking of a child.
d) That the exploitation did not yet occur: Some victims may be able to escape, be rescued or intercepted by law enforcement before the exploitation actually started. However, this cannot serve as a defence for the offender if all the elements of the offense have been established.

Therefore, if the intent to exploit the victim can be proven together with the other elements of the crime, the defence will not stand. Unfortunately, such cases are harder to prove than cases where the exploitation has started. Often, the victims themselves believe the stories they have been told by the traffickers and are not yet aware of the exploitive future that awaits them (think of Precious Busang before she was raped). The investigator and the prosecutor should look for evidence that trafficking was taking place. Such evidence can include: the composition of the group (for example, one Zambian woman with 14 Congolese children[146]), bogus employment contracts, unrealistic promises made to the victim, a passport being held by the trafficker and not the victim, money paid to a child's parent in return for the parents' consent to movement, a victim's ignorance of where he or she is headed or why, details that seem "too good to be true", and a trafficker with a criminal history.

For example, in the year 2000 when international human trafficking for sexual exploitation frequently occurred in Kosovo, the international police at the Kosovar border stopped a Kosovar man who tried to cross the border with several young Eastern European women. The composition of the group raised the suspicions of the police. Further investigation revealed that the women, who were sure they are were going to Kosovo to work in bars and coffee shops, would have been trafficked into forced prostitution if they had not been rescued at the border. In another case, a Moldavian girl trafficked for sexual exploitation to Bosnia Herzegovina was sure she was in Italy, because that was what she was promised and led to believe. If the men trafficking her had honest intentions, they would not have lied to her about the destination.[147]

e) That the act constituting the offence is a customary practice: This is an important provision in some societies where customary practice may include an act of trafficking or where a generally positive practice may be used as a cover for what is actually an act of trafficking. One example of a customary practice that can be related to trafficking is forced/early marriage (see Part 1 Section 2 of the Act). Another example of a positive practice, used sometimes as a cover for trafficking is the widespread practice in Zambia of looking after children from the extended family[148]. These are often young children, usually from poor rural areas who are moved to live with wealthier family or relatives in the city. This is an important social practice that allows better conditions for the child and for his/her core family that now has one less mouth to feed. At times, this is the only solution for orphans left without a parent to care for them. However, this generous practice is sometimes used as a cover for cases of child trafficking for domestic labour, and the child finds him or herself in servitude.[149]

6.3.6 Other Criminal Offences

To ensure a good probability of conviction, prosecutors must review the case brought to them and once they decide the case is strong enough to go to court, they must charge the defendant with suitable offences that are well supported by the evidence at hand.

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[146] See Section 3.4.2

[147] The examples are based on IOM programmatic experience.

[148] RuralNet Associates, Rural Development Consultants, The Nature and Extent of Child Trafficking in Zambia, Working Paper, April 2007, ILO/IPEC, Zambia.

[149] For further information about the employment of children in domestic work in Zambia please see: Sweeping the Bedroom, Children in Domestic Work in Zambia United Nations Joint Programme on Human Trafficking, May 2012.

Human trafficking is often seen as a series or a cluster of offences bundled together.[150] Considering the amount and level of evidence required to prove human trafficking, at times, prosecutors may either:

1. Opt to **add** additional charges for actions carried out by the defendant during the course of the trafficking action,[151] or

2. In more extreme cases, **replace** the trafficking charges with charges for offences carried out simultaneously, or such offences that together create the trafficking chain but can also stand alone as offences (for example abduction).

Another situation where prosecutors should charge a defendant with additional counts is when evidence points to additional criminal behavior by the trafficker towards the victim. For example, in many cases of trafficking for domestic work the victim is also raped or sexually abused during the time of servitude. The rape, even if committed by the main trafficker, can be charged as an additional offence.

6.3.7 Money Laundering Charges

As human trafficking is often the action of an organized criminal group and involves large profits, the option to add money-laundering counts should always be explored. This can be done using the money laundering provisions in the Anti-Human Trafficking Act (Section 19) or the provisions of the Anti-Money-Laundering Act No. 14 of 2001 by considering human trafficking, or any other offence with which the defendant is charged, as an illegal activity under Section 2 of the Anti-Money-Laundering Act.[152]It is therefore important to collaborate with the Drug Enforcement Commission.

6.3.8 The Punishment

Human trafficking is a particularly serious crime, which involves severe human rights violations and flagrant disrespect to human autonomy and dignity. The Zambia Anti-Human Trafficking Act sets high penalties for human trafficking and related offences *(see Section 3.6.3 of this Manual for a list of offences and related penalties).* Changing the charges may often mean a lesser punishment for the defendant. A decision to charge with lesser count should not be made lightly and every effort should be made to charge with the relevant trafficking offence. However, at times there may be lack of solid evidence or a main witness, usually a victim, may be too fragile to testify and his/her wellbeing will demand a change of approach.

6.3.9 The Victim

As previously mentioned, one of the biggest challenges in prosecuting trafficking cases is proving the intent to exploit when the exploitation has not yet started. Often, charges are changed to smuggling if a border was crossed illegally. In any such cases, the attitude towards the victims should not change and they should still enjoy the protection of the justice system and not be treated as criminals. As previously explained, Section 22 of the Anti-Human Trafficking Act provides indicators for the identification of a trafficking victim and Section 22A provides for certification of victims of trafficking,

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[150] As explained earlier in this manual, see pages 1 and 34.
[151] Criminal Procedure Code, Section 135.
[152] R. Mungole, inputs for the chapter on the prosecution of human trafficking offences, 2012, not published, page 57.

and a trafficker does not need to be convicted in order for a victim to be recognized as such. As a matter of fact, criminal proceedings are irrelevant for a victim to be recognized and protected. [153]

6.310 Smuggling and the Public Interest

In the particular case of charging for smuggling, public interest requires that a prosecutor act to prosecute the smuggler and use the testimony of the smuggled migrants rather than the other way around. Section 9 (1) , of the amended Act abolishes "consenting to be smuggled" as an offence. The law therefore prevents the prosecution of smuggled migrants and provides for their protection.

Refer to Annex A13: Activity 13: Additional Offences
Refer to Annex B9: Case Study 6c: Precious Busang – Phase VI (Continuation of the case from Section 5.4.6)

6.4 Relationship Between the Prosecutor and the Investigator

> IOM, Standard Operating Procedures for Law Enforcement in Handling Human Trafficking Cases, Zambia 2011: A thoroughly planned and well-executed anti-human trafficking investigation increases the chances of a successful prosecution dramatically. Investigating officers should at all times during the investigation keep in mind that their work forms the basis for the public prosecutor to build a case against the perpetrator, i.e. the trafficker. Strict adherence to both procedural and substantive laws must be observed to avoid the case being thrown out of court on technical grounds.

The authorised officers, or investigators under the AHTD or immigration[154] and the public prosecutor each have their separate duties and responsibilities, however their work is closely linked and each depends on the other. While the investigator is in charge of the criminal investigation and will usually approach the prosecutor only after gathering sufficient evidence to suggest a crime has been committed, the prosecutor has the ultimate power to press charges once the prosecutor is convinced the case is strong enough for possible conviction. As such, the prosecutor may return to the investigator, requesting further evidence be sought and with questions on specific details of investigations conducted so far. The prosecutor will advise the investigator on the sufficiency of the existing evidence and suitable related criminal charges. The prosecutor can further assist by providing advice on the legality of means of obtaining evidence. [155] Regulation 110(2)(f) of the Anti Human Trafficking Act provides for regulations to facilitate a prosecutor led investigations

[153] United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines on Protection of Victims of Human Trafficking, Zambia, 2012.
[154] Depending on the details of the case and point of interception some anti-trafficking investigations will be carried out by the Immigration Risk Management and Compliance Unit, in which case they will coordinate the prosecution with DPP.
[155] Directorate of Public Prosecution Manual, page 3.

In cases where there are grounds to believe an irregular migrant may be a victim of trafficking, it is recommended that the police discuss the matter with the prosecution team and that a prosecutor meets with the potential victim before a decision regarding deportation is made;[156] the Anti-Human Trafficking Act, in Section 32 prohibits the summary deportation of a victim of trafficking. This Section can be understood as prohibiting the deportation of a presumed victim, before investigating if the person is indeed a victim, according to Part III of the Act.[157]

In cases of human trafficking, the prosecutor should also discuss issues of risk assessment and safety measures provided to the victims with police and immigration. Law enforcement and prosecution relations with the victims are crucial to ensuring the victims feel safe and comfortable in providing testimony. Briefing on procedures and passing of information to the victims/witnesses should be well coordinated between the police and the prosecution (as well as immigration, the shelter provider and social welfare support staff). This prevents confusion that may cause further fear and feeling of helplessness on the side of the victim, which may deepen the trauma and eventually hamper the prosecution efforts.

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[156] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader.ICMPD, page 95.

[157] It is important to note that Section 40(2) of the Immigration and Deportation Act, 2010 direct immigration officers to also follow the Anti-Human Trafficking Act provisions in regards to deportation of victims.

6.4.1 Seven general tips for good Investigator-Prosecutor relations:[158]

1. Keep communication channels open and work together to improve them. The more you discuss issues, the easier it is for you to reach each other, the better and faster you will work together;
2. Build long-lasting good relations;
3. When appropriate, think together how to overcome a problem with a case, for example, deciding which evidence can be collected or charges can be made;
4. Look together at relevant time marks –When will detainee need to be released if no charges are made? When does a foreign witness's visa expire?;
5. Respect each other's time and responsibilities;
6. When the case is over, meet to discuss and recap: What worked well? What needs improving and how?
7. Share the success.

6.5 Victims and Witnesses

This sub-section comes to highlight and add to Chapter 5 on victim identification, interview and treatment and builds on the information provided there.

In criminal trials generally, and during the prosecution of human trafficking cases in particular, witnesses are a key resource. Rarely could a trafficking case, with its usual complexity, long chain of events and variety of actors, be proven without the testimony of witnesses. The top key witnesses are almost always the victims themselves, who are traumatized, confused, and fearful, may not speak the local language and may be very young. A prosecutor should be trained and ready to address such challenges in order to successfully prosecute trafficking cases. At the same time, the victims'/witnesses' safety, rights and well-being must be treated with utmost care and never be jeopardized for the sake of prosecution.

6.5.1 Gaining Victims Trust and Testimony

Some of the possible reasons a victim of trafficking may not come forward to admit that they have been trafficked or agree to testify may be[159]:

- They don't know their situation makes them victims of trafficking and eligible for protection;
- Exploitation, discrimination and violence seem "normal" to them, due to past experience;
- They are too scared due to threats or actions by the traffickers towards them or their families;
- They mistrust state authorities in general;
- They fear deportation or self-incrimination;
- They are too traumatized to cooperate;
- They are too young to understand the situation or to express themselves.

Providing physical protection, psychological support and building trust over a period of time will enable victims to change their position and feel comfortable to testify.

[158] Based on: J.E. Jacoby, P.S. Gilchrist, III, E.C. Rutledge, Prosecutor's Guide to Police – Prosecution Relations, Jefferson Institute for Justice Studies, 1999.
[159]Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader. ICMPD, page 92.

A safe, respected and empowered victim will make for a better witness

Reflection period[160] A reflection period is a period of time in which the presumed trafficked person is referred for services and counseling with no obligation to make an immediate statement to the police. This enables the presumed trafficking victim to receive appropriate support and allows them to make informed decisions about their future, including whether or not to testify. Furthermore, highly traumatized victims require a recovery period before they can provide testimony without the severe risk of secondary traumatization.[161] Beyond allowing the potential victim/witness to rest and start his/her recovery, it is also an opportunity to allow them to regain their trust in the state and its institutions,[162] which may encourage them to agree to testify as long as their rights and safety are ensured. Section 33 of the Anti-Human Trafficking Act allows postponing the deportation of a victim by 60 days regardless of their willingness to testify. This period can be used as a reflection period.[163] Furthermore, temporary and permanent residency provisions follow in Sections 34 and 35 according to circumstances.

Secondary victimization occurs through the response of institutions and individuals to the victim after the initial victimization has taken place.[164] The criminal justice system may cause such secondary victimization if special care is not taken to respect the victim's rights and respond to his/her needs. Ways to avoid secondary victimization include: avoiding numerous repetition of the victim's testimony; avoiding visual contact with the defendant (for example by providing testimony in camera (in chambers);[165] questioning the victims only on the necessary facts.[166]

A prosecutor must consider the availability, competency and willingness of witnesses to testify when deciding whether or not to prosecute a case.[167] Once a decision to prosecute has been made, a prosecutor is responsible for ensuring the witness remains available, cooperative and able. This requires close cooperation with the investigators who previously interviewed the potential victim/witnesses and the shelter staff and social workers who are caring for the victim/witnesses. Most of all, it requires good and cooperative relations with the victim/witness themselves. As the criminal proceedings may be lengthy, a good relationship between the prosecutor and the witness should be well established and well maintained.

6.5.2 Seven Principles to Guide a Prosecutor in Working with Victims of Trafficking

The following seven principles must guide prosecutors when working with victims. A victim/witness should be:[168]

[160] Ibid, page 76.
[161] Ibid.
[162] Ibid, page 77.
[163] United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines, on Protection of Victims of Human Trafficking, Zambia, 2012, page 17.
[164] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader ICMPD, page 80.
[165] Section 109 of the Act allows for such option.
[166] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader. ICMPD, page 109.
[167] DPP Manual page 5.
[168] Adapted from "Guidelines for Prosecutors", Jamaica

1. Heard: This may be done simply by creating an atmosphere of patience and respect, or may also call for use of interpreters, social workers, psychologists or other key stakeholders in cases of children or victims with special needs.

2. Informed/Guided/Allowed to ask questions and receive serious and timely responses: Prosecutors must explain and give regular updates to the victim about their situation, their rights and about the legal procedures and possible outcomes, including the possible repercussions for them (this includes initial).

3. Told the full truth: Victims may have limited or no knowledge of criminal proceedings, court system, the need to take an oath or answer questions from the defence. They may also not be aware of how aggressive a defence lawyer may be. The better they are informed, the better they will cope with this situation. A prosecutor must guide but not coach the witness.

4. Able to make their own decision whether or not to testify: While the respective implication of testifying or not testifying should be explained, they should not be pressured, compelled or coerced to testify.

5. Treated with respect and not judged for their actions, behaviour or personal history: Their privacy and dignity must be respected at all times. Their identity should not be exposed to the media without their consent, even if there is no risk to doing so.

6. Advised of the availability of recourse of civil remedies: Victims of human trafficking are entitled to compensation. The prosecutor may advise the victims of the possibility to sue for compensation in civil or labour court.

7. Safe and feel secure at all times: This includes both ensuring physical protection and providing psychological support. While the prosecutor may not be directly responsible for provision of physical and psychological support, he or she should ensure that the same is provided when necessary, in collaboration with competent authorities. Similarly, while the police is responsible for assessing risks, the prosecutor must make appropriate applications to the court if security of the witness or any other person associated with the case is at risk.

6.5.3 The Importance of a Pre-trial

Pre-trial is a best practice. It plays an important role in building a strong case against traffickers and seeking justice for the VoTs through: Witness protection by assessing risks; witness credibility; preparing witnesses; gathering evidence; identifying other victims and perpetrators; ensuring due process rights of both prosecution and defense.

When preparing a witness for a pretrial in a court case of human trafficking, it is important to abide by ethical and legal guidelines. This section provides general considerations on what is typically allowed and not allowed when preparing a witness for a pretrial in a court case of human trafficking. Section 110 f of the Court Criminal Procedure may have its own specific rules and procedures. It is essential to consult with a legal professional who can advise on the rules, regulations and procedures to ensure compliance when preparing a witness for court. To prevent coaching of witnesses, the table below highlights the **DOs** and **DON'Ts** during a pre-trial. They are synthesized from the Prosecutors' Code of Conduct from the perspective of what pertains to trafficking cases.

DOs - Allowed	DON'Ts - Not allowed
1. **Providing emotional support:** It is permissible to offer emotional support to the witness, ensuring their well-being and addressing any trauma they may have experienced. Ensure a victim-centred and trauma-centred 2. **Facilitating psycho-social support:** Prosecutors should ensure that the VoT received psycho-social support from competent authorities prior to pre-trail and even during trial 3. **Explaining court procedures:** Educate the witness about the pretrial process, helping them understand the purpose and expectations of the court proceedings. 4. **Clarifying their role as a witness:** Inform the witness about their role in the case, including the importance and benefits of providing truthful and accurate testimony 5. **Reviewing relevant information:** Go over any statements, documents, or evidence related to the case, helping the witness refresh their memory and be prepared to answer questions. 6. **Discussing possible questions:** It is acceptable to engage in practice sessions where you simulate potential questions the witness might be asked, encouraging them to provide clear and concise responses.	1. **Coercion:** It is strictly prohibited to coerce or pressure the witness to provide false or misleading information. 2. **Coaching:** It is prohibited to tell the witness what to say, the witness must testify about their own experiences and knowledge. 3. **Providing incorrect information:** Do not provide the witness with inaccurate information or encourage them to provide false statements during the pretrial preparation. 4. **Instructing the witness to lie:** Do not instruct the witness to lie or misrepresent facts during the examination or cross-examination. 5. **Tampering with evidence:** It is illegal and unethical to manipulate or alter evidence in any way. 6. **Interfering with the opposing party's preparation:** You should not engage in any activities that hinder the opposing party's legitimate preparation for their case.

6.5.4 Victim/Witness Safety

While the police must carry out a regular risk assessment, it is the prosecutor's responsibility to pass any information they come across that may affect victim/witness safety to the police and inform the court of any intimidation or threats made against them.[169]

It is the task of the prosecutor to make appropriate applications to court if security of witnesses or any other person associated with the case is at risk. The prosecutor must be observant of the circumstances at every stage of the case to be able to make appropriate applications.[170]

A prosecutor could assist in protecting victims by opposing bail if the release of the accused is likely to increase the risk for the victim and/or witness.[171]

Victim/witness safety may entail moving the hearing to a different court, if so, it will be the responsibility of the prosecutor to approach the court with such request.[172&173]

[169] The United Nations Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, art. 4.
[170] R. Mungole.
[171] DPP Manual page 25. The United Nations Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, art. 6(d).
[172] UNODC, module 12, page 16.
[173] The Subordinate Court Act CAP 27 provides that the Chief Justice can direct the court to sit in any location other than its normal or local jurisdiction.

Visual contact with the trafficker should be avoided as much as possible before, after, and, if possible, during court hearings. Section 109 of the Anti-Human Trafficking Act provides that trying an offence under this Act can be made *in camera*. Prosecutors should use this Section to make such requests to the court when needed for reasons of victim/witness safety or right to privacy. This is especially important in the case of children and highly traumatized adults.[174]

6.5.5 Safety During Repatriation

Section 36 of the Anti-Human Trafficking Act demands that the safety of the victim during repatriation and in his/her home country is taken into consideration before allowing repatriation to take place. If there is a risk that the victim will be harmed, killed or trafficked again, they should not be repatriated unless appropriate security arrangements can be made by the government of the home country. Prosecutors should keep this Section in mind, especially as the end of the trial is approaching and plans are made for the future of the victim. The Act provides an option of either temporary or permanent residency if the circumstances require such measures.

6.5.6 Protection of Service Providers

Service providers supporting the victim/witness should be treated with respect and allowed to fulfill their duties in line with the *fundamental principles for service delivery* identified in the Zambia Minimum Standard Guidelines on Protection of Victims of Trafficking.[175] Additionally, their safety should be ensured and taken into consideration when any logistical arrangements or other actions regarding the case are discussed.

6.5.7 Confidentiality of Witness Identity

Section 25(4) of the Anti-Human Trafficking Act directs that the identity of a person who reports suspicion of trafficking will remain confidential. This may be an officer of the state (immigration officer, labour inspector, social worker or medical staff) or a private citizen, as indicated in Section 25(1) and (2). This confidentiality comes to protect them and, in the case of officers of the state, to allow them to continue and conduct their duties. However, Section 25 goes on to say that the identity will not remain confidential if "justice require(s) otherwise" – it is therefore up to the court to decide if the identity of such an informant should be revealed in the case they are called to testify or if it would continue to remain confidential.

In the case of law enforcement informers, it is a common practice to keep their identities confidential as a matter of public interest.[176]

6.5.8 The Use of Interpreters

In the case of victims who require the services of an interpreter, the professional and dignified conduct of the interpreter is crucial. Interpreters should be well prepared and, if possible, meet the

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[174] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader: ICMPD, page 79, 89.
[175] United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines, on Protection of Victims of Human Trafficking, Zambia, 2012, page 15.
[176] R. Mungole, quoting: Daniel Chizoka Mbandangoma vs. A.G 1979 ZLR P.334 as per Hadden J.

victim/witness ahead of the court hearing to ensure he has the proper context of the case. Their services should be acquired only after a security check to ensure victim/witness safety and their impartiality. The provisions regarding interpreters in Section 4.6 of the Manual are also relevant for the use of interpreters in court.

6.5.9 Victim/Witness Support in the Pre-trial and Trial Phases

This Section is a modification of a similar Section from the UNODC Anti-Human Trafficking Manual for Criminal Justice Practitioners, 2009, module 11, which is in line with the general requirements of the Palermo Protocol:

Information and communication: Victims of trafficking usually have a great interest in the prosecution of those who trafficked them. A professional and complete investigation is in their interest. As much as possible, keep them updated of what is happening and why. This is in line with Article 6(2) and 6(3) of the Palermo Protocol.

Inform the victim if you take any of their belongings to be used as evidence, explain that their belongings will be kept safely and will be returned in due course (and make sure it does). In cases where the personal belongings cannot be returned, this should be explained and replacements provided.

Inform victims/witnesses of the likely timeframe for legal proceedings and court processes, whether or not they have to face the defendant, possibility of media coverage, presence of other witnesses they may know and any other detail that will help them be mentally prepared for the event.

Inform victims/witnesses of any information about the whereabouts of suspects/defendants (are they in custody? Are they free?) or any changes to the defendants' whereabouts.

If not already aware, inform victims/witnesses of support that is available to them in the time leading to, during and after the trial. This includes physical, mental, medical, legal and any other type of services provided.

Emotional support: Assessments of the victim's psychological and emotional state should continue throughout the pre-trial and trial phases, keeping in mind that a relapse may occur after they settle in a protective environment and so their situation may deteriorate even if initially they appear strong and cooperative.

Assessment should be made as to the possible effects of the trial on their mental state (re-victimization) and measures identified to minimize such effects (as previously detailed in this Section).

Psychosocial and, if possible, legal counselling should be available throughout the process.

Supportive environment and individuals at all points in the criminal justice process could help victim recovery.

Direct assistance: Appropriate accommodation and support consistent with the level of risk each individual faces should be provided (closed or open shelter, for example).

Pre-trial detention of the defendant in many cases can protect the victim/witness and increase chances of a fair trial.

Legal proceedings should not be delayed. This will allow victims to return to normal life as fast as possible and will avoid prolonged detention of the defendant.

Take measures to ease victim's/witness's time in court. Separate waiting rooms for the victims, closed-door hearings, and the company of a social worker or other shelter staff can help a lot.

Monitor and control access of the public and the media to the victim/witness. Such exposure could be highly traumatizing (see Section 6.12).

Pay attention to practical needs of the victim/witness. For example, if a victim/witness has a baby with her, a child care solution must be available during the court hearing; if a victim/witness is working they may need to be granted a day off and be compensated for lost earnings.

In the case of a foreign victim/witness consider the possibility of sending them home and bringing them back if the court process will take a long time to begin. However, repatriation should only be done if there is no risk for the victim (see Section 6.9).

Effective protection of witnesses should continue throughout the criminal justice process.

6.5.10 The Special Case of Children

'The best interest of the child' is the guiding principle whenever providing assistance to children, according to the International Convention on the Rights of the Child (CRC), to which Zambia and almost every country in the world are signatories.

This principle applies when seeking the testimony of a child in criminal proceedings. Special attention should be given to child victims/witnesses and their special needs. The prosecutor should meet the child and assess their competence to give testimony, possibly with the help of a child psychologist and/or social worker. Then they should form an assessment of the child's mental and verbal capacity and the child's level of anxiety in relation to the proceedings.[177]

The prosecutor should act to expedite criminal proceedings, including requests for priority in court hearings, as a lengthy process may increase trauma and delay the recovery process, particularly when involving children.

A legal guardian - A parent or another guardian must care for a child and represent the child's best interest, and so in cases involving children where their parents or legal guardians cannot be traced or are suspected to have been involved in trafficking them, the state must appoint a legal guardian.**[178]** The prosecutor should see that this step is taken in close coordination with the Department of Social Welfare as soon as possible.[179]

[177] DPP manual page 29.
[178]Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader. ICMPD, page 79.
[179] United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines, on Protection of Victims of Human Trafficking, Zambia, 2012page 18.

6.5.11 The Weight of the Testimony of a Child in Zambia

According to an amendment of Section 122 of the Juveniles Act, 2011, the evidence, of a child younger than fourteen under oath, will be accepted by the court only if the court is satisfied that the child possess sufficient intelligence to justify accepting his/her evidence and that the child understands the duty to speak the truth. Furthermore, such evidence (of a child younger than fourteen) must be corroborated by some other material evidence to allow a conviction in criminal proceedings.[180]

6.5.12 Victim and Witness Rights Vs. Defendant Rights

A prosecutor must keep in mind the rights of the accused (such as the basic right for a fair trial) and act to the best of his/her ability to balance them with the rights of the victims and witnesses. Disrespect to the rights of the accused may lead to a dismissal of the case; mistreatment of a victim/witness may lead to the acquittal of the defendant if the witness is not cooperative and may cause additional harm and secondary victimization to the victim/witness.

6.5.13 The Relationship Between the Prosecutor and the Media

The criminal justice system acts in the name of public interest and the general public has a right to know about criminal procedures and their outcomes. Furthermore, the publicity given to the prosecution and possibly conviction of offenders may deter others from committing similar offences and warn citizens of certain dangers, such as the risk of being trafficked. It is therefore accepted that media coverage of criminal justice procedures is in the public interest.

In Zambia, the media will obtain information from the court hearings that are carried out in open court. A prosecutor is not in a position to provide the media with further information on the defendants, on witnesses or victims, outside what is said in court.[181]

However, victims of trafficking are often particularly vulnerable to any infringement of their right to privacy; publicity given to their situation may affect their chances of mental recovery and, in some cases, severely hamper their ability to reintegrate into their home community. For example, in some communities, if information is disclosed that a woman or a girl was forced into prostitution, they will never be accepted back into their communities or families, even though they were forced to undertake this practice as a result of being trafficked. Additionally, in high-risk cases, any publicity regarding the victims and/or witnesses can increase the risk to their personal safety and that of shelter staff and other residents. Therefore, a balance needs to be struck between the public's right to know and the victim/witness right to privacy and their safety.

Accordingly, Article 6(1) of the Palermo Protocol reads:

'In appropriate cases, and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.'

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[180] R. Mungole, page 42(not published).
[181] R. Mungole, page 18 (not published).

As mentioned previously, Section 25(4) of the Anti-Human Trafficking Act provides for confidentiality of the identity of a person reporting a case of trafficking.[182] Section 109 of the Act gives the court the power to hold the hearings *in camera*. Section 121 of the Juvenile Act also provides that the court will hold a hearing behind closed doors when a witness (or the defendant) is a juvenile. In addition, when a child is testifying in court, any broadcaster, in line with Section 123 of the Juvenile Act, will not disclose his/her details.[183] It is, therefore, the responsibility of the prosecutor, under such circumstances, to ask the court for a hearing in camera and/or for a gag order forbidding the press or any other interested party to publish the names or any other personal details on victims and/or witnesses. Furthermore, it is the responsibility of both the prosecutor and all other parties attending to the victims to make sure they do not disclose such details in public unintentionally.

In cases where the risk is low and an adult victim seems strong emotionally and willing to talk publicly, it is recommended that a social worker discusses with him/her all the possible aspects of 'going public' with the case. Only when they make an informed decision to share their story with the public should this be allowed. In the case of children, any publicity of their identity or personal details should be forbidden in line with the guiding principle of the best interest of the child (CRC and Section 46(3) of the Anti-Human Trafficking Act). Experience, however, including through IOM's global work, shows that even when an adult victim is fully prepared to go public with his/her story, the ordeal of telling the story publicly, even in the forum of a small group, may cause secondary trauma and re-victimization.[184] Despite the understandable desire to tell a full story, the press can serve the anti-human trafficking cause well by providing wide publicity to the topic without exposing details about victims.

6.6 Cooperation During Prosecution

An effective response to human trafficking in general, and the prosecution of traffickers and their associates in particular, demands strong collaboration with several conventional partners (e.g. police, courts, immigration) and possibly less conventional partners (e.g. NGOs, shelter staff, social workers). In cases of international trafficking, strong collaboration between justice and law enforcement entities in the sending, transit and/or receiving countries is necessary, as well with social and other support services for victims. Without true collaboration, built on mutual respect and understanding of each other's role, victims may not receive all the necessary support they require. Additionally, individual cases may not be properly prosecuted and the ongoing efforts against trafficking in Zambia may not be as effective as they can be.

6.6.1 Multi-Agency Cooperation

This Section builds on material in Section 5.3 of this Manual.

Recommended additional reading: Minimum Standard Guidelines on Protection of Victims of Human Trafficking, Zambia, October 2012

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[182] Section 6.5.2.1 of this manual.
[183] The Juvenile Act, Chapter 53 of the Laws of Zambia, Sections 121 and 123.
[184] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader ICMPD page 80.

Both the Zambia National Policy to Combat Human Trafficking of 2022 and the Anti-Human Trafficking Act give high importance to inter-agency coordination and include provisions in this regard, including, for example, the establishment of an anti-human trafficking committee and Anti-Human Trafficking Department.[185] The Policy provides for enhanced Partnerships and coordination with stakeholders in anti-human trafficking and smuggling of migrants.

Strong cooperation is required at every stage of a trafficking case, from the planning of a police raid to the end of the trial and beyond. Usually the prosecutor will be referred cases of trafficking by the authorized officers. The authorized officers hold the initial responsibility to refer victims to shelters and services[186] and to provide protection to the victims and the service providers as needed. Child victims should always be referred to the Department of Social Welfare to establish guardianship.

Beyond the usual strong cooperation with police investigators, as well as other agencies such as the immigration department, the prosecutor must cooperate closely with all authorized officers involved in the case, including: shelter staff and case manager appointed to the case, psychologist following the case, medical staff attending to the victim, legal aid professionals providing support to the victim, officers from the Anti-Corruption Commission, an officer from the Drug Enforcement Commission and any other individual or organization providing short and long-term victim assistance. The National Referral Mechanism for the assistance to victims of trafficking provides a good snapshot of the assistance process and the details of some of the key agencies involved in the process.

All these stakeholders may assist in the victim's recovery process, and hence, his/her ability to testify in court. Furthermore, some of the stakeholders can be used as witnesses to support the criminal case. For example, a medical doctor who first examined the victim can testify or provide documentation to show the victim's physical state upon release from the trafficking situation. This may be supported by forensics, where possible. If necessary, a case manager or a psychologist can testify to the victim's mental state or behaviour problems related with the trafficking trauma. Such information may, of course, be subject to confidentiality rules that must be respected (usually the beneficiary's consent will be needed to reveal the information).

Much of the assistance provided at present to victims in Zambia, including shelter, is offered by non-governmental organizations (NGOs) and international organizations (IOs) in close partnership with the Department of Social Welfare.[187] Therefore, cooperation must be extended to them too. Their role is vital and should not be underestimated.

Exchange of information and intelligence is key to cooperation and requires effective coordination.[188] Once agencies that can add value to the anti-TIP effort are identified, roles and responsibilities should

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185 See Section 4.4 of this manual.

186 Section 25(3) (b).

187 United Nations Joint Programme on Human Trafficking, Minimum Standard Guidelines, on Protection of Victims of Human Trafficking, Zambia, 2012, page 11.

188 United Kingdom Home Office, Crime Reduction Toolkits: Trafficking of People - Who Does What? www.crimereduction.homeoffice.gov.uk/toolkits/tp05.htm (accessed 24 September 2009).

be clearly delineated. Coordination mechanisms should spell this out unambiguously. The roles and responsibilities so crafted should be agreed upon and thoroughly understood by each member.[189]

Prosecutors, police and a case manager or social worker who supports the victim (as well as a legal adviser if appointed to the victim and a guardian in the case of a child) should work together as frequently as possible. They should coordinate closely while preparing the victim to testify in court and, in the absence of an official Memorandum of Understanding, agree together on the role of the case manager/social worker during the different stages of the criminal proceedings.[190] Issues such as prosecutor visits to meet the victim, logistics regarding transport to court, postponement of court hearing dates and so on should be well coordinated ahead of time to avoid disturbing and possibly re-traumatizing the victim. Prosecutors should be cooperative and provide sufficient time and attention to any questions the case manager may have regarding the case and assist with advice regarding legal procedures as well as possibility of civil remedy.

Refer to Annex A14: Activity 14: Preparing and Protecting Victim/Witnesses throughMulti-Agency Cooperation

6.6.2 International cooperation during prosecution - mutual legal assistance and extradition

The Palermo Protocol makes international cooperation in the fight against trafficking one of its key objectives.[191] Part X of the Anti-Human Trafficking Act deals with mutual legal assistance and extradition.

Sections 91 and 92 oversee cooperation with other states that ask for information or assistance with the investigation or prosecution of an offence, which, if committed in Zambia, would fall under the Zambia Anti-Human Trafficking Act. According to the Act, assistance can be given, through the Attorney General, by provision of different types of information as well as tracking, attachment, or forfeiture of property that is located in Zambia and has been used in the furtherance of an action which if committed in Zambia would fall under the Anti-Human Trafficking Act. The Attorney General has the authority to receive, decide and respond to any such request, and they can take action, if needed, through a request for an order from the high court to fulfill the request made. The Attorney General may refuse a request if it contradicts state law or may jeopardize state security or public safety.

Section 93 covers similar requests made by Zambia to other countries to aid investigations or prosecution of offences committed under the Act. This may include any information and evidence needed or the tracking, attachment or forfeiture of property used in connection to an offence under

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[189] UNODC, Toolkit to Combat Trafficking in Persons, p. 26.
[190] Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader ICMPD, chapter 5, page 81.
[191] Palermo Protocol Article 2.

the Act. Prosecutors, through a request for assistance from the office of the Attorney General, should attempt to use this tool when dealing with international cases to be brought to trial in Zambia.

Section 95 of the Anti-Human Trafficking Act allows for application of the Extradition Act in relation to offences under the Act, under the law in the second country, or under relevant international conventions for trafficking related offences. This means that human trafficking and related offences as in the Anti-Human Trafficking Act are added to the list of offences that qualify for extradition. As long as there is an extradition agreement between Zambia and another state, a person can be extradited from Zambia or to Zambia for such an offence. According to Section 95, it is possible to extradite, even if the offence has been allegedly committed before the Anti-Human Trafficking Act came into force in Zambia.

International cooperation is important, not only in order to secure prosecution, but also when victims are identified abroad. In one case reported to and assisted by Zambia Police and IOM, a young Zambian woman was trafficked by a Zambian man to Zimbabwe, where she was kept by him and his friend for weeks and raped regularly. She managed to contact her mother in Zambia, who contacted the Police. Zambia Police contacted their colleagues in Zimbabwe who immediately raided the location in question, arrested the men, and rescued the victim, who was then repatriated and assisted in Zambia.

6.7 Exhibits

In court, most offences are best proven using material evidence (or exhibits) to support testimony. Such evidence, in the form of specific items, such as travel documents, money, items of clothing, amongst other things, must be obtained legally in order to be admissible in court. As such, the police often obtain items during a search and seizure mission. Such police action must be accompanied by a warrant unless the police are acting upon a reasonable suspicion that a specific offence is being committed in the location.[192] In trafficking cases, exhibits are usually used to support testimonies but they can also provide information not privy to victims, such as financial records. Material evidence can also lead the way to additional witnesses, such as bank tellers, neighbours, travel agents or other victims in different locations.

Some examples of exhibits in trafficking cases can be:

- Real or forged documents, such as passports or identity documents;
- Flight tickets or flight bookings, immigration records at border crossing points;
- Job adverts;
- False employment contracts and other paper or electronic correspondence;
- Diaries;
- Business records, banking records, money deposit slips;
- Items of clothing;
- Condoms;
- Pornographic materials;
- Photographs of barred windows or other means of physical confinement;
- Documentation of accommodation and living conditions;

[192] R. Mungole, page 52 (not published).

- Security camera or surveillance camera footage of entries and exits from a brothel or a sweat-shop;
- Working tools and machinery;
- Vehicles used for border crossing.

Sometimes, an exhibit can be central to the offence. For example, Section 5 of the Anti-Human Trafficking Act speaks of 'destroying, confiscating, possessing, concealing or tampering with actual or purported identification document or passport of a victim of trafficking.' Presenting such a document to court, for example, after it was captured while in the possession of the accused would support a case against the defendant under this Section. However, this is not to say that without the document the offence could not be proven.

In a trafficking trial, as in other trials, exhibits may often be personal belongings of victims, witnesses or others. Prosecutors should act to ensure that items used as exhibits during a trial are returned, where possible, to their owners as soon as possible to limit inconvenience [193](see Section 7.5.3 of this manual).

Another tool a prosecutor should use, as needed, to prove a case is expert testimony, in person or in writing, on different issues such as physical injuries, mental trauma, victims' age, authenticity of official documents such as passports and entry visas, amongst other things.

Refer to Annex A15: Activity 15: Supporting the Charges with Testimony and Evidence

6.8 Forfeiture of Proceeds in Human Trafficking Cases – Part V of the Anti-Human Trafficking Act

Forfeiture of proceeds prevents convicted criminals from enjoying the fruits of their illegal actions; this is both a punitive and a deterring measure in the name of public interest.

IOM, Standard Operating Procedures for Law Enforcement in Handling Human Trafficking Cases, Zambia:[194] Organized criminal groups pose a significant threat to the safety and security of people. One of the primary motivators of crime is profit. Depriving criminals of wealth acquired through crime, and property utilized to facilitate crime, is an effective crime reduction strategy that has evolved as an essential element of law enforcement efforts to investigate, disrupt and dismantle criminal organizations.

Part V of the Anti-Human Trafficking Act governs the forfeiture of proceeds of the offences included in the Act. Sections 49 to 51 deal with attachment, seizure and detention of funds and property

[193] DPP, page 30.

[194] Standard Operating Procedures for Law Enforcement in handling Human Trafficking Cases in Zambia – in accordance with the Zambia Anti-Human Trafficking Act No.11 of 2008, page 32.

belonging to a suspected offender under the Act. Section 52 refers to a forfeiture order provided by the court regarding the funds or property of a convicted offender.

6.8.1 Detention of Funds and Property

Under Section 49 of the Act, the Attorney General can apply to the High Court to provide a temporary suspension of dealing with any money or property due to, belonging, or held on behalf of suspects under the Act. The idea is to prevent suspected offenders from using such funds or property to either continue with criminal activity or to dispose of them so that the funds and property cannot be located for forfeiture in case of conviction. Section 51 allows an authorized officer to seize money that is being imported into or exported from Zambia if this money (or part of it) is about to be used for the commission of an offence under the Act. The officer then needs to back up his request for expedited action with an application to the High Court within 7 days for a detention order.

Funds and property detained are to be held for a maximum of sixty days, after which the order can be extended for thirty days at a time, upon renewed request to the High Court (Section 51(6) of the Act). It is expected that while the order is in place, the investigation moves forward and eventually charges under the Act are pressed against the funds/property owners in due time.

6.8.2 Forfeiture

Refer to Annex 16: Mini Activity 16: Forfeiture

Once a defendant is convicted under the Anti-Human Trafficking Act, the convicting court has the power to make a forfeiture order in line with Section 52. A forfeiture order will cover funds or property related to the offence committed (see Section 52(2) to (7) of the Act). Before making a forfeiture order, the court shall afford any person who is not a party to the proceedings and who claims ownership or some other interest in the subject property a chance to be heard (Section 52 (8) of the Act).

In practice, the forfeiture provision in the Anti-Human Trafficking Act has, so far, been used mainly for the seizure of vehicles used by traffickers and smugglers.[195]

Section 102 of the Anti-Human Trafficking Act provides for the establishment of an Anti-Human Trafficking Fund, under Section 102. It is envisioned that once the Fund is active, a portion of the funds forfeited under this Act will be transferred to the Fund and hence will be used directly for victims' assistance and the prevention of human trafficking in Zambia.[196]

[195] Information collected by IOM Lusaka, 2013.
[196] Ibid.

6.8.3 The Prosecutor's Role

The prosecutor, as the state representative leading the case in court and following the criminal investigation, should take the following actions before the case is brought before the court:

- Discuss with police and immigration their power under Section 51 to seize any money they observe entering or departing the country for probable use in a criminal activity under the Act.
- Discuss with the police the need to identify funds and property belonging to the suspected traffickers and their associates and link those to the suspected criminal activity under the Act so that a detention order can be requested by the Attorney General (AG) and/or at a later stage a forfeiture order by the court.
- As needs be, contact the AG's office to request action in accordance with Sections 49 and/or 50.
- Bring to the knowledge of the court information regarding funds and property that will aid the court in making a forfeiture order after conviction.
- If evidence is sufficient, a prosecutor could make a charge for money laundering under Section 19 of the Act.

6.9 Compensation - Part VI of the Anti-Human Trafficking Act

It is universally accepted that victims of a crime are eligible for compensation from their offender. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power calls for the state to step in and provide for such compensation, or part of it, in cases where the offender is unable to do so. Furthermore, the declaration goes on to suggest establishing state funds to be dedicated to compensate and support victims as needed.[197]

Victims of trafficking are deprived of their freedom and basic rights; they often suffer severe abuse and exploitation during an extended period of time that can have significant effects on their physical and mental well-being. Additionally, they are hardly ever paid the proper wages for their labour and in the case of children are often prevented from attending school or participating in other developmental activities such as recreation.

While compensation will not "make everything right" it may contribute to economically empowering them and improving chances of psychological recovery and social integration. It may also assist in preventing re-trafficking.[198]

The United Nations Convention against Transnational Organized Crime (articles 14 and 25(2)) and the Palermo Protocol (article 6(6)) require that state parties establish appropriate procedures to allow victims of trafficking to access compensation.

Accordingly, Part VI of the Anti-Human Trafficking Act provides that the court, after convicting an offender under this Act, may order compensation to any victim (of any offence under the Act) for monetary and property damages, for physical, psychological or other injury, for loss of income or support resulting from the commission of the offence.[199] The Section, therefore, allows the trial court

[197] United Nations Declaration of Basic Principles of Justice to Victims of Crime and Abuse of Power, A/RES/40/34, Section 12.
[198] UNODC, module 13, page 1.
[199] Section 58.

to decide on compensation, which decreases the need to move to a civil court to sue for compensation in case of conviction of the defendant. In a case where an offender has not been convicted, a victim may still opt for a civil lawsuit, as the level of proof in a civil court is lower.[200 &201]

6.9.1 Compensation for the Victim

In the case of victims of trafficking, according to the circumstances of the case and in line with the provisions of Section 58 of the Act, damages presented could include:

- Physical injury[202] as a result of physical violence, sexual violence, starvation, poor living conditions, harsh working conditions, excessive working hours, lack of access to timely and appropriate medical care, unprotected sex, inappropriate medical treatment (such as forced abortions), amongst other things.
- Psychological injury[203] resulting from the conditions detailed under "physical injury" as well as intimidation, isolation, coercion, amongst other things.
- Unpaid or underpaid wages:[204] An amount can be established in line with national labour laws, according to the type of work performed, the hours worked per month, the minimum wage set by the law, pay for unused leave days and so on. Alternatively, it can be based on the wage originally promised to the victim, if applicable[205]. However, if the victim was forced into illegal work the court could calculate an amount the victim could have earned had they been allowed to take up legal work.
- Material loss:[206] Cost of items permanently taken away from the victim (for example a passport, a cell phone), money taken away by force, through debt bondage, or under false pretences (made up "fines", illegal "fees" imposed by the traffickers).
- Other injury/loss of support:[207] This can include loss of opportunities while kept as a victim. For example, a child's right to education.

6.9.2 The Prosecutor's Role

It is recommended that the prosecutor inform victims of their right to compensation and to address the court on their behalf during criminal proceedings and once the offender has been convicted. It is important to allow foreign victims to remain in Zambia until they manage to collect the compensation ordered for them.

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200 Anti-Trafficking Training Materials for Judges and Prosecutors: Background Reader ICMPD, page 114;
201 UNODC, module 13, page 6.
202 Section 58(b).
203 Ibid.
204 Section 58(c).
205 UNODC, module 13, page 4.
206 Section 58(a).
207 Section 58 (b) (c) of the Act.

6.9.3 Compensation for the State

Section 59 of the Act provides that upon application from the prosecutor, the convicting court can add to any other punishment and in addition to an amount of compensation ordered for the victims, grant compensation for the state for "expenses... Incurred in connection with the care, accommodation, transportation and repatriation of the victim of the offence". The Act appears to give priority to compensation for the victim.

Sections 60 to 62 provide the court with tools to impose payment.

6.10 Deportation Orders Against Suspected Offenders Under Part IX Of The Anti-Human Trafficking Act

Note: In line with international standard and obligations, the Anti-Human Trafficking Act attends to the needs of foreign victims in terms of safety and support and considers their repatriation,[208] forbidding their summary deportation[209] and allowing, as need be, for them to be provided with permission to stay for 60 days,[210] temporary[211] or permanent residency.[212] These provisions have been put into good use since the Act has come into force.

In part IX of the Act, the legislator provides the power to the relevant Minister, the Minister of Home Affairs and Internal Security, to remove from Zambia or prevent from entering Zambia any foreigner the Minister believes has been, is or will be involved in the preparations, commission or instigation of any of the offences included in the Act, in Zambia.[213] However, the Minister is required to give special consideration to the case of a person who is ordinarily a resident of Zambia. Such a person should not be deported if they have no links to another country.[214]

The Section comes to add and not to replace the Immigration and Deportation Act, 2010. It allows for the deportation of individuals fitting the criteria set in part IX of the Act even if their stay in Zambia is legal. The Immigration and Deportation Act, 2010, allows for the deportation of anyone who is an 'illegal' immigrant under the second schedule of the Act (which also includes involvement in human trafficking under class B of the Second Schedule (see Section 35) of the Act), or, anyone who the Minister has declared a prohibited immigrant due to public interest.[215]

Under all circumstances, when considering deportation, the rights of the person considered for deportation should be taken into account, including their right to appeal. This includes, but is not limited to, the possibility they may have a legitimate claim to asylum, in which case their asylum case should be heard and decided upon before a decision regarding their deportation is made. Moreover, they have the right to appeal this decision, once made.

Depending on the procedure set up to implement this Section, the provisions in Part IX could be a useful tool in preventing trafficking into Zambia when a suspected trafficker is stopped while

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[208] Sections 36 and 37 of the Act..
[209] Section 32 of the Act.
[210] Section 33 of the Act.
[211] Section 34 of the Act.
[212] Section 35 of the Act.
[213] Section 84 of the Act.
[214] Section 84(2) of the Act.
[215] Immigration and Deportation Act, 2010, Section 35(2).

attempting to enter Zambia. In such case, the suspect may be accompanied by possible victims and therefore, it is important that they are separated and are addressed accordingly.

6.10.1 The Prosecutor's Role

In view of the provisions of both Part IX of the Anti-Human Trafficking Act and Section 17 as well as Part V and class B of the second schedule of the Immigration and Deportation Act, 2010 it is of crucial importance for the police and prosecution to inform the Department of Immigration of any investigation or criminal proceedings conducted against any foreigner, who is staying in Zambia legally or illegally, to ensure this person is not deported before standing trial. Deportation should not be carried out where it is possible to put the suspect on trial. Deportation is not only a punishment per se, but may also serve to deter other offenders.

6.11 Summary Exercise

Refer to Annex A17: Activity 17: Test Case

6.11.1 Scenario One: Internal Trafficking

The scenario is based on a true case referred to IOM by an NGO that provides shelter to children. Some details have been changed.

Mrs. Lungu had a daughter named Mutinta Lungu. Mrs. Lungu was approached by her neighbor, Mrs. Ngulube, who was looking for a housemaid. At that time Mutinta was 14 years old and although enrolled in school, did not attend all the time. Mrs. Ngulube asked Mrs. Lungu if Mutinta could be her maid. Mrs. Lungu agreed that Mutinta could work for Mrs. Ngulube; she would clean the house and take care of her three children (aged 1, 4 and 7 years). Mutinta would be paid Kwacha 200 (approximately USD 40) per month, and this money would be sent directly to Mrs. Lungu.

Following their agreement, Mrs. Ngulube arranged for Mutinta's transport by bus from Petauke, in Eastern Province, to Chipata, the nearest large town. This is where Mrs. Lungu's main house was. The journey took three hours, and Mrs. Ngulube collected Mutinta from the bus station and took her home.

When she first arrived, Mutinta was very happy as she had not been to Chipata before. It was exciting to be in new surroundings. However, as time went on she came to see the reality of her situation. She was made to get up at 04:00am to fetch water for Mrs. Ngulube's bath and then she had to get the children up. From that time until 22:00 she was constantly busy, cooking, cleaning and looking after the children. She had no time to rest, and certainly no time to go to school. Her life was miserable. Moreover, she missed her family and was not given permission to contact them. She was not allowed to leave home on her own, and had no money of her own to buy simple things like soap and new clothes (she had grown out of her old ones). Mrs. Ngulube called her lazy and threatened that she would beat her if Mutinta did not do as she was told. She reminded her that her mother sent her to work for Mrs. Ngulube and that her mother received good payment for her daughter's work.

Eventually, Mutinta became friends with a neighbour's daughter, Misozi, who saw that Mutinta had become sick, but had not received treatment. Misozi told her mother about this, and when Mrs. Ngulube was at work, Misozi's mother took Mutinta to the clinic. When they were there, Mutinta told her story to Misozi's mother and the doctor, who phoned Mutinta's mother.

Mutinta's mother was very shocked to hear what had happened to her daughter. Indeed, since the time Mutinta left eight months earlier, she had not heard from Mrs. Ngulube, who paid her for 6 months in advance when Mutinta left Petauke, and had assumed all was ok.

The doctor encouraged Misozi's mother to take Mutinta to an NGO that provides shelter so that she could be given advice about what to do next. The NGO who had received training on human trafficking contacted the Social Welfare Department for advice.

Mutinta was provided with counseling and a safe place to stay while details of her case were put together. She was given medical care as she had developed tuberculosis. The NGO arranged for Mutinta to meet with a para-legal advisor who explained that what had happened to her was human trafficking, and that trafficking is illegal in Zambia.

The para-legal counselor wrote down this account which was transferred, checked and confirmed by the police that is now forwarded it to you, the prosecutor for possible further action.

6.11.2 Scenario Two: Transnational/International Labour Trafficking

This case is based on a true story, but main identifying details have been changed. This case was shared with IOM by the Ministry of Foreign Affairs, Department of Immigration, Ministry of Home Affairs.

Five Indian men (cousins) were living in Mumbai, India, when they saw an advertisement for the recruitment of construction workers in Zambia. None of them had previously left India and they thought this would be a good opportunity to broaden their horizons and earn some good money as promised in the advertisement. The advertisement spoke of good conditions in Zambia and the facilitation of travel. After discussing amongst themselves, they decided they had nothing to lose and replied positively to the advert. They met with an agent in Mumbai, Mr. Raj, who explained what would happen next. They each paid the equivalent of USD 2,500 for their travel, despite the advertisement indicating that this would be paid for, but were told it would be reimbursed with their first pay cheque.

Two weeks later they arrived in Lusaka, after taking a flight from India, via Nairobi, Kenya. They were met at the airport by a Mr. Phiri, who has been in contact with them prior to their arrival. He explained that they would stay in Lusaka for two weeks while their paperwork was finalized and would thereafter be taken to the mine to start work on the construction of offices.

The five men spent the next two weeks at a lodge where they had to share a room with lots of other people. Mr. Phiri took their passports and told them that they shouldn't leave the lodge and shouldn't speak to anyone about the work that they were going to be doing, as it was none of anyone else's business. He had left some food and drink for the men, but this was quickly finished. With no food, drink, or means of contacting Mr. Phiri, the men had to beg food from the lodge owner, who became suspicious about their circumstances.

The lodge owner reported the case to the Department of Immigration, who apprehended the men and questioned them. They appeared desperate and confused. Although interviewed separately all of them provided with the same story and all of them explained that Mr. Phiri took their passports. The details they provided about their flight were compared to immigration records and found to be true. Suspecting they may be victims of trafficking, they were taken to a safe place to stay while further investigations were carried out.

The Department's investigations revealed that Mr. Phiri had been working with an agent in South Africa who, according to Mr. Phiri, was at that point in possession of the men's travel documents, which Mr Phiri sent to him by post. They have been issued with (fraudulent) South African work permits, and Mr. Phiri had put in place arrangements for the five men to be transported by road to South Africa where they were to work in a clothing factory. According to the South African press, the clothing factory in question had been known in the past to employ foreign workers under exploitative conditions. If the men had not been apprehended in Zambia, they would have probably traveled to South Africa the following week.

The Department of Immigration, together with the Zambia Police, compiled Mr. Phiri's telephone records, which confirmed his link with the newspaper in India that had run the advertisement, as well as the agent in South Africa that had processed the documents, and the factory where the men were to work.

You, the prosecutor are now contacted by the Department of Immigration and the police and presented with the case.

Refer to Annex A18: Summary Exercise (Activity 18): Test Case/Optional Activity

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ANNEXES

Annex A: Activities

ANNEX A1: Activity 1 - Expectation Setting

OBJECTIVE: Identify the learning goals of participants and ascertain to what extent they align to the training content. In cases where it does not, the facilitator may consider adapting sessions within the general learning framework of the manual.

Time frame: 10 minutes

Facilitator:

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

ANNEX A2: Activity 2 - Defining Human Trafficking

OBJECTIVE: Enable participants to clearly define human trafficking.

Time frame: 80 minutes.

Facilitator:

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

ANNEX A3: Activity 3 - Understanding Child Trafficking

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

Time frame: 40 minutes.

Facilitator:

- Divide participants into groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Ask participants to read Antonio's case and answer the questions below.
- Reporters will present the findings of the groups.
- Give 25 minutes for group discussions.
- Questions relating to Antonio's case:
- Is this a case of trafficking as defined in Part I of the Act? Explain your answer.
- Look at the definition of "child labor" and "practices similar to slavery" in Part I of the Act and see if it alters your answer for question no. 1
- Who should be held legally responsible for Antonio's condition? Consider each possible defendant and discuss which provisions under Part I of the Act apply.
- Refer to Section 21 of the Act. How would you apply it in this case?
- What are the implications of Antonio's age in your responses?
- Facilitator: Conclude the discussion by pointing out the absence of "means" in the Protocol's definition of child trafficking and relating it to the issue of consent. Ensure that there is common understanding on the definition of a child and the related lack of capacity to give consent.

ANNEX A4: Activity 4: Understanding the Elements of Human Trafficking

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

Time frame: 65 minutes

Facilitator:

- Ask participants to form groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Assign one statement (and related question/s) to each group.
- Reporters will present the findings of the group.
- Give 20 minutes for group discussions.
- Give each group 5-8 minutes to report.

Use the discussion on each of the statements to facilitate a plenary discussion on the following issues:

- Statement 1: Cross-border versus internal trafficking, means of transportation, documentation used in travel, why traffickers want to move their victims away from familiar surroundings;
- Statement 2: Means employed by traffickers in recruiting their victims, the issue of consent, various types of methods of recruitment (e.g. medium and structure);
- Statement 3: Forms of exploitation, places of exploitation;
- Statement 4: Demand and supply for labor and services as they relate to trafficking, exploitation of men and boys;
- Statement 5: Methods of control employed by traffickers.
- Remember to make use of Part 1, Sections 2 and 22 of the Act.

Conclude by highlighting the major elements involved in the process of human trafficking.

Activity guidelines:

Consider statements 1 to 5 below and determine whether or not they are valid. You can declare each either a "fact" or a "myth". The questions under each statement are aimed at guiding your discussion and should also be answered in detail. See if you can support your answers with the provisions of Part I, Sections 2 and 22 of the Act.

1) Those who migrate legally cannot be victims of trafficking.
   - Do victims always have valid documents?
   - What means of transportation may they use?
   - Why is it important for traffickers to move their victims?
   - Do victims always leave their country of origin, i.e. can one be trafficked without leaving a country?

2) All victims of trafficking are abducted.
   - What other means might be employed by traffickers?
   - What is a common feature in the means employed by traffickers?
   - What media of communication may traffickers use for recruiting their victims?

3) All trafficked people are trafficked for the purposes of sexual exploitation.
   - What other forms of exploitation are possible?
   - What places can you think of where exploitation may take place?

4) All victims of trafficking are women and children.
   - How are women and children usually exploited?
   - Who else might be trafficked, and for what purpose?
   - Traffickers always lock up their victims to prevent them from escaping.
   - How else might traffickers control their victims?

ANNEX A5: Activity 5: The Basics of Victim Identification

OBJECTIVE: To identify the benefits of identifying victims of trafficking and the guiding principles in assisting victims.

Time frame: 45 minutes

Facilitator:

- Begin this session by asking participants to express their thoughts on why they think it is important to identify victims.
- You may use the following questions to guide the discussion:

  What are the benefits of victim identification for:

  - Victims?
  - Law enforcement officers and prosecutors?
  - The efforts to combat trafficking in general?

  Once the benefits have been identified, pose the following question:

  - With these benefits in mind, how then should law enforcement officers treat victims of human trafficking?
  - What should be our guiding principles in the treatment of victims of trafficking?
- Conclude the session by briefly explaining the basic guiding principles in the treatment of victims.

ANNEX A6: Activity 6: Initial Indicators

OBJECTIVE: Identify initial indicators used in the identification of possible victims of human trafficking.

Time frame: 50 minutes

Facilitator:

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

Question:

See which of the two individuals strikes you, at first sight, as more likely to have been trafficked and explain why.

ANNEX A7: Activity 7: Beyond Initial Indicators

OBJECTIVE: Determine major indicators used in the identification of victims of human trafficking under the Act.

Time frame: 60 minutes.

Facilitator:

- Divide participants into groups with four or five members.
- Each group should appoint a chairperson and a reporter.
- Ask them to look at the case below and answer the questions that follow
- Explain that participants should make use of Part III of the Act to support their answers to the questions below.
- Give 25 minutes for the group work.
- Hear reports from each group and use the opportunity to discuss relevant parts of Part III of the Act.
- Afterwards, conclude by highlighting the guiding principles in the identification of victims under Part III of the Act and some of the related major responsibilities of law enforcement officers.

Questions:

1. Using the provisions of Section 22 of the Act, determine whether Precious might be a genuine victim of trafficking. Explain which principles under that Sections helped you to reach your decision.
2. Assume you are an authorised officer, what are you expected to do at this stage? Base your response on the provisions of Sections 22A, 25 to 31 of the Act under Part III.
3. Were the night-duty patrol officers correct in seeking the help of the NGO WADA? Why?

- Working with your group, formulate questions under each of the following categories – act, means, purpose – for a detailed questionnaire to be used in interviewing Precious to determine whether she has been trafficked.

ANNEX A8: Activity 8: Interviewing Victims

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

Time frame: 60 minutes

Facilitator:

- Ask participants to remain in their previous groups. If need be, you may exchange a few members among the groups to allow everyone the opportunity to work with new people.
- Each group should appoint a chairperson and a reporter.
- State that the case is a continuation of the story in the previous activity. Ask them to look at the facts and answer the questions following the case.
- Give 20 minutes for the group work.
- Hear reports from each group and use the opportunity to discuss risks and safety concerns in relation to victims and potential victims.
- Afterwards, conclude by highlighting the underlying principles to be followed by law enforcement officers in conducting interviews using the victim-centred approach.
- If time permits, you may get participants to do a role play of the interview.

Questions:

1. Working with your team members and based upon the details provided above, discuss the following issues:
2. Who should be at the interview and why?
3. Where should the interview be conducted? What should the setting be like?
4. What skills will the interviewer/s need?
   What issues would you discuss with Dr. Malanga
6. What challenges do you foresee during the course of the interview?

ANNEX A9: Activity 9 Risk Assessment

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

To understand the role of law enforcement/prosecutors in referral of victims for assistance, including addressing the immigration status of victims.

Time frame: 120 minutes

Facilitator:

- Ask participants to remain in their previous groups. If need be you may exchange a few members among the groups to allow everyone the opportunity to work with new people.

- Each group should appoint a chairperson and a reporter.
- State that the case is a continuation of the story in the previous activity. Ask them to look at the facts and answer the questions following the case.
- Give 60 minutes for the group work.
- Hear reports from each group and use the opportunity to discuss risks and safety concerns in relation to victims and potential victims; steps that need to be taken by law enforcement/prosecutors to address the needs of victims.
- Afterwards, conclude by emphasizing the importance of the safety of victims and the need to address the immediate needs of victims, including their immigration status.

Activity 9: Risk assessment (Continued)

Working with your teams and based upon the summary below of the key points of Precious' interview, discuss the following issues.

Questions:

1. At this point of the investigation, identify:
2. Who may be facing risks in terms of safety and security?
3. What are the risks?
4. What is the source of the risk?
5. What events could increase the level of risk?
6. In light of the provisions of Part III of the Act, what steps should be taken now to address Precious' situation?
7. In relation to any offences committed by Precious and disclosed by her during her interview ***(see Section 24)***
8. In relation to her presence and or residency in Zambia (assume she is in Zambia) **(see *Sections 32 to 39*)**
9. In relation to her well-being (in the context of referral)
10. Precious wants to go back to her country of origin; what are the steps that need to be taken? **See *Sections 36 to 39, also Section 45.***
11. If Precious had been a refugee, what steps could you take?

ANNEX A10: Activity 10: Intelligence and Investigations.

OBJECTIVE:

- Understand varying approaches to investigating human trafficking cases.
- Appreciate the type of intelligence sought in investigating cases of human trafficking.
- Identify major sources of intelligence and vulnerable points of traffickers.

Time frame: 75 minutes

Facilitator:

This exercise will allow participants to practice what they have just learned under Sections 6.2, 6.3, 6.4

Ask participants to form new groups. Encourage participants to work with those who they have not worked with so far.

Questions:

1. Assume that you are the investigator in charge of the case, and now have all the details from Precious' interview. Consider this information carefully and, working in groups, respond to the following questions:

2. What investigative actions would you consider to take the investigation forward? Will you consider an immediate raid? Why? Breakdown the advantages and disadvantages of each option.
3. Assuming you decide to delay the raid, what investigative enquiries will you make to acquire evidential corroboration of Precious' account of events? Carefully lay out those aspects of her account, which you will need to corroborate, and the corresponding sources of intelligence for each.
4. Again assuming you have taken the decision to postpone an immediate arrest operation, and to implement a short-term proactive investigation into the activities of Amir Ahmed Khan and his associates, discuss the range of proactive techniques most suitable to the case. Justify your response. What investigative actions would you consider to take the investigation forward? Will you consider an immediate raid? Why? Breakdown the advantages and disadvantages of each option.
5. Assuming you decide to delay the raid, what investigative enquiries will you make to acquire evidential corroboration of Precious' account of events? Carefully lay out those aspects of her account, which you will need to corroborate and the corresponding sources of intelligence for each.
6. Again assuming you have taken the decision to postpone an immediate arrest operation, and to implement a short-term proactive investigation into the activities of Amir Ahmed Khan and his associates, discuss the range of proactive techniques most suitable to the case. Justify your response.

Annex A11: Activity 11: Ground Discussion - The Role of the Prosecutor

OBJECTIVE: Enable participating prosecutors to share their general experience and relate it to their future role in the prosecution of a trafficking case.

Time frame: 20 minutes

Facilitator:

Before moving on with the presentation, please ask participants to share their experience and views regarding the questions below.

- Try to involve as many participants as possible and allow time for everyone to speak.
- Provide guidance to the group to make the connection between their role in deciding on prosecution, observing evidence, considering public interest, deciding on discontinuance of proceedings and the prosecution of trafficking cases.
- Capture major points on the board. With a lively discussion most of the inputs that relate to chapter 6.2 of this manual will be covered. Issues that did not come up should be introduced by the facilitator.

Questions:

1. What do you consider as your ultimate responsibility or role as a prosecutor in general and specifically with regards to human trafficking?
2. When the police present you with a case, on what do you or will you base your decision to prosecute? Can you give an example?
3. How do you decide if a case is not to be prosecuted due to lack of public interest? What would be your stand on this issue in a case of human trafficking?
4. Have you been involved in discontinuance of criminal proceedings for certain cases? What were or what would be the reasons to do so?
5. If evidence is not sufficient to prosecute, what will your next move/(s) be?

Annex A12: Activity12: Reviewing trafficking-related offences and the use of Sections 22 and 24 of the Anti – Human Trafficking Act

OBJECTIVE: To deepen understanding of the variety of trafficking and related offences included Part II of the Anti-Human Trafficking Act, and Section 24, and practice their use.

Time frame: 45 minutes

Facilitator:

This is a preliminary exercise to deepen the understanding of trafficking and other facilitating offences. This exercise will be followed with an exercise addressing the issue of evidence.

- Ask participants to form new groups of 4 to 5 people. Encourage participants to work with those who they have not worked with so far.
- Each group should appoint a reporter and a chairperson. Those who did not have the opportunity before should be given priority.
- Give the groups 30 minutes to work on the questions below, then discuss in plenary.
- Ask participants to read Part II and Section 22 and 24 of the Anti-Human Trafficking Act and answer the questions below.

Questions:

1. Looking back at the case of Precious Busang, what offences described in Part II can fit the presumed actions of each of the possible offenders?
2. If there are instances in which you are unsure, what additional information would be required to establish if a possible offence has been committed?
3. According to the information collected so far and in light of Section 22 of the Act, what action should be taken regarding Stella Robinson, Maria Bongida and Adrienne Mpello, who were arrested? What signs are there that point to the possibility that any or all of these individuals may be victims of trafficking?

Annex A13: Activity 13: Additional Offences

OBJECTIVE: Discussing the use of additional criminal offences to compliment or replace charges made under the Anti-Human Trafficking Act.

Time frame: 35 minutes

Facilitator:

- Continue with the same groups as in the previous exercise.
- Each group should appoint a reporter and a chairperson. Those who did not have the opportunity before should be given priority.
- Present the participants one or two copies of the Criminal Code, of the Immigration and Deportation (Amendment) Act, 2016 and of the Anti-Money-Laundering Act, 2001. These can be used as resource materials for this exercise and can circulate among the groups.
- Give the groups 20 minutes to work on the questions below, then discuss in plenary.

Questions:

1. Read case study 6c, below and answer the following questions:

2. In view of the circumstances described in the following case study, will you consider charging any of the possible defendants with counts outside the Anti-Human Trafficking Act? Please explain: with which counts will you charge each defendant and on what evidence will it be based.
3. Will you need further evidence to support any of these charges? If so, please suggest how it can be obtained.

Annex A14: Activity 14: Preparing and Protecting Victim/Witnesses through Multi-Agency Cooperation

OBJECTIVE: Practice support and preparation of a victim of trafficking for court using multi-agency cooperation by conducting a role-play.

Time frame: 50 minutes

Facilitator:

Continue with the same groups of 4-5 people as in previous exercises.

The technique used in this exercise is a role-play – each individual, in each group is provided a role: a prosecutor, a police investigator, a case manager and the victim/witness (one in each group: Precious Busang, Adrienne Mpelo or Rosie Ngundu). In groups with five members, the fifth member can act as an additional prosecutor.

The groups should be given 30 minutes to read the instructions below and act through two situations: 1. a preparatory meeting between the case manager, prosecutor and police investigator leading into 2. Their meeting with the victim/witness.

The facilitator should visit and observe the work of the different groups, providing guidance as needed.

The following 20 minutes should be dedicated to a presentation of the two situations by two groups (each group presenting one of the two) with members of other groups adding suggestions from their group's experience.

Instructions for the participants:

The first court appearance in the trafficking trail against Khan, Mbeka, Nkoso and Kondwani is scheduled for a week from today. Precious Busang, Adrienne Mpelo and Rosie Ngundu have agreed to testify. Please discuss the preparation of either Precious/Adrienne/Rosie for her appearance in court from the position of the role given to you, as well as all other actions needed to ensure her safety and wellbeing as well as the successful prosecution of the case.

Spend 10 minutes for a multi-agency coordination meeting ahead of a 10 minutes joint conversation with the victim/witness.

Keep in mind the following issues: age, background, need for physical protection, emotional state, logistics, pre-trail and trail phase support, possibility of media coverage, need to prepare for vigorous cross examination by the defence lawyer.

Please also discuss and agree what follow up action will each member of the team will take.

Annex A15: Activity 15: Supporting the Charges with Testimony and Evidence

OBJECTIVE:

This exercise comes to summarize some of the topics discussed so far in this chapter: offences, witnesses, exhibits, multi-agency and international cooperation. The trainees are asked to prepare the case by making links between the offences and the testimonial and material evidence to support it and by identifying ways to obtain (if possible) missing information.

Time frame: 95 minutes

Facilitator:

- Divide the participants into 4-5 groups.
- Each group should appoint a reporter and a chairperson. Those who did not have the opportunity before should be given priority.
- Present the participants with the worksheets for exercise 6e (see Annex III). Kindly give each group 10 copies of the sheet to allow sufficient space for responses to be recorded.
- Give the groups 60 minutes to work on the questions below, then review in plenary.
- Instruct participants to answer the following questions using the exercise sheets provided.

Questions:

1) Please answer the following questions using the exercise sheets provided.
2) Please fill in the table for each of the defendants. When detailing who the witnesses are, and which exhibits will be used, please mention very briefly how these will support or provide proof for the specific element of the offence being tried
3) Did you discover any gaps? How can they be filled? Indicate if and what support you will require from the police or other partners, what requests you might need to make to court or to the office of the Attorney General? (This may include requesting information from a different country.)
4) Kindly draft the charges for each of the defendants. Will you charge them jointly or separately?

Annex A16: Mini Activity 16: Forfeiture

OBJECTIVE: Discuss implementation of forfeiture provisions under the Anti-Human Trafficking Act.

Time frame: 15 minutes

Facilitator:

- Discuss in brief the following questions with the group allowing as many participants to respond as possible.
- If time allows this exercise can be done in groups.

Questions:

1. How would you use Sections 49 to 51 of the Act in the "Precious Busang case"?
2. In case of conviction – what would be your advice to the court in relation to Section 52?

Annex A17: Activity 17: Test Case

OBJECTIVE:

This final comprehensive exercise allows participants to examine and practice their new knowledge under this chapter in preparation for Zambian-based case scenarios that they are likely to come across in the future. One scenario deals with internal trafficking for domestic servitude, a very common and unfortunate scenario that may often arrive at the prosecutor's desk if properly reported, identified and investigated. The second scenario involves the trafficking of foreigners for labour in Zambia, and too is based on a true indecent.

Through the creation of a "Prosecutor's check list" at the end of the exercise, the participants will be able to actively prepare a useful working tool and link the training with their future work.

Time frame: 120 minutes

Facilitator:

Ask participants to form new groups of 4 to 5 people. Encourage participants to work with those who they have not worked with so far.

Each group should appoint a reporter and a chairperson. Those who did not have the opportunity before should be given priority.

Give the groups 75 minutes to work on one of the two scenarios, following the questions below, then discuss in plenary. Make sure at least two groups are working on each scenario.

During the plenary, capture information received from the participants to create a "prosecutor's check list", which can be drafted on a Word document on a laptop (if available) while being presented during the discussion. Once cases have been fully analysed, additional points can be added. Once everyone agrees the list is finished it can be put in chronological order, printed and distributed to the trainees. Lead the group to create a comprehensive and concise list, which can later be used as a useful tool in their work.

Directions:

Carefully read the scenario provided.

1) Discuss the actions with your group, in chronological order. You, as prosecutor, need to consider all aspects of the case from the moment it is handed to you and until past the trial. Keep in mind your responsibilities towards the court, the victims, partners, defendants and the general public.
2) Point out any missing information and other gaps and how you propose to fill them in. What will your course of action be if you could get the missing information? If you couldn't?
3) Please keep in mind the following elements (not all are relevant in the cases): identification of all possible offenders, the charges, elements of the offences, non-defence, smuggling vs. trafficking, corroborating evidence, exhibits, victims, witnesses, child victim/witness, victim/witness safety and rights, preparation for court, multi-agency cooperation, international legal cooperation, detention of funds and property, forfeiture, compensation, the media, deportation.
4) You are welcome to use the training manual, previous exercises, your notes and any other documentation used during this training in preparation of your answers.

Annex A18: Summary Exercise (Activity 18): Test Case/Optional Activity

The purpose of this additional activity is to provide participants with an opportunity to practice their skills and newly acquired knowledge through role-play using Zambia-based cases. This exercise is proposed to be conducted at the end of the training, if time is available.

Time frame: 90 - 110 minutes (depending on number of groups)

Facilitator:

1. Ask participants to join together the groups that worked previously on the same scenarios so there are now groups of 8 to 10 people working on the same case scenario.
2. The new, larger groups are asked to act, through a role-play, the preparation stage and the court hearing stage. Participants should be given the following roles: the prosecutor (one or more participants), the victim/witness (one or more), the case manager (one), the investigator (one), the main defendant (one), the defence lawyers (two or three) to ensure some balance among the size of the sub-groups.
3. Each group agrees on any additional facts and on the exhibits that will be presented by each side (10 minutes). Then the group splits into two sub-groups (a sub-group for the prosecution and a sub-group for the defence). Each sub-group should spend 20 minutes preparing for the court hearing. The groups should be alerted that they will each be given 20 minutes for the actual role-play, which will be acted in front of the rest of the participants.
4. When it is time for each group to role-play, a judge is nominated from remainder of the group to participate in the role-play. The remainder of the group should observe.
5. After all the role-plays are done, participants should share their feedback in line with the questions below (under direction 5).
6. Conclude the discussion by highlighting the main points. What were the main challenges, and what were the suggestions to overcome those challenges?

Directions:

Ensure everyone in the group is given a role.

- Spend 10 minutes with your group members discussing and agreeing on any additional facts, and the witnesses and exhibits list to be presented during the trail by the prosecution and the defence.
- Split into the prosecution and defence sub-groups and spend 20 minutes preparing for the court hearing. This should include elements such as a short opening statement, the main prosecution and main defence arguments, witness examination and cross-examination and presentation of exhibits.
- Each group will enact its court hearing role-play in front of the rest of the participants when called. A judge will be selected from the rest of the group.

- While you observe the role-play of the other groups remember important points to later share during discussion: What did you think worked well? What did not work so well? What are the main obstacles for the prosecution? How would you overcome these challenges?

Annex B: Case Studies

Annex B1: Case Study 3a: "Selling Olga"216

This is the true story of Olga, a poor Moldovan girl trying very hard to make ends meet. All she did was respond to a newspaper advertisement that read "Girls and women under 35. Well-paid jobs abroad". She made a phone call, subsequent to which she had a meeting with a young man who promised a salary of USD 1,000 per month for looking after the elderly in Italy.[217] "I met him at the end of June 2000, and by the end of July I had been sold to a bar in Kosovo…and I really thought I was going to Italy."[218] In a string of events involving the provision of forged documents, prolonged and continuous road travel taking them across several stop-sites in Romania, Serbia and Montenegro, and finally a walk in the dark across what was said to be a mined border area, the group of young women with whom Olga travelled finally arrived in UNSC resolution 1244-administered Kosovo.[219]

On arrival, Olga and her compatriots were curtly informed at a bar that each now owed 2,500 Deutsche Mark (DM) for their travel expenses and could only leave once they had paid off that debt to the bar owner.[220] After several beatings for having refused what the bar owner demanded, Olga was sold to another bar in Kosovo/UNSC 1244.[221] Her job was to clean the place during the day, dance in the evenings and stand ready to be rented out to clients for the night.[222] The bar owner had her registered with the police as a waitress and started to pay her a stipend once she earned back for him what he had paid when he bought *her.[223] She had to buy her food from the bar, which was barely affordable, but she had saved* money out of the tips from some of the clients who rented her for the night.[224] By the end of a year, she had saved almost 1,000 DM.[225]

At this point, the bar owner informed her that he had been offered good money for her and presented the option that she either pays him what he was offered and stay with him or he will have to transfer her to another owner.[226]Fearing the prospects of a worse-off place, Olga effectively sold herself to her owner and paid him all her money.[227] It would be another year before she could escape and seek refuge with the police.[228] By then, she had lost the sight of one eye and much of the other from retinal detachment resulting from several beatings administered to her head.[229] With assistance *from the*

216 Waugh, *Selling Olga: Stories of Human Trafficking and Resistance* (2006), p 16.

[217] Ibid., p.16.

[218] Ibid., p. 17.

[219] Ibid., pp. 18–20.

[220] Ibid., p. 20.

[221] Ibid., p. 21.

[222] Ibid., p. 21.

[223] Ibid., p. 22.

[224] Ibid., p. 22.

[225] Ibid., p.22.

[226] Ibid., p. 23.

[227] Ibid., p. 23.

[228] Ibid., p. 24.

[229] Ibid., p. 25.

International Organization for Migration (IOM), she managed to go back home.230 She has no job; has to look after her son; and receives the equivalent of USD 10 per month as a state disability grant.

Annex B2: Case Study 3b: Antonio (Referring to Activity 3)

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

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

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

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

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

Annex B3: Case Study 4a: Kim (Referring to Activity 5)

Kim was referred to your office by an NGO. She is 22 years old and has recently run away from one of the local brothels. The NGO informed you that she does not have any identity documentation. In fact, they were unable to communicate with her as she did not speak any of the local languages. You can see bruises on her face, and she looks tired.

[230] Ibid., p. [25].

Annex B4: Case Study 4b: Dan (Referring to Activity 6)

The NGO has also referred another individual to you named Dan. Dan looks about 35 years old and communicates well. He was found unconscious near a border town by local residents and was taken to a hospital. He says he was travelling as part of a group led by an individual known to the police for his previous criminal records. Dan has a passport but no visa allowing him to enter the country. He looks very nervous and apprehensive. He says he was robbed by a gang of youths who took away the money he was carrying.

Annex B5: Case Study 4c: Precious Busang – Phase I[231] (Referring to Activity 7)

20 October 2012, 4 a.m.

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

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

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

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

She went on to say that when she arrived, the woman took her to a large house where she met a man named Amir Ahmed, who was the "boss man". Amir Ahmed had told her that she already owed the agency a lot of money because of fees incurred from the arrangements that had been made for

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231 "The Case of Precious Busang" is an extended, fictitious case study used for Chapters 4 and 5. It is adapted from material produced by Paul Holmes for IOM South Africa, 2004.

her and that she would have to pay some of it back before she could go to Ayham. When Precious explained that she had no money but that it had been agreed that she could repay the fees from her salary in Ayham, he had said that this was not good enough and that some money would have to be repaid first. He had then forced her to become a prostitute and to entertain men at the house.

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

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

When asked how and why she had managed to escape, Precious told the officers that she had jumped out onto the lawn from the first-floor window whilst everyone was downstairs. She had decided to escape because Amir Ahmed had told her that Lottie (the woman from the employment agency) was returning to Lusaka the following week to take her and the other girls up to Ayham on the Tuesday evening flight, and Precious was terrified that she would end up as a prostitute for the rest of her life if she went to Ayham, so she had decided to escape. She had discussed her plan to escape with the other three girls but they had decided against it because they were too scared of the consequences. They were prepared to take their chances in Ayham because they hoped that conditions would improve once they got there. She was now terrified that Amir Ahmed would tell her mother what she had done as a punishment.

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

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

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

Annex B6: Case Study 4d: Precious Busang – Phase II (Referring to Activity 8)

20 October 2012, 8 a.m.

You are a specialist human trafficking investigator working in CID Headquarters in Lusaka. Upon arrival at the squad office, the Chief of CID hands you the above briefing and allocates the case of Precious Busang to you.

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

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

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

On 3 November 2011, acting upon an anonymous tip-off, the Immigration Department had executed a search warrant at the address and discovered Khan and five women in the house. Three of the women originated from Esania and the fourth was a Zambian citizen. The three Esanian women had been detained and subsequently deported as illegal immigrants. All three had refused to explain their activities or to say a word against Khan, who was clearly in charge of the address. There was insufficient evidence to take any action against him and he was not arrested on this occasion. The fifth woman was named Dorothy Mbeka and she was older than the others and seemed to be an associate of Khan. Khan had come to the notice of the Immigration Department and Criminal Intelligence Department before and was suspected to be part of an organized network of criminals that traded in women and girls between Africa and the Middle East. To date, nobody has ever been prepared to provide any evidence against him.

20 October 2012, 6.30 p.m.

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

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

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

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

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

Annex B7: Case Study 4e: Precious Busang – Phase III (Referring to Activity 9)

Summary of evidential interview given by Precious Busang between 21 October and 23 October 2012

Precious Busang disclosed the following evidential details:

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

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

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

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

Lottie told Precious that her agency was one of a chain of agencies located in Africa and that the company was in partnership with another employment agency based in Ayham that recruited trainee nurses for work in hospitals in the Arabian city. Lottie told her that not only would she be able to earn high wages that she could send home, but that she would be able to continue her studies and qualify as a nurse at the same time as fulfilling her contract.

Precious told Lottie that she wasn't sure about the proposal and would need time to think about it and to speak with her mother. She also explained to Lottie that she had no money of her own to pay any agency fees, but

Lottie reassured her that the agency and travel fees could all be repaid by Precious from her salary after arrival in Ayham and that the terms and costs would all be set out in her contract. Lottie handed Precious a business card that gave Lottie's full name of Lottie Nkoso, the name of the agency and a mobile telephone number. Lottie told her to ring her on the number shown once she had made her mind up. Lottie told her not to take too long in deciding, as the vacancies were limited and the opportunity too good to miss.

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

After consulting with her mother that evening, Precious contacted Lottie on the phone number on the card and agreed to the offer. Lottie asked Precious if she had her own passport and Precious told her that she did not. Lottie told her that this was not a major problem and to meet with her at 10 a.m. the next morning outside the Business Centre located in the lobby of the Marriott Hotel in central Laboville to discuss the logistics of the vacancy and to complete the contract and travel plans. Lottie explained that her office was within the hotel business centre and that the hotel was close to the Foreign Ministry so they could make a personal application for her passport the next day. Lottie told her to bring her birth certificate or her student registration card with her as proof of her identity.

Precious took a day off from work and kept the appointment with Lottie, who explained to her that they would need to first get her a passport and then an entry visa for Zambia so that Precious could travel to Lusaka. When Precious queried why she needed to go to Lusaka when she was supposed to be heading for Ayham, Lottie explained that the agency head office was located there and that the contracts and travel arrangements would have to be made there before she flew on to Ayham. Moreover, she explained that it wasn't possible to get a flight to the Middle East from Laboville, and that she would have to fly from Lusaka on the Emirates Airlines flight that left on Tuesdays and Saturdays from Lusaka to Ayham.

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

Lottie, who had spent a lot of time talking on her mobile phone, then said that they must return to the business centre at the Marriott Hotel to collect a fax confirmation from Ayham of the offer of her nursing contract. They did so and Lottie collected the fax from the business centre staff. She showed it to Precious, who saw that it was on headed paper bearing the logo of "Global Opportunities Incorporated – Ayham", confirming a job offer for Precious as a trainee at the Al-Jumilla Hospital in Ayham, commencing on 11 October. She could see that the company logo and address was written in English and what she thought was Arabic and gave the agency address as being care of the Business Centre, Marriott Samara Hotel, Ayham.

No mention was made on the letter offering the position of the salary or the terms of employment. When Precious asked about this, Lottie said that those details would be included in the contract that she would sign in Lusaka before she left for Ayham. She said that her boss, a man called Amir Ahmed, was responsible for drawing up the overseas contracts and that things would all be sorted out the following week at the Lusaka office.

They later returned to the Passport Office and collected Precious' passport, which Lottie retained. She then took Precious to the Consular Section of the Zambian Embassy nearby, to apply for a visa to enter the country. Yet again, Lottie seemed to know the staff very well and they were able to jump the queue. Lottie helped Precious fill out the application form and attached the fax letter of the job offer to the application. They were told that there would be no problem and they should return the next day to collect the passport. As before, Lottie took the application receipt and paid the fee of USD 10 at the cashier Section and retained the collection slip. Both then left the consular building.

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

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

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

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

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

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

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

After a short while, Amir Ahmed re-entered the room and Precious noticed that this time he shut the door behind him. Amir Ahmed then began to talk about the amount of fees that she already owed to the agency for securing the job offer and how much she would eventually owe in total by the time she takes up the job in

Ayham. He said that he was concerned about getting back all of the money that Precious would owe to the agency. Precious tried to explain that Lottie had said that this was all taken care of because Precious would repay the fees in instalment out of her salary in Ayham.

Amir Ahmed's demeanour began to change and he said that Lottie wasn't authorized to make such statements and that the agency could not continue to assist Precious unless a significant amount of money was paid in advance. Precious explained that she didn't have any money and had explained this to Lottie and would not have agreed to leave home if this was going to be the case. At this point, Amir Ahmed's tone and manner became threatening towards her. He suddenly told her that he had already invested money in her and that she now owed him. He was prepared to help her in her career but that she had to help him in return. When Precious asked how she was supposed to do this, Amir Ahmed told her that a number of important business clients of his came to the house and that they expected to receive sexual services from the women that Amir Ahmed had staying as guests in the house. Precious laughed at first and said that he could not be serious and that he clearly didn't know her very well.

Without warning, Amir Ahmed then grasped her by the throat and pushed her back against the wall of the room. He then told her that she would do as she was told and that she would service his business clients as he told her to. She began to struggle and tried to break free from him but he was physically too powerful for her. Amir Ahmed became even more threatening and told Precious that he now owned her until the point at which she had cleared her debt to him. He told her that she would become one of his prostitutes – like the other three women in the house – and that he would decide when her debt was cleared. He told her that she would stay at the house until such time as he decided that she should be sent to Ayham, where she would have to continue as a prostitute to clear her travel and contract debts to his agency colleagues. Once she finally clears all of her debt to the agency, she would be allowed to take up her post as a trainee nurse in Ayham.

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

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

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

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

Amir Ahmed then left the room, locking the door as he did so.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To her knowledge, she and the three other women all lived in separate rooms on the second floor and the windows of her room were barred. She did not know if Dorothy lived in the house or not. She was definitely there throughout the time that the house was open for business, but Precious could not be sure if she lived there. As far as she knew, Amir Ahmed occupied the basement of the house because he had keys to the basement area and she had seen him go down there on a number of occasions. She had heard him arguing on the telephone during the early hours of the morning on a number of occasions, so she thought he must live in the house. She had never been in the basement because they had all been told that it was off limits to anybody but Amir Ahmed – even Dorothy wasn't allowed down there.

Precious stated that, after the first occasion, Amir Ahmed did not molest her again. She had not been kept locked in her room after the first two nights and had not tried to escape before, because she was too afraid of Amir Ahmed and the consequences that he had threatened her with. She had thought about it constantly but was too scared of going to prison and of her mother finding out what she had been doing.

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

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

She had gone to one of the rooms with a client at about 3.30 a.m. and after he had his service, he had left the room. After each client, it was part of the duties of the women to clean away used tissues and place a fresh paper cover over the bed, so it was normal for there to be a short delay between the client leaving the room and the woman re-appearing downstairs. She knew that the windows in the client rooms were locked but not barred because the bars put the clients off. She panicked and forced one of the windows open and climbed out onto the first-floor veranda roof and jumped down onto the lawn below. She then just ran off, not knowing where she was or where she was going, dressed only in her underwear. It was as she was running down a nearby street that the two uniformed officers had found her.

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

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

Annex B8: Case Study Precious Busang – Phase IV: Pre-arrest, Arrest and Post arrest Action

Updated report: Results of proactive investigation and surveillance of Amir Ahmed Khan and his associates, 21 October and 23 October 2012

26 October 2012, 8 a.m.

Background enquiries

Acting upon your instructions, investigators from your team have established the following facts:

Amir Ahmed Khan is 42 years old, having been born on 29 February 1965 in Islamabad, Pakistan. He was educated in the United Kingdom. He is a single man with no criminal convictions recorded against him in Zambia. According to immigration records, he first applied for residency and work permit in 2003, which was granted.

He first leased the house at 2 Ash Road, Kabulonga, Lusaka in 2004 on behalf of Global Opportunities Incorporated. He has since purchased the property in December 2006, paying USD 150,000. The purchase details are as follows: for the freehold by a bankers order drawn from the First National Bank of Ayham, account number 47656890, account held in the name of "Global Opportunities Incorporated", located at the only Zambia branch of the bank. The bank is located in Commercial Street in the financial district of Lusaka. Khan is the sole authorized drawer on the account by agreed arrangement with the bank. The master account was located at the bank head offices in Ayham.

All of the utilities for Ash Road are registered in the name of Global Opportunities Incorporated, the bills are paid by cheque, drawn on the same account as above.

Enquiries with Zambia Telecom disclosed that there are a total of four landlines installed at 2 Ash Road; numbers are as follows: 202-5643, 202-7786, 202-9805 and 202-0437. The first three lines are registered to Global Opportunities Incorporated and the fourth is registered in the name of Mrs. Lottie Nkoso, of the same address. Enquiries with the company disclose that the first three lines have very heavy usage, both on national and international call rates. All the calls on the fourth line are between Zambia and Esania.

Enquiries have also revealed that a company called "Aristocrats High Class Services" advertises in the personal services column of two national newspapers: the Zambia Herald and the Voice of the Nation and also in the Lusaka city paper, the Lusaka Times. Each advertisement features the same first three numbers as shown above and also features the following website: www.aristocrats-highclassservices.com. The website displays the same three numbers as above but also includes a mobile telephone number of 07980-444693. This number is supplied by Afrimobile and is registered to a woman named Dorothy Mbeka of 62 Kafironda Drive, Roma, Lusaka.

Kindly independently read the next Section of the case study and the following analysis, relating to conduct of the investigation, arrest and post-arrest actions.

All of the advertisements offer "all forms of high-class services for executives with taste". The company logo appears to be a tall, standing "Pink Pussycat" cartoon. The adverts show that the services are available from 2 p.m. to 4 a.m. and are "centrally located for convenience." The website also has a series of pictures of 20 black and white women, many of whom are scantily dressed in lingerie. It also states that payment can be made by credit card.

Local police enquiries confirm that Dorothy Mbeka is shown as the registered tenant of an apartment at 62 Kafironda Drive, Roma.

Surveillance summary: Report covering period of 23 October to, 25 October 2012

Surveillance has been in place on 2 Ash Road since Saturday, 23 October 2012. The following is a summary of the evidence obtained to date from the surveillance:

The building consists of a ground floor and two upper floors. There is also a basement and an attached garage to the south side of the property. A green BMW seven series saloon is usually in the driveway in front of the garage (registration number 66-FG-773). This vehicle is registered to 2 Ash Road, Global Opportunities Incorporated.

An Asian male about 40 years old and assumed to be Amir Ahmed Khan, has been seen in and around the address. To date, at about 11 a.m. each day, a black Nissan Bluebird vehicle, registration number 85-HJ-889, has appeared outside the address and parks on the driveway. The driver is described as a white woman with blonde hair. The vehicle is registered to Dorothy Mbeka of 62 Kafironda Drive. She lets herself into the house with a key, at this stage the driver is assumed to be Mbeka.

A large black male, aged about 35 years and heavily built, usually arrives at the address by taxi between 11 a.m. and midday. He lets himself in with a key. He is assumed to be the male known as Charles.

Males begin to arrive at the house from just after 2 p.m. and this continues until about 3.30 a.m to 4 a.m. The rate of arrivals rises as the evening progresses but not all of the males stay very long in the premises. No women callers have been observed to enter the premises. The males appear to be businessmen and are of varied nationalities and racial appearance. The woman believed to be Dorothy Mbeka always opens the blue-painted double door that the callers enter. No other females have been seen in or around the premises. The ground-floor windows are covered with net curtains and all of the rooms in the first and second floors have curtains which are drawn all of the time.

On-going surveillance has shown that a little after 4 a.m. every day, the black male and the female assumed to be Dorothy Mbeka leave the house. Mbeka drives away in her Nissan and has been followed each morning to the address at 62 Kafironda Drive, which she enters using a key.

The black male is collected by taxi, but on each occasion contact has been lost with the taxi and therefore his home address is not known at this time.

25 October: Specific events

The male assumed to be Khan has left the address on one occasion, on 25 October at 10.52 a.m.; a large black male drove Khan in a green BMW. They were followed to the financial district of Lusaka, where Khan was seen to enter the premises of the First National Bank of Ayham in Commercial Street. The black male waited outside. Khan stayed in the bank for about 20 minutes and then walked to the office of Emirates Airlines, which is close by in Independence Avenue. He was in the airline offices for about five minutes and appeared to be holding some tickets when he left. He was then driven to the Consular Section of the Jamāhīriyya Arab Republic Embassy, where he entered the diplomatic quarters. He stayed in there for about 45 minutes. He was seen to be in close conversation with a male official at the Employment Visa Application Counter and he seemed to be very friendly with the official.

After leaving the Consular Section, Khan was driven back to the house at 2 Ash Road, where he and the black male entered and remained thereafter.

At 9 p.m. on 25 October, test purchase officer “M” had been seen to enter the house and was seen to leave at 9.30 p.m. The blonde female believed to be Dorothy let him into the house and also showed him out at 9.30 p.m. “M’s” evidential summary is separately reported.

Discreet enquiries have been made through contacts in the security office of Emirates Airlines at Lusaka International Airport. The enquiries confirm that a male named Amir Ahmed Khan has a booking on the evening of Tuesday, 26 October. This is the Emirates flight to Ayham, flight number PG824, departing at 9.30 p.m. He has reserved a seat in the first-class cabin. Seats are also reserved for a Ms. Lottie Nkoso in economy class on the same flight. These two bookings are also linked to two other seats on the same flight reserved in the names of Maria Bongida and Stella Robinson. There was also a third reservation on the same booking in the name of Precious Busang, but Khan had cancelled this reservation. The contact further states that the tickets were reserved and purchased through the Emirates Head Offices in Ayham and that Khan had collected the tickets from the Lusaka offices in Independence Avenue on 25 October. The contact was unable to state the method of purchase or the name of the purchaser because that data was held in Ayham, where the booking was made. The contact also stated that Khan was a member of the Emirates Executive Club and had been a regular flyer with the airline over the last four years.

Additionally, test purchase officer "M" who entered 2 Ash Road, reported that a large black male of very powerful build was sitting by the door, reading the newspaper when he entered and was still there when he left. "M" also noted that there was a CCTV camera screen by the entry phone of the front door that Dorothy checked before opening the door to any other callers. The front door appeared to be very strong and had two separate locks and chains. "M" had not seen Khan during his time at 2 Ash Road but had seen both Dorothy and Lottie in the lounge area whilst he waited for the female, Stella, to come downstairs after servicing a client. He had paid Dorothy and had gone upstairs with Stella and then left, having made an excuse. He did not see the male Charles whilst he was in the house. The senior supervising officer had issued "M" with five USD 10 bills (serial numbers: BK 38736814, AL 34325769, HG 55684235, BK 37609845 and NB 77681198), which he used to make payments to Dorothy.

Summary of updated report of the arrest operation conducted against Amir Ahmed Khan and his associates on 26 October 2012

Pre-arrest surveillance phase

27 October 2012, 8 a.m.

- **10.05 a.m.:** A black Mercedes saloon car parked on the drive of 2 Ash Road. The driver was a middle-aged black woman believed to be Lottie Nkoso. A young black female, aged about 20 years, who was casually dressed and who removed a suitcase from the car, accompanied her in the car. They both entered the house, Lottie letting them in using a key.
- **10.40 a.m.:** The female believed to be Dorothy Mbeka arrived at the house in her Nissan car. A large black male believed to be the security guard, Charles, accompanied her. They both entered the house.
- **2.20 p.m.:** The first males believed to be clients started to arrive at 2 Ash Road.
- **2.25 p.m.:** The male believed to be Amir Ahmed Khan was seen going to the BMW car and removing a small suitcase from the boot, after which he went back inside.
- **5.50 p.m.:** Acting on instructions, test purchase officer "J" went to the door of the house and was let in by the female believed to be Dorothy. During his time in the address, "J" handed over five USD 10 dollar bills to Dorothy. He left again at 6.18 p.m. His account is similar to that of the first test purchase officer "M". "J" reported that there were two television sets in the lounge area that were showing pornographic films. The women he saw appeared to be over the age of 18 years and they introduced themselves as Maria and Adrienne.
- **7.20 p.m.:** Khan and Nkoso left the address together with two black females aged about 20 years. All were carrying luggage. They all got into the BMW motor vehicle by Khan.
- **9.20 p.m.:** Squad officers whilst on their seats on Emirates flight PG824 to Ayham arrested Khan, Nkoso and the two females. Khan and Nkoso were arrested on suspicion of trafficking in human beings and conspiracy to live on earnings from prostitution. The two women were arrested on suspicion of illegally engaging in prostitution and illegal entry to Zambia. These women were Stella Robinson, aged 20 years, an

Esanian national; and Maria Bangida, aged 19 years, also an Esanian national. At the time of arrest, the passports of Robinson and Bangida were found in the briefcase being carried by Khan.

- **9.25 p.m:** A team of officers entered the house at 2 Ash Road, Kabulonga and arrested Dorothy Mbeka and Charles Kondwani on suspicion of trafficking in human beings and conspiracy to live on the earnings of prostitution. Also arrested was a black female named Adrienne Mpelo, aged 21 years, a Zambian national. She was arrested on suspicion of engaging in prostitution.

At the time of these arrests, a black female minor named Rosie Ngundu, aged 17 years, an Esanian national who had arrived at the house that morning was found locked in a bedroom on the second floor. She was taken into protective police custody as a minor at risk.

A total of 10 male clients were also found in the address and were temporarily detained.

During the course of the following 12 hours, the arrest teams searched all of the individuals who were arrested and searched the following addresses and vehicles:

2 Ash Road;
62 Kafironda Road;
Flat G Town Flats, NIPA, Lusaka – the home address of Charles Kondwani;
Khan's car – the green BMW;
Nkoso's car – the black Mercedes;
Mbeka's car – the black Nissan.

Summary of evidential items seized during the course of the search and seizure phase of the operation

Khan's briefcase

USD 1,600 in cash (included in this sum were the five USD 10 bills paid out by test purchase officer "M" to Dorothy Mbeka on 25 October).
Three passports in the name of Amir Ahmed Khan: one Jamāhīriyya Arab Republic citizen, one British and one Pakistani.
Correspondence in relation to the First National Bank of Ayham and a series of cheque books.
Correspondence relating to the rental of safety deposit boxes held at the headquarters of the First National Bank of Zambia.
Correspondence between Global Opportunities Incorporated and the Al-Jumillah Hospital, Ayham.
Visa, American Express and Mastercard credit cards drawn on various institutions located in Zambia and Ayham.

2 Ash Road, ground-floor study room

Desktop and laptop computers and fax machines;
Old work record books and account sheets;
Correspondence with First National Bank of Ayham;
Correspondence relating to Global Opportunities Incorporated;
Two mobile telephones.

2 Ash Road, ground-floor lounge area

Large quantities of condoms and pornographic material;

Work record book and USD 1250 in a metal tin found in the drawer of a small table near the front door (included in this sum are three of the five USD 10 bills handed to Dorothy Mbeka by test purchase officer "J" earlier that day);

Advertising material for "Aristocrats High Class Services";

Four landline telephone lines and answer phones.

2 Ash Road, four first-floor bedrooms

Large quantities of condoms, uniforms, pornographic material and lubricants.

2 Ash Road, four second-floor bedrooms

A number of personal items belonging to Busang, Mpelo, Robinson and Bangida.

2 Ash Road, basement area, removed from concealed safe located under floorboards

USD 55,000 in cash;
Diaries and telephone books in name of Amir Ahmed Khan;
Bank statements and correspondence with the Credit and Commerce Bank, Cape Town, South Africa, together with correspondence concerning the rental of safety deposit boxes at the bank branch at Cape Flats, Cape Town;
Correspondence from H. W. Du Plessis, Managing Agents, Cape Flats, Cape Town concerning ground rental and maintenance fees for Apartments Number 1, 2 and 3 located at Ocean View Apartments, Ocean Drive, Cape Town, South Africa.

Mbeka's handbag

USD 450 in cash (included in this sum are two of the five USD 10 bills paid to her by test purchase officer "J" earlier that day);
Mobile phone, with the number 07980-444693.

62 Kafironda Road

USD 4,800 concealed at the bottom of the wardrobe in Mbeka's bedroom;
Diaries and records of work and wages – all labelled "Aristocrats";
Personal telephone books, including the phone numbers of Khan and Nkoso.

Mbeka's Nissan car

Correspondence and bills for the advertising of "Aristocrats" in the three Zambia newspapers;
Receipts and bills for Internet service provider "African Domain" based in Cape Town, South Africa, relating to the website for "Aristocrats".

Lottie Nkoso's briefcase

Esanian Passport in her name containing multiple entry visas for Zambia and Jamāhīriyya Arab Republic;
USD 5,550 in cash;
Correspondence on Global Opportunities Incorporated-headed paper offering employment vacancies at the Al-Jumillah Hospital, relating to Rosie Ngundu, Precious Busang, Maria Bangida and Stella Robinson;
Bank cheque book in the name of Lottie Nkoso for Esanian Farmers Bank, 2-6, Capital Drive, Laboville, Esania;
Diary and telephone book containing the contact numbers of Khan and Mbeka
Mobile phone apparatus.

Flat G, Town Flats, NIPA, Lusaka – the home address of Charles Kondwani

The small flat was virtually derelict with only a single bed therein. Thus, no property of evidential value was recovered.

Additional notes of interest

The child Ngundu has made an outline statement to police overnight, explaining how she was approached by Nkoso in the street and offered the possibility of hospital work in Ayham. As far as she knew, she was en route to Ayham and was only in Lusaka to get a visa and travel tickets. She was in a distressed state and was not prepared to say anymore at this stage;
Robinson and Bangida have so far refused to assist police in any way. Bangida has confided to one officer that she would like to help but is too scared to do so;
Adrienne Mpelo has taken the same position.

27 October, 3 p.m.

Overnight summary of interrogation results

Amir Ahmed Khan

He engaged one of Lusaka's most notorious and talented defence attorneys and refused to answer any questions. He responded "no comment" to every question put to him.
Dorothy Mbeka
Khan provided her with an attorney from the same firm as above. She also refused to answer any questions and responded "no comment" throughout.

Lottie Nkoso

She refused Khan's offer of a lawyer and answered questions posed by the interrogators. Her position is that she accepts the facts but denies knowing anything about trafficking, prostitution or exploitation. She stated that she believed that she was helping the women get to a new, brighter future and was simply an employee of Khan's and that the only income she received from him was a commission of USD 100 from him for each woman she successfully recruited. She has no other form of employment than this.

Charles Kondwani

He declined legal advice offered by Khan, saying that it was not necessary, as he had done nothing wrong. He said that he worked at the address as a security guard and had done so for the past 18 months. He was paid USD 100 per week by Khan for his work. His role was to ensure that there was no trouble in the house and to act as chauffeur to Khan when required. He had nothing to do with the women in the house and had no idea that prostitution was involved.

Guidance to the case study

The evidential update from surveillance, combined with the results of background enquiries, confirms the information concerning the planned transfer of two of the three victims by Khan and Nkoso from Lusaka to Ayham on Emirates Airlines flight PG824 at 9.30 p.m. on 26 October. The key decision that needs to be taken at this stage is whether or not this transfer will be allowed to take place or whether an arrest operation will be executed to rescue all three women and to detain Khan, Nkoso, Mbeka and the male named Charles. The transfer of two of the victims to Ayham by Khan and Nkoso constitutes a "controlled delivery" situation in which the possibility arises to allow the two women to be "delivered" by Khan and Nkoso to their associates in Ayham whilst being monitored and controlled by police surveillance teams. This is a highly effective technique that is regularly used in narcotics, weapons and counterfeit currency investigations. If carried out correctly, the controlled delivery technique provides high-quality evidence against the suspected traffickers.

There are two potential advantages of controlled delivery in this case:
It would secure even better evidence of the role and importance of Khan and Nkoso in this trafficking network;
It provides an opportunity to identify their associates in Ayham and to locate and monitor their operations.
The risks that the women may enter the Jamāhīriyya Arab Republic and then become lost from police control and continue to be sexually exploited are too high and difficult to manage to be acceptable. The operational decision should be that Khan and Nkoso and the two victims will not leave Lusaka.
As a best-practice rule, all suspects involved in the trafficking operation, including the lower-level or minor players, should be arrested, provided that there are sufficient grounds to justify their arrests and sufficient available resources to carry them out. In many cases, it is the lower- level traffickers that keep valuable evidence in their possession, either in their pockets or at their home addresses. In addition, the lower-level suspects will often cooperate with the police and speak about their role in the crime, whereas the top-level traffickers are usually careful not to keep possession of incriminating evidence and rarely admit their guilt when interviewed. Therefore, in this case, the following suspects should be targeted for arrest in the operation plan:
Amir Ahmed Khan;
Lottie Nkoso;
Dorothy Mbeka;
Charles Kondwani.

Note: On the basis of evidence from Precious concerning the issue of her passport and the role of Mary, a female passport office staff, there may also be sufficient evidence to justify her arrest and interview. However, she is in Laboville and any decision as to how to proceed with her case can be made after the main arrest operation.

The arrest plan in this case is as follows:

- To follow Khan, Nkoso and the two victims to Lusaka Airport, allow them to check in and go through passport and customs controls and to arrest them at the departure gate prior to the departure of the flight and remove the two victims to safety;
- As soon as it is confirmed that Khan and Nkoso are in police custody, to enter the brothel at 2 Ash Road and detain Dorothy Mbeka and Charles Kondwaniand rescue the third victim.

This course of action has been selected for the following reasons:

It is known that Khan and Nkoso are booked on the Emirates Airlines flight together with the victims Robinson and Bangida;

Provided that Khan and Nkoso do not become aware of the surveillance team during the drive from the brothel to the airport, there is no reason to suppose that they will not attempt to catch their flight;

The safety of Robinson and Bangida can be secured because they will not board the aircraft;

Allowing them to complete departure controls and enter the restricted area of the terminal makes it easier to control them and the arrest scene;

It also ensures that Khan and Nkoso will not be carrying any weapons;

There is a possibility that Khan and/or Nkoso may be carrying large amounts of cash or other evidential documents that they need to transfer to Ayham, which can then be seized (see Section 51 of the Act);

Allowing them to go to the airport before arresting them provides an opportunity to secure evidence that might not otherwise be found during the search in the brothel;

Arresting Khan and Nkoso at the airport simplifies the arrest operation at the brothel.

There is need for close coordination between the two separate arrest teams if the plan is to succeed.

The investigation team has the option of deploying test purchase officers into the brothel to achieve three objectives:

To introduce controlled payments in cash into the brothel system to adduce evidence of control and gain on the part of the suspects;

To establish how many suspects and how many clients are in the premises;

To facilitate rapid entry into the address when the officer in charge gives the order to enter the brothel.

It will be necessary to deploy sufficient police resources to:

Safely manage the arrest of at least four suspects at two different locations;

Safely manage the rescue of at least three victims;

Control male clients that react adversely;

Control the crime scenes;

Secure all sources of evidence during the course of a detailed search.

In addition to authorised officers, consideration should be given to the following human resources:

Police photographers – video and still cameras;

Interpreters in the Esanian language;

NGO counsellors to assist the victims:

Technical specialists to secure any computer-based evidence;

Forensic officers – such as fingerprint officers and crime scene examiners.

In general terms and in this case, the following items should be searched for and seized:

Any documentation or personal items belonging to victims that have not yet been identified;

Any documentation relating to the application for visas and passports;

Any documentation relating to travel, such as tickets, bills and schedules;

Cash and any other documentation relating to assets;

Any documentation relating to bank accounts;

Any documentation relating to the supply of utilities and other services to the address;

Diaries and telephone and address books;

Mobile phones and tapes from any answering machines attached to landline phones;

All documentation relating to the rental and maintenance of Internet websites;

Computers: laptops and desktops, keyboards and visual display units;

Printers and fax machines;
Passports and other identification documentation;
Credit cards;
Keys;
Worksheets relating to the provision of sexual services;
All items relating to the provision of sexual services: new and used condoms, uniforms, lubricants, pornographic films and magazines, sex menus and price lists, tissues.

In specific terms, the following items should be searched for and seized:

- Control money found in the personal possession of any of the suspects or within their addresses;
- Personal belongings or other items or documents relating to Precious Busang: family photographs, clothes, nursing study books, passport, fax copy of her contract;
- As above in relation to Robinson and Bangida and the third victim when she is identified;
- The floor covering of the room in which Busang alleges she was raped, as well as all of Khan's clothing, particularly his trousers and underwear, for forensic examination following initial forensic examination;
- All documentation relating to "Global Opportunities Incorporated";
- Any copies of contracts regarding the above company;
- Any documentation relating to Al-Jumillah Hospital, Ayham;
- All documentation relating to the First National Bank of Ayham, especially account number 47656890;
- Any documentation relating to Emirates Airlines: tickets, bills, executive club correspondence;
- Any documentation relating to Marriott Hotels in Laboville and Ayham;
- All documentation relating to "Aristocrats High Class Services", especially calling cards and books of matches;
- Small metal cash box;
- Small red exercise book;
- Any documentation relating to the ownership of 2 Ash Road;
- Any documentation relating to advertisements for "Aristocrats" on newspapers and in the Internet;
- Documentation relating to the purchase and use of the BMW.

The following is a summary of the additional enquiries that are necessary to complete this investigation. These will be additional to the range of enquiries that has already been identified to corroborate the account of Precious Busang.

Enquiries in Esania:

Make further enquiries with the Foreign Ministry and at the Zambian Consulate concerning the possible issue of a passport for the victim Ngundu;
Interview Mary, the woman who processed the passport for Busang;
Make general enquiries with both of the above departments in relation to any other passport or visa applications related to Global Opportunities Incorporated and Al-Jumillah Hospital in Ayham;
Make enquiries at the Esanian Farmers Bank concerning the account(s) of Lottie Nkoso.
Make enquiries with Esanian border officials at Mapala Crossing for additional embarkation cards for Nkoso and any other individuals who crossed with her;
Make enquiries at the Marriott Hotel, Laboville, Esania regarding additional use of business centre facilities by Nkoso, together with printouts of telephone, fax and e-mail usage;
Make enquiries as to the history of the purchase of the Mercedes motor vehicle;
Make enquiries to trace the three Esanian victims who were found at the brothel in November 2011 to see if they would be prepared to make statements against Khan now that he is in custody.

Enquiries in Zambia:

Make follow-up enquiries with the other three victims in due course to see if they are prepared to change their minds and make statements against Khan and the other suspects;
Forensic examination of the floor covering of the bedroom in which Busang alleges that she was *raped*;
Forensic examination of Khan's clothing for traces of *blood or other tissue* samples from Busang;
Make enquiries with the *Zambia Herald*, *Voice of the Nation* and the *Lusaka Times* regarding the history of the *advertising* for Aristocrats including, date, location and method of payment;
Make enquiries with the *domain supplier* for the Internet website concerning the *history of the site*, including the date, location and method of payment;
Make enquiries with the above concerning the *e-mails* carried on the site;
Make enquiries with Zambian Telecom and Afrimobile regarding the history of *landline and mobile telephones*, together with the date, location and method of *bill payments and the call history* of all calls made in and out;
As above in respect of the *utility companies* supplying water and power;
Make enquiries with the department that registers *the purchase of land and buildings* to prove the purchase of 2 Ash Road;
Make enquiries with the department in charge of *company registration* regarding the history of Global Opportunities Incorporated and Aristocrats High Class Services;
Make enquiries as to the purchase and history of Khan's BMW motor vehicle, including the date, location and method of purchase;
Make enquiries to establish whether Mbeka owns or rents her apartments, including the *date, location and method of payment;*
As above in relation to her Nissan Bluebird *motor vehicle*;
Forensic technical examination of *computer equipment* seized from the address;
Make enquiries with Emirates Airlines regarding the *ticket purchasing* history on behalf of Khan and Nkoso, and any associated tickets in the name(s) of victims;
As above in relation to Khan's *executive club membership*;
Make enquiries at the Jamāhīriyya Arab Republic Embassy regarding *the issue of visas* for Khan and Nkoso and on behalf of Global Opportunities Incorporated or Al-Jumillah Hospital, Ayham;
Make enquiries at the British and Pakistan embassies and the Foreign Ministry of Zambia regarding the *history of the passports* held in the name of Khan;
Make enquiries with Visa, American Express and MasterCard regarding the history and *use of the credit cards* held by Khan.

Enquiries in Ayham:

Make enquiries with the First National bank of Ayham concerning the *accounts* and *safe deposit boxes* of Amir Ahmed Khan;
Make enquiries with Marriott Hotel, Ayham regarding the *use of fax facilities*;
Make enquiries with Al-Jumillah Hospital to ascertain whether it has a *relationship with Global Opportunities Incorporated* and *with Khan and Nkoso*. If yes, find out the full history of the relationship, the *number of persons* placed as trainee nurses and the *financial relationship*.

Enquiries in South Africa:

Make enquiries with Credit and Commerce Bank, Cape Town to ascertain the full history of the *account*s and *safety deposit boxes* of Khan;
Make enquiries with H. W. Du Plessis, Managing Agents, Cape Town to ascertain the full history of Khan's *relationship with the agents* and his interest in *Apartments* 1, 2 and 3, Ocean View Drive, Cape Town;
Make enquiries with the *Land Registration Office* of the Republic of South Africa to ascertain the owner of *Apartments* 1, 2 and 3;
Obtain an official current market estimate of the *sale value* of the properties;
Obtain an external and internal *video recording* of the apartments.

Annex B9: Case Study 6c: Precious Busang – Phase VI (Continuation of the case from Section 5.4.6)

All five assumed victims are now residing at the shelter. While you have a strong written testimony from Precious, Maria Bongida and Stella Robinson are still not talking. The psychologist, Dr. Sara Malanga, is highly concerned about them. In her assessment they are highly traumatized and fearful and will require more time and counseling to open up and tell their story. From the little details they provided, she understands that they had not left the house since they were first brought in until the time they left to the airport, which might have been for several months or even more. Furthermore, from the little they said, she gathered that they had not received any medical care during that time. An examination by a doctor revealed old injuries, including broken fingers and burn marks that could have been inflicted on them while in that house. It is her professional view that the two need to be given additional time to recover before they are interviewed further. If more time is given, there is a chance one or both of them will agree to testify, which could strengthen the case against Khan, Mbeka, Kondwani and possibly Nkoso.

The other lady who stayed at the 2 Ash Road premises, the suspected brothel, named Adrienne Mpelo, has agreed to testify after a long conversation with you where she was promised protection, rehabilitation assistance and that no charges will be pressed against her. She has given the following initial details when first interviewed by the police and yourself, the prosecutor. Speaking was very difficult for her and so you agreed to interview her again at a later date for more details after she gained more strength: she was born in Chibolya Compound (a high density residential area) in Lusaka where she lived with her mother until her mother died when she was about six years old. She then lived with her grandmother who cared for her. She attended school up to the sixth grade and then helped her grandmother manage her small vegetable business at the market. When she was 15, her grandmother died and she was left to fend for herself. Eventually, her circumstances forced her into prostitution at the age of 16. About three years ago, she was picked up on the street by a man who, she later learned, was Amir Ahmed Khan, who used her services and then offered her work with his escort company "Aristocrats High Class Services". He explained that she would be doing the same thing she did on the street but will live in a nice house and earn much more money, from which she would be obliged to pay him 30 per cent in return for the accommodation and protection services he would provide and for arranging clients. Khan said he did not usually pick up street prostitutes for his exclusive business, but was making an exception in her case as he could see she was very pretty and behaved in a polite and pleasant manner. Adrienne felt she could not refuse such an offer, and thought she had nothing to lose. Once in the house, things were different than she had been promised. Although she had a room to live in and she was well fed, she could not go out, she was never paid and she was only rarely allowed to take a day off work, which she spent in her room. When she confronted Khan about the conditions, he beat her up and said that if he killed her no one would know and no one would care. Since then, he attacked her physically and sexually on seemingly random occasions; she never knew when the attack would come and lived in constant fear. Adrianne befriended a guard named Emanuel and she asked him to help her escape; however, this never materialized. One day, Emanuel did not show up at the house anymore and a new man, who was introduced as Charles (no family name was given), had replaced him. Adrienne has no idea if Emanuel had resigned, was fired, or something else had happened. At that stage, the woman who was managing the women and girls who worked there, who she knew by the name of "Dorothy", told her she was not allowed to speak to the new guard. As time passed, Adrianne became more and more depressed and passive. She did as she was told and did not make much contact with the other women and girls that were in the house, and who were usually taken away after a few weeks or months. A new girl (who turned out to be Precious Busang) suggested that she escape with some other women. Adrianne decided not to try escape and refused to discuss the issue with her. However, after Precious ran away, Khan had attacked her physically, accusing her of helping Precious. She showed bruises on her upper arms and the sides of her body.

As for the fourth girl, 17-year-old Rosie Ngundu, initial investigations had shown that the passport used for her was fraudulent. Additionally, it is a new passport and a finger print check revealed that it has the finger print marks of Lottie Nkoso, the woman who has brought Rosie to the house in 2 Ash Road, and other unidentified persons, but not Rosie. Rosie told Dr Malanga that Lottie (Nkoso) arranged for her trip, including a passport and that she never actually saw her passport except from the time Lottie Nkoso showed it to officers at the border and airport. Rosie is very confused and from the little information gathered so far, it was apparent that she had run away from home to join Lottie, who promised her a nursing job in Ayham. She is now too scared to return home. In her case too, Dr Malanga suggested allowing her some time for reflection.

In the meantime, it is time to decide on options for the prosecution of Khan, Mbeka, Nkoso and Kondwani and you consider the possibility of making additional charges in the cases of Robinson, Bongida, Ngundu (who, so far, refuse to testify) and Mpelo (who has agreed to testify).

Annex C: Palermo Protocol

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

UNITED NATIONS

2000

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

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

General provisions

Article 1: Relation with the United Nations Convention against Transnational Organized Crime

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

Article 2: Statement of Purpose

The purposes of this Protocol are:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3:Use of Terms for the Purposes of this Protocol:

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
(c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
(d) "Child" shall mean any person under 18 years of age.

Article 4: Scope of Application

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

Article 5: Criminalization

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

II. Protection of victims of trafficking in persons

Article 6: Assistance to and Protection of Victims of Trafficking in Persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
(a) Information on relevant court and administrative proceedings;
(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defense.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
(a) Appropriate housing;
(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and
(d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavor to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7: Status of Victims of Trafficking in Persons in Receiving States

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

Article 8: Repatriation of Victims of Trafficking in Persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9: Prevention of Trafficking in Persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
(a) To prevent and combat trafficking in persons; and
(b) To protect victims of trafficking in persons, especially women and children, from re-victimization.
2. States Parties shall endeavor to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, which leads to trafficking.

Article 10: Information Exchange and Training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.
2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11: Border Measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.
6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12: Security and Control of Documents

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

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13: Legitimacy and Validity of Documents

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

IV. Final provisions

Article 14: Saving Clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15: Settlement of Disputes

I. States Parties shall endeavor to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16: Signature, Ratification, Acceptance, Approval and Accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration

organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17: Entry into Force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18: Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19: Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20: Depositary and Languages

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

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

Annex D: Specimen Indictments

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

STATEMENT OF OFFENCE

TRAFFICKING IN PERSONS

(Contrary to Section 3 of the Anti-Human Trafficking Act No. 11 of 2008 of the Laws of Zambia)

PARTICULARS OF OFFENCE

Mupupu Mbalani, John Kuluku and Peter Ekisipulotashoni on 5 January 2009, in the Lusaka District of the Lusaka Province of the Republic of Zambia, jointly and whilst acting together, and whilst using force or threats of force and concealment of identity documents, for the purpose of exploitation, did traffic Diana Distress.

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FOR/DIRECTOR OF PUBLIC PROSECUTIONS

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

STATEMENT OF OFFENCE

ACCESSORY AFTER THE FACT TO TRAFFICKING IN PERSONS

(Accessory after the fact to trafficking in persons, contrary to Section 10 of the Anti-Human Trafficking Act No. 11 of 2008 of the Laws of Zambia)

PARTICULARS OF OFFENCE

Bisama Kabisabisa, well knowing that Mupupu Mbalani, John Kuluku and Peter Ekisipulotashoni, did on 5 January 2009 in the Lusaka District of the Lusaka Province of the Republic of Zambia, jointly and whilst acting together, and whilst using force or threats of force and concealment of identity documents, for the purpose of exploitation, did traffic Diana Distress, did on 12 January 2009, in the Lusaka District of the Lusaka Province of the Republic of Zambia, and on other days thereafter,

receive, conceal, comfort, harbour, assist, maintain and provide a safe haven for the said Mupupu Mbalani, John Kuluku and Peter Ekisipulotashoni.

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FOR/DIRECTOR OF PUBLIC PROSECUTIONS

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

STATEMENT OF OFFENCE

ATTEMPTS TO TRAFFIC IN PERSONS

(Attempts to traffic in persons, contrary to Section 12 of the Anti-Human Trafficking Act No. 11 of 2008 of the Laws of Zambia)

PARTICULARS OF OFFENCE

Mambala Kushishita, on 25 December 2008, in the Lusaka District of the Lusaka Province of the Republic of Zambia, with intent to traffic one Diana Distress, caused the said Diana Distress to be abducted and transported and did cause the same Diana Distress to receive a letter containing threats of injury or detriment to be caused to Further Distress, a family member.

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FOR/DIRECTOR OF PUBLIC PROSECUTIONS

Annex E: Exercise Worksheet (for use with activity 15)

Defendant	Offences	Offence Elements	Witness	Exhibit	Other Collaborating Evidence
	1.	a.			
		b.			
		c.			
		d.			
	2.	a.			
		b.			
		c.			

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