



REPORT

CONSULTATIVE ROUNDTABLE ON THE HUMANITARIAN DIMENSION AND PROTECTION ASPECTS OF TRAFFICKING IN PERSONS

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This report summarises the proceedings of the Roundtable as interpreted by the rapporteurs and editors of the RSIS Centre for NTS Studies. This report adheres to a variation of the Chatham House Rule. This report does not necessarily reflect the views of the RSIS or of the ICRC.

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EXECUTIVE SUMMARY

Trafficking in Persons (TIP) is a global phenomenon but its exact scale is difficult to quantify. TIP estimates range from the International Organization for Migration's 800,000 people to the United States TIP Report's 27 million people who were subjected to this crime in the last year alone. At the regional level, the Asia-Pacific has also been recognised "as a significant source of trafficking in persons"¹, due inter alia to high levels of irregular migration, its porous land borders and disparities in economic, employment and education opportunities.

To address the problem, the countries in the Asia Pacific region have engaged in a number of initiatives over the last decade, but often from a "security", "immigration", "law enforcement" perspective. While effective law enforcement will continue to play a crucial role in combating the crime of trafficking in persons in the region, just as much attention is required to ensure that victims of trafficking in persons receive the necessary protection and care. According to the Inter-Agency Standing Committee (IASC), protection is defined as "... all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. HR law, IHL, refugee law)."²

Various states in the Asia-Pacific have taken a range of measures to provide appropriate protection and care to victims of trafficking. A number of national and international organisations are also engaged in such efforts with the respective authorities. Although there are various regional instruments in the Asia-Pacific, such as the ASEAN Declaration on Transnational Crime, most are not legally enforceable and their operationalisation has been slow with many states often failing to live up to

them. Track II institutions are also developing policy recommendations to governments on issues related to TIP, including aspects concerning the protection and care of victims. At the same time, it is important to continue to constantly strengthen an understanding of the humanitarian/protection-related problems of trafficking in persons, in order to be able to respond in a more effective manner, where responses are holistic, promote human security and migrant rights.

Against this backdrop, the Consultative Roundtable on the Humanitarian Dimension and Protection Aspects of Trafficking in Persons was held in June 2014. The Roundtable was organised by the RSIS Centre for Non-Traditional Security (NTS) Studies with the International Committee of the Red Cross (ICRC). It brought together experts, academics, practitioners and government representatives to: (1) develop a better understanding of the roles of various actors involved in the protection of victims of trafficking, including but not limited to governments, multilateral organisations, civil society organisations, international non-governmental organisations and humanitarian organisations; (2) identify the unmet protection needs of victims of trafficking and discuss possible responses; (3) discuss and highlight country experiences, approaches and best practices to respond to the protection needs of victims of trafficking in a "protection checklist"; and (4) contribute to the regional thinking that will in turn influence national and regional policies that focus on the protection of victims of trafficking.

The Roundtable offered three policy pointers:

¹ INTERNATIONAL ORGANIZATION FOR MIGRATION, *Counter Trafficking and Assistance to Vulnerable Migrants*. Annual report of activities 2011, p. 30

² INTER-AGENCY STANDING COMMITTEE (IASC), *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*, 2011, p. 5. The definition was already used in the IASC IDP Protection Policy 1999. (The definition was originally adopted by a 1999 Workshop of the ICRC on Protection. It is generally accepted today within the humanitarian circles).

- **Standardise the definitions and the language of the legal frameworks that aim to address trafficking in persons, from prevention to prosecution to protection.**

Generating the necessary political will to strictly implement anti-trafficking legislation may be a basic but difficult hurdle in this process. Addressing the political and cultural sensitivities of TIP in each country, particularly immigration policies that may not complement regional anti-trafficking efforts may also present a challenge.

Hence, origin, transit or destination countries must be able to communicate and cooperate to standardise the terminologies, their meanings and implications used in any regulation or legislation that seeks to address TIP. This will not only help in the harmonisation of regional efforts against TIP, including the Bali Process, ASEAN initiatives and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), but also support the robustness of domestic law enforcement and the judicial processes that are aimed at the prevention and prosecution of the crime and protection of victims of trafficking. These regional initiatives all share a high level of political support and share common objectives such that harmonising efforts should not be as challenging as it is purported to be. The ASEAN, the Bali Process and COMMIT all aim to encourage information and intelligence sharing, law enforcement cooperation, supporting enactment of legislation criminalising TIP and providing appropriate protection and assistance to trafficking victims. Such a standardisation can assist in the development of a more nuanced understanding and appreciation of the different natures of TIP and most importantly in the identification of victims of trafficking.

- **Expand the protection of trafficking victims so that governments open up to greater collaboration with non-government agencies. This is based on the need for a differentiated approach regarding the protection needs of victims of trafficking. The protection needs of victims of trafficking**

are oftentimes secondary concerns to other priorities such as prosecution, deterrence, or facility security to name a few. Government agencies, while retaining primary responsibility, must be mandated to cooperate with non-government organizations, international humanitarian organizations and grassroots organizations that are engaged in the protection of victims of trafficking in order to complement and support services to assist trafficking victims and to promote a victim-centred approach.

Such an arrangement is an important component of a comprehensive approach, especially for specialised support services such as dedicated case management, legal assistance, language translation support, shelters, healthcare, counselling, education, rehabilitation, repatriation and re-integration of victims of trafficking. Provisions and protection of victims cannot be just a one-size-fits-all framework. The protection needs of victims have to be assessed from a more basic, individual and victim-centred level. Such an approach would not only ensure the immediate but also long run help in the protection and rehabilitation of victims of trafficking. This highlights the importance of a framework and protection policies that take into consideration the particular needs of the victims of trafficking.

Various NGOs have support services specifically for victims of trafficking and government agencies must be able to recognize that collaborating with these NGOs helps in building capacities for protecting victims of trafficking. This also calls for increased coordination with international organisations such as the International Organization for Migration (IOM), the UN Office on Drugs and Crime (UNODC) and the United Nations High Commission for Refugees (UNHCR). These agencies have the capacity (e.g. availability of translators, victim identification system) and resources that can assist national agencies engaged in the prevention of human trafficking and assisting victims of trafficking.

The lack of proper networks and official cooperation among civil society and NGOs that work on trafficking in various countries is a serious shortcoming that could be addressed and relatively easily established, on an international or even a regional level. This would open avenues for different sectors to help victims of trafficking. It would also erode the current heavily government-dependent system in dealing with TIP victims, whether in terms of operating shelters, repatriation or (re)integration. Therefore, mapping out the various actors and agencies involved in assisting victims of trafficking, independently or in some form of cooperation with governments, can buttress the awareness raising and advertising of protection and support services that are available and accessible for victims of trafficking. Greater cooperation would lead to efficient identification and family tracing, case management, as well as speedy repatriation when necessary. It would also help in better detection, detention and even extradition of human traffickers operating between the two countries. Civil society actors would need both official permission and financial support to play an increasingly significant role.

- **A specialised and dedicated case manager or victim support unit trained to assist trafficking victims from identification to protection to reintegration is imperative. This would allow for concrete monitoring, care arrangements and follow-up process on the status of victims of trafficking.**

Victims of trafficking have special needs and the different nature and purpose of the crime, suggests that victims of trafficking will also have specific and often differentiated needs. Despite the often complicated healthcare and legal assistance needs of trafficking victims, victims often refuse to seek help due to fear of stigma. For example, there is much sensitivity needed in providing legal assistance because of biased perceptions and the stigma associated with victims of trafficking for sexual exploitation.

Gaining the trust of victims to voluntarily cooperate with authorities is often a challenge and providing a safe environment where victims can regain hold of any dignity left from their experience is difficult in itself. Case managers or victim support units must ensure that victims have the right to legal representation and the entire investigation process should be age and gender-sensitive. Moreover, an inclusive evaluation process would require providing a venue for victims of trafficking to be able to freely discuss their concerns about support services, protection and the specific repatriation or re-integration programmes offered to them. The outputs of such evaluations can further aid the formulation of better protection and assistance policies for victims of trafficking.

Moreover, devising a (re)integration policy for TIP victims presents its own set of accountabilities. It would mean revisiting, changing or updating existing laws concerning immigration and foreign employment, and other regulations which might be relevant. This would be necessary in order to grant victims some form of legal status and protection while also allowing for the possibility to voluntarily return or emigration from the country. The special T-Visa currently offered in the US to victims of trafficking, which sets out a clear pathway towards permanent residency and even full citizenship in the long-run, serves as a good example that shows how such a system or framework could be possible. Even for cases where victim repatriation might be necessary for procedural/legal reasons, special provisions that allow for the victim to re-migrate back into the country of destination through legal channels need to be put in place. This would work well in the case of labour trafficking victims, especially if there is already an employer who is willing to hire/re-hire the originally trafficked person. This entails that reintegration or any other alternative strategies to address the long term needs of victims of trafficking will only be successful when it is focused on the needs and rights of the victims themselves.

Conclusion

Given the above, TIP therefore needs to be addressed from the multilateral to the local levels and must be in tune with the needs and rights of victims of trafficking, taking account of age and gender. Involving other actors, especially non-governmental and humanitarian organisations can help supplement and complement government anti-trafficking initiatives. Efforts at criminalising and penalising trafficking in persons must be made without raising the risk of persecuting or adding to the distress of victims. There is a need for stricter enforcement of existing anti-trafficking legislation. This report, however, emphasises that protection initiatives should continuously be implemented in parallel with efforts at preventing trafficking, including policies and activities that aim to address the psychological and socioeconomic difficulties and cultural dogmas that impact on victims.

THE POLICYMAKERS' PROTECTION CHECKLIST

STRENGTHEN THE VICTIM IDENTIFICATION PROCESS

- **Assign a specific and specialised inter-agency authority** that will be responsible for identifying victims of trafficking
- **Assign focal points for victim referral** in each agency involved
- **Allocate a sustainable budget for regular training** of first-responders/frontliners in law enforcement and at points of entry
- **Establish a criteria or definition** of who qualifies as a victim of trafficking.

RECOGNIZE AND ENSURE THE PROTECTION OF THE RIGHTS OF THE VICTIM THROUGH LEGISLATION

- **Grant temporary visas to victims of trafficking with specific rights and protection.** This will allow victims of trafficking to stay for a period of time and be given freedom of movement, legal status and permit to work. While States may see some rights as *contingent* on voluntary cooperation with authorities and participation in the criminal prosecution of alleged perpetrators and offenders, the principle that access to **assistance and protection of victims should not be conditioned** by their will to cooperate.
- If the law allows, assess if the victim is qualified for witness protection.
- **Victims must have the right and access to legal assistance and protection.** Victims need to be provided free legal assistance and protection throughout the course of the investigation and during court proceedings. Provide translation services for victims who cannot speak the local language. Embassies, foreign delegations and international organisations can provide necessary support for translation. Keep in mind that victims need to have a voice to be able to cooperate.
- **Establish clear legal provisions on penalizing traffickers' interference** and attempts at bribing victims during investigation.
- **Include trafficking victims in witness protection programmes.** Make use of remote interviewing technology for investigations and to allow victims to testify privately and anonymously outside of courts.
- **Institutionalise proactive investigations** to reduce stress or pressure on trafficking victims. This also includes the need to establish strict timelines for criminal justice proceedings and to establish plea-bargaining procedures. Further, the pre-trial detention of traffickers should be aggressively pursued by prosecutors.
- **Establish a Victim Compensation Fund.** This fund should be able to support the costs of legal assistance, healthcare and accommodation for the trafficked victim while under government

protection. Compensation should ideally come from, but not be limited to, the seized assets of the trafficker as part of the penalty for human trafficking.

ACKNOWLEDGE AND PROVIDE FOR THE SPECIALISED NEEDS OF VICTIMS OF TRAFFICKING

- **Establish open shelters for victims.** Victims must have the right to choose to stay or leave on their own accord.
- **Establish specialised shelters for women and children, men and transgender.** Where possible, trafficked children should be able to stay with family, guardians or caregivers. There should be dedicated shelters for victims trafficked for sexual exploitation, for example. These shelters can be run by certified NGO partners.
- **Ensure the personal safety and security of victims.** Mandate the confidentiality of shelters' locations and contact numbers.
- **Provide free healthcare for victims.** This should include an initial free mandatory health assessment. It should ensure that victims have access to primary health care, medicines and specialised healthcare depending on needs, as well as psychological counselling.
- Subject to assessment and adaptation, **provide access to education** for child victims and victims' children.
- **Provide access to employment opportunities and vocational training** to offer victims economic independence. Provide a minimum financial subsidy for victims once under the protection of the law. Allow access to microfinancing opportunities to help victims avoid being re-trafficked.

- Assistance and Support Services: **Establish training programmes for service and assistance providers, case managers, victim-witness coordinators, and specialised organisations, including partner NGOs.** This will ensure that there is a pool of specialists to attend to the needs of victims of trafficking. Case managers should be able to monitor case progress and conduct gender-sensitive assessment of a victim's needs.
- **Ensure the possibility for the persons concerned to be in touch with their families and relatives.** Families must be informed of the whereabouts of their relatives (which is not always the case in shelter). Families are also the main source of psychosocial support. Family visits can be organized.

OFFER REHABILITATION AND RE(INTEGRATION) SERVICES

- **Protect the anonymity of the victim** to avoid serious forms of discrimination and stigma that most victims experience. Securing the victim's anonymity involves the participation of assistance and service providers and case managers.
- **Apply best practices to reduce/avoid stigma on trafficking victims.** Conduct awareness-raising campaigns on the challenge of trafficking in persons and how it affects lives. Evaluate the impact of these campaigns. Use all available means of communication platforms to raise awareness.
- **Conduct a proper assessment for rehabilitation and (re)integration.** Prior to the decision to (re)integrate victims into society, assess if the following provisions are available: (1) family or home community acceptance of the return and reintegration of the victim (and thus the need for foster, long term shelter or other arrangements); (2)

proper employment of victims; (3) option to leave, emigrate or voluntarily repatriate from the country; (4) option to bring the victim's family into the country temporarily or long-term; (5) opportunities to gain legal long-term residency or citizenship; and (6) advise victims on available support services and assistance.

- **Ensure that there is a clearly delineated process, framework and open channels for repatriation of victims of trafficking.**

ASSIST IN SAFE REPATRIATION

- **Differentiate the process of repatriation of victims of trafficking from the process and channels of deportation.**
- **Conduct a “security assesment”** in case of repatriation in the country of origin - it must be safe for them to go back home (avoid risk of re-trafficking, or threats, etc...).
- **Establish bilateral agreements or MOUs with origin, transit or destination country to specify the responsibilities of government authorities in cases of repatriation.** If the victim chooses to be repatriated to the origin country, governments must ensure the personal safety of victims during repatriation and if possible, a speedy repatriation to home country. There must be coordination and agreement between countries (destination and origin) on matters of: (1) payment or short-term financial support; (2) escort and personal security during repatriation and; (3) support services. There must be proper coordination and handover of victims to responsible and appropriate authorities in countries of origin as well as ensuring the availability of services to help victims of trafficking in the country of origin upon return/arrival. This will depend highly on the assurance of follow-up and traceability of victims of trafficking especially if repatriation is done prior to the conclusion of judicial proceedings in destination country.

VICTIM PROTECTION: LEGAL FRAMEWORK AND PRACTICAL CONCERNS

The keynote focused on the legal framework for victim protection. It addressed three main challenges for victim protection including inadequate immediate protection, a comprehensive national legal framework for victim protection, and cooperation at the international level.

Major challenges beset practitioners, agencies and governments tackling trafficking in persons. Global statistics show that the conviction rate of human traffickers currently stands at 50 per cent or 4000 convictions out of 8000 prosecutions. It must be noted that globally, there are already an estimated 42,000 identified victims of human trafficking. The cooperation of victims in prosecuting human traffickers is deemed crucial as they are the only ones who can testify against them and have the first-hand information. But there are many factors which prevent them from fully cooperating with authorities.

One major challenge is the inadequate protection being given to victims. They are usually not identified, supported, encouraged or protected. Frontline officers oftentimes are not familiar with trafficking regulations and in many cases there are no specific guidelines on identifying and caring for victims. There is also a big disincentive on the part of victims to self-identify as they face the risk of being detained, and there is no guarantee that they will be compensated if they cooperate with authorities.

A comprehensive legal framework at the national level is also lacking in many countries. Several countries do not even have a victim protection law. Oftentimes victims do not receive minimum support like medical attention, housing, language education, work opportunity, freedom of movement and other needs that uphold their dignity. Legal representation is not always provided to victims, making them vulnerable to harassment from traffickers. Other challenges include the lack of international cooperation and systemic failures due to corruption and bureaucratic bottlenecks.

Several measures can be implemented to strengthen efforts to prosecute human traffickers. Early depositions could be adopted to get the statements of victims early in the investigation so that they will no longer need to appear in the court. A plea bargain agreement can be forged, depending on the nature of the case. It will shorten the lengthy trial process, but will give an assurance that the victims will be compensated by the traffickers. Any reduction in sentences, however, should be according to established guidelines and should not lead to impunity. Marathon trials of trafficking cases could also be conducted to accelerate the proceedings. This could reduce the financial and psychological burden on victims while ensuring the swift delivery of justice. Gathering of sufficient evidence to indict the suspected traffickers is already an overwhelming

³ The idea behind marathon trials, as they are called in some countries, is to shorten the time it takes to complete a trial. It is not specific to TIP cases, but is instead a systemic change in the way judges now conduct their trials, which is to do disjointed hearings spread out over many months and even years with one or two witnesses appearing at each hearing. This creates lengthy delays and is detrimental to the TIP victim who can lose heart and abandon the prosecution. In contrast, a marathon trial requires the judge to set aside a block of time in advance, maybe a week or so, in which the entire trial would be conducted to its conclusion. All the evidence would have to be presented by both sides in this relatively short time period. In this way, the trial would be completed and a verdict rendered much more quickly than in the disjointed approach common in the region as described above, hopefully securing faster justice for the victim and reducing the likelihood of victim fatigue and abandonment (Ed.).

task for both law enforcement personnel and criminal prosecutors even with the cooperation of victims. There is also the challenge of fast-tracking trials in countries where the criminal justice system is flawed and corrupted.

Another proposed innovation is the appointment of a victim-witness coordinator or a case manager who will be given a dedicated task to attend to the needs and rights of victims of human trafficking. Developing trust with the victim is essential for government to get the cooperation of the victim in the investigation and prosecution of the case. Specialised inter-agency anti-trafficking units composed of a police-prosecutor team could also be organised to improve and accelerate victim identification and the prosecution of cases. This is due recognition that TIP is a multifaceted issue that entails coordinated approach from various state bodies.

REGIONAL FRAMEWORK ON THE PROTECTION OF VICTIMS OF TRAFFICKING

This session focused on the existing regional frameworks for the protection of victims of trafficking, including the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process), the ASEAN and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). It highlighted the level of support and common objectives but different mechanisms and emphasis of these regional frameworks and initiatives.

Human trafficking in Southeast Asia poses a significant challenge to the creation of the ASEAN political and security, economic and socio-cultural communities. The region's sex tourism industry and rampant poverty drives human trafficking, and such human exploitation hurts confidence-building efforts within the states and peoples in the region. As trafficking in persons crosses national boundaries, regional frameworks to address trafficking are imperative.

The UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons⁴ outlines the protection of victims of trafficking to include their human rights and the access to physical, psychological and social recovery. Legal, medical and housing assistance as well as educational and training supports need to be provided to help victims rehabilitate and reintegrate with the society. Additionally, as victims are often the best sources to get to their traffickers, there is a need to protect victims' identity and privacy.

The protection of victims of trafficking calls for collaborative efforts between national and international NGOs and government agencies. In the region, the commitment to cooperative work is evident in a number of on-going initiatives such as ASEAN, the Bali Process, and the COMMIT.

High-level Support

There is strong commitment to combat human trafficking in the involvement of high-level officials in ASEAN, the Bali Process and COMMIT. In ASEAN, discussions on human trafficking started as early as the mid-1990s. The 1997 ASEAN Declaration on Transnational Crime incorporates human trafficking. Institutional responses to this Declaration were the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) and the Senior Officials Meeting on Transnational Crime (SOMTC).

The Bali Process, established in 2002, also enjoys high-level support. It operates at the ministerial level and involves, among others, expert senior-level practitioners from foreign affairs, law enforcement, and justice agencies engaged in combatting transnational crime, including counter-TIP initiatives. Co-chaired by the governments of Australia and Indonesia, the Bali Process has 45 member states from the Middle East, South Asia, Southeast Asia, East Asia and Pacific, and international agencies such as International Organization for Migration (IOM), the United Nations High Commissioner for Refugees

⁴ Among ASEAN member states, the Protocol has been ratified in Cambodia, Indonesia, the Philippines and Thailand. Lao PDR, Malaysia, Myanmar and Vietnam have also acceded to the Protocol. As of September 2014, Brunei and Singapore have not yet signed or ratified the Protocol. For more information, see: https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18&lang=en, accessed 9 September 2014.

(UNHCR) and the United Nations Office on Drugs and Crime (UNODC).

The COMMIT Process was established in 2004 through a Memorandum of Understanding (MOU) between the countries in the Greater Mekong Sub-region namely Cambodia, China, Lao PDR, Myanmar, Thailand, and Vietnam. Similar to ASEAN and the Bali Process, strong commitments for the COMMIT Process are evident in national and regional COMMIT Task Forces, Senior Officials Meetings (SOMs) and Inter-Ministerial Meetings (IMMs).

Sharing Common Objectives

ASEAN, the Bali Process and COMMIT share similar objectives. ASEAN's efforts to combating human trafficking look into information exchange, legal coordination, law enforcement, training, institutional capacity-building and extra-regional cooperation. It also encourages member states to share their relevant laws, regulations and bilateral agreements, and calls on them to harmonise national legislations and sign relevant bilateral, multilateral, and international treaties. In terms of victim protection, ASEAN places particular emphasis on the protection of women and children and recommends the possibility of establishing an individual complaint mechanism.

Similar to ASEAN, the Bali Process aims at fostering effective information and intelligence sharing, law enforcement cooperation, enactment of national legislation to criminalise people smuggling and trafficking in persons, and provision of appropriate protection and assistance to the victims of trafficking, particularly women and children.

COMMIT's plan of action encompasses policy, prosecution, protection, prevention, and monitoring and evaluation. In delivering protection, COMMIT focuses on victim identification, and individualized, gender- and age-appropriate assistance. COMMIT works on

avoiding compulsory stay in detention or custodial facilities against victims' will, safe and timely options for return and repatriation, individualised (re)integration services, including viable and appropriate livelihood options. COMMIT also aims to create well-trained and networked victim service providers.

Different Mechanisms and Emphasis

Although the regional frameworks share similar goals, they differ in mechanisms and emphasis. ASEAN focuses its work on the creation of norms and principles. It uses conventions, commissions, and committees such as ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), ASEAN Intergovernmental Commission on Human Rights (AICHR), and ASEAN Committee on the Protection and Promotion of the Rights of Migrant Workers (ACMW) as instruments. It is also working on the establishment of an ASEAN Human Rights Court.

ASEAN's commitments for human rights have made some progress over the years. In 2008, article 14 of the ASEAN Charter includes human rights and fundamental freedoms. The Terms of Reference of the AICHR then followed in 2009, and in 2012, article 13 of the 2012 ASEAN Declaration on Human Rights in 2012 said 'no person shall be held in servitude or slavery in any of its forms, or be subject to human smuggling or trafficking in persons, including for the purpose of trafficking in human organs.' However, as this declaration is non-binding, ASEAN is moving towards the creation of a more binding Convention on Human Rights.

ASEAN has moved forward from the 1997 Declaration against Transnational Crime to the Declaration against Trafficking in Persons Particularly Women and Children. At present, there is an on-going discussion on the draft of a Convention on Trafficking in Persons. ASEAN

bodies working on human trafficking issues include ACWC, ACMW, AICHR, the Senior Officials Meeting on Transnational Crime (SOMTC), and the Senior Officials Meeting on Social Welfare and Development (SOMSWD). ACWC is working on the draft Guidelines for the handling of Women Victims of Trafficking in Persons whereas ACMW works on regional cooperation in fighting human trafficking. The SOMTC experts working group is drafting the ASEAN Convention to Combat, Prevent and Suppress Trafficking in Persons Especially Women and Children in Southeast Asia (ACTIP) and the Regional Plan of Action (RPA). The SOMSWD is in charge of the implementation of the Declaration against Trafficking in Persons particularly Women and Children. The AICHR implements article 13 of the ASEAN Declaration on Human Rights and bears the mandate to do standard-setting on human rights in ASEAN.

The Bali Process employs flexible, non-binding and results-oriented methods in delivering its objectives. The Regional Support Office (RSO) of the Bali Process facilitates information sharing on refugee protection and international migration, supports capacity building and exchange of best practices, encourages pooling of common technical resources, and offers logistical, administrative, operational and coordination support for joint projects. The Bali Process aims to launch policy guides to support the criminalization of human trafficking and smuggling. Other activities include information campaigns to address irregular migration, trafficking in persons and people smuggling, best practices on protection of refugees and victims of trafficking in persons and international migration. Similarly, the RSO has a trafficking working group that is working on the draft of Terms of Reference. In addition to proposing policy guidelines, the Bali Process develops its capacity in addressing human trafficking through education. The RSO is forging a partnership with the Jakarta Centre for Law Enforcement Cooperation (JCLEC) and other regional training institutions to provide an avenue

for capacity building of practitioners, cooperation, information exchange, and access to expertise and creating a network between regional training institutions.

The COMMIT Process has a slightly different approach in carrying out its missions. Instead of working on the creation of standards or policy guides, COMMIT focuses more on the practical dimension. At a sub-regional level, it has a multi-year Sub-regional Plans of Action (SPAs), and is currently implementing SPA3 (2011-2014). At national level, it has more concrete and detailed Annual COMMIT Work Plans. National COMMIT Task Forces & Work Plans engage various government agencies including foreign affairs, justice, social welfare, public security, tourism, education, and labour.

Discussion

While the different regional initiatives are working on similar objectives and enjoy strong support from high-level officials, it is important to ensure that they work in synergy. This is necessary as there is a risk of having different regional mechanisms with no coherent and sometimes even divergent solutions in terms of protecting of victims of trafficking. ASEAN, in particular, has been criticized for being too exclusive in drafting the Convention on Human Rights. The possibility of working in silos can be averted by establishing communication among the different initiatives so as to create mutually supporting and reinforcing platforms.

At present, it appears that the non-binding nature of these different frameworks encourages more states to join in the initiatives. Some countries are party to the different regional mechanisms, while other countries are only party to one or two. Increased coordination between these mechanisms, with the “core countries” playing a more critical role, can lead to more coherence

to the approach in the region. Although it translates to non-enforceability, inclusivity is deemed important in the efforts to combat human trafficking. This may also hold true for the upcoming ASEAN Convention on Human Rights.

Despite the presence of various regional arrangements, some problems remain. Harmonising legislation and implementing standards and best practices across countries remain a difficult challenge as the political sensitivity surrounding human trafficking, as well as specific conditions in each country, poses significant hurdles to cooperation. It is important therefore for the different collaborative initiatives to continue their work while encouraging more communication and trust among countries in their efforts to give protection to victims of trafficking.

UNDERSTANDING THE PROTECTION NEEDS OF VICTIMS OF TRAFFICKING

This session focused on the common and differentiated protection needs of victims of trafficking, particularly of women and children trafficked for sexual exploitation and of men trafficked for forced labour, and children (trafficked for sexual exploitation or forced labour).

To be able to empathize with the needs of victims of trafficking, one needs to acknowledge that victims of trafficking are vulnerable and are often placed in situations where they feel helpless and hopeless. Trafficking for sexual exploitation affects not only women and children but also men. Persons trafficked for forced labour, often men, are deceptively lured to work under exploitative and inhumane conditions under threat of physical violence and in extreme cases often overworked with no compensation. Children are the most vulnerable among victims of trafficking especially as most of them are undocumented, unaccompanied, deprived of basic rights to education, health care and justice, and at high risk of abuse, exploitation and violence. In these circumstances, it is important to protect victims of trafficking based on a “need assessment” (no one-size-fits-all approach).

Access to healthcare

There were common protection needs of victims trafficked for sexual exploitation and forced labour, as well as children. The foremost protection need of victims trafficked for sexual exploitation, regardless of gender is their health needs. Sexually exploited victims of trafficking are at high risk of

sexually transmitted diseases particularly because of a lack of access to contraception and because in many cases, they are not given a choice to use protection. Most of them have unwanted pregnancies that often lead to life-threatening and unassisted abortions. Women rescued from sexual exploitation often have a child or children from unwanted pregnancies who also require specialised health care. Sexually exploited victims therefore need access to safe and quality medicines and medical care.

An often neglected aspect of victim protection is mental health, and the psychological support for victims of trafficking is often lacking. Most sexually exploited victims suffer from post-traumatic stress disorder (PTSD) but not all shelters or homes where victims of trafficking are brought for care have specialists or caregivers that have the training to attend to psychological needs. Persons trafficked for sexual exploitation need long-term support and professional assistance not only in terms of physical health but also mental well-being.

Victims of trafficking for forced labour similarly need access to healthcare services. In most cases of illegal, underreported and unregulated fishing, men trafficked to work on board fishing vessels suffer from malnutrition, dehydration and often lack access to proper sanitation. Living conditions are usually under par, especially for long-haul fishing expeditions, when the trafficked men are at sea for long periods of time. These victims also often suffer from physical violence and this is often unreported, which can lead to inattention towards

internal injuries. Worse, victims also often prefer not to seek medical treatment due to fear of stigma.

Trafficked children have needs specific to paediatric health services, child psychology and development support. Sustaining support and follow up for the long-term is essential to ensure that trafficked children are not re-trafficked. However, specialised support services for trafficked children remain lacking. For example, sustaining health care and counselling is often difficult once children are out of safe houses or shelters.

Access to legal assistance and legal protection

Aside from access to healthcare, victims of trafficking also need adequate access to legal assistance and protection. There is much sensitivity needed in providing legal assistance because of biased perceptions and stigma associated with victims of trafficking for sexual exploitation. Providing a safe environment where victims can regain hold of any dignity left from their experience is a challenge in itself. Some organisations assisting victims of trafficking provide at least 90 days as a period of self-reflection which also serves as a period of building trust. Being able to provide a feeling of safety is necessary for most victims for them to voluntarily cooperate with authorities about their cases. Victims must have the right to legal representation and the entire investigation process should be gender-sensitive. In cases where victims are brought in together with their traffickers, victims often feel threatened. When victims are not identified, there is the possibility of them being criminally prosecuted along with their traffickers because of crimes committed while being trafficked (i.e., illegal crossing of borders). It was thus recommended that there should be legal provisions to ensure that victims of trafficking will be exempted from being tried for crimes committed while they are being trafficked.

An important component of access to legal assistance is the provision of language translation services in both cases of sexual exploitation and

forced labour. In many cases, the lack of language translation services serves as a barrier to providing protection to victims of trafficking that cannot communicate in the local language.

Cases of forced labour in the fishing industry in Thailand, for example serve as a reminder that men oftentimes deny they are victims. In such cases, there is a need to legally define forced labour and to implement regulations for the industry to legalise or register migrant workers on board fishing vessels. Such protection is also a strategy to prevent trafficking in persons for forced labour. In a region where borders are porous and are surrounded by waters, existing regional frameworks should promote joint border patrol and cooperation among involved countries to address illegal, underreported and unregulated fishing, and as a by-product, contribute to lessen the incidence of trafficking for forced labour at sea.

Access to continued assistance

Efforts to integrate trafficked children into the formal education system are a challenge. Most child victims of trafficking tend to prefer informal or vocational education and skills training in a setting with other victims and one which understands the needs of victims. Opportunities to continue formal education should also be offered to the children or young adults. Social protection and economic assistance to children often stop once children are out of shelters or safe houses but their livelihood needs remain. Service providers should thus encourage entrepreneurship among children and the youth during their training and rehabilitation to equip them with means of earning a livelihood once they leave the shelters and safe houses.

There needs to be an inclusive process where victims of trafficking, whether women, men, children or transgender, are involved in the discussion about their assistance and protection needs and programmes. This could be for long-term monitoring or following-up on their status. A continuous evaluation of assistance and support

services to victims of trafficking can also aid in the formulation of better protection policies.

Detailed information and advertising of protection services, whether in terms of health, accommodation or legal assistance, so that victims of trafficking know where and how to access them, is another important but often ignored area.

In terms of accommodations for victims of trafficking, there should be individual care and shelter programmes that cater to the specific needs of victims of trafficking, especially that of persons trafficked for sexual exploitation, regardless of age or gender. It is thus recommended to provide dedicated case managers or victim support units to offer minimum support on victims' special needs and to follow up with victims of trafficking.

Discussion

A distinct gap in the provision of protection for victims of trafficking is the protection extended to transgender persons especially in terms of establishing shelters for them that are separate from the general male population. Transgender victims of trafficking have particular needs that have to be addressed separately from other victims of trafficking.

The case of men being trafficked for forced labour in the marine fishing industry in Thailand highlights how invisible migrant workers can be to government authorities, especially those forced to work for long periods of time at sea. There were concerns about the research methodologies employed for gathering data on victims of trafficking for forced labour because of the tendency to rely on convenient sampling. Because of the different research methods employed, the conclusions and recommendations will also be different although such differences can be identified as best-case or worst-case scenarios. There is a further need to examine the tools used by government marine or naval authorities in

screening or inspecting marine fishing vessels as well as the avenues for cooperation among relevant countries to address trafficking for forced labour at sea.

There are also concerns about trafficked children refusing assistance or support. In such cases, it is important to not force anyone, whether a child or an adult into any protection or care programme. Likewise, it is also essential to be able to outline and explain the protection and care services that the child can have access to. Such a refusal is understandable given the concerns for anonymity and confidentiality.

On a more conceptual level, an issue concerning the possibilities of the dilution of the concept of trafficking in persons was raised. Putting issues under the umbrella of trafficking in persons is useful on a regional level but maybe more problematic on a domestic level. In another case, the concept of children on the move is advantageous for INGOs in terms of advocacy for protection services in destination countries but may be problematic in origin countries.

Moreover, while there are certain baseline protections that all victims of trafficking require and have to be guaranteed by the authorities, there are others which are specific to the needs of victims of sex trafficking, labour trafficking or child trafficking. Provisions and protection of victims therefore cannot be just a one-size-fits-all framework. The protection needs of victims nonetheless have to be assessed from a more basic, individual/victim-centred level. Such an approach would not only ensure the immediate but also help in the long run protection and rehabilitation of victims of trafficking.

One of the most difficult tasks in undertaking any measures for the protection of victims of trafficking is to work on preventing trafficking itself. This stems from culture and changing perceptions and behaviour. There are certain industries for example that encourage the demand for sexual

exploitation that is based on the culture of a chauvinistic and patriarchal society. Awareness raising campaigns and education are needed to address such cultural flaws and needed in communities where people usually migrate for work. Victims of trafficking remain hidden when the legal system, in its leniency, tolerates the profitability of trafficking.

ACCESS TO PROTECTION: CHALLENGES REGARDING THE “IDENTIFICATION” OF VICTIMS OF TRAFFICKING IN SOUTHEAST ASIA

This session emphasised the weaknesses and challenges for the current mechanisms to identify victims of trafficking, mired in the challenges of differentiating between victims of smuggling and trafficking, and the importance of a national inter-agency and cross-sectoral framework to address trafficking in persons.

The strong need to identify victims of human trafficking

Human trafficking is a by-product of transnational migration. It is a global phenomenon that has been estimated to subject 20.9 million individuals to forced labour within the period of 2002 to 2011. According to the International Organisation for Migration (IOM), only 46,570 were identified to be victims of trafficking in 2012. There is a clear discrepancy in the number of estimated victims and the actual number of those identified.

The gap in the number of estimated victims and those identified is particularly alarming since human trafficking is rampant in the Asia-Pacific region where an estimated 9 million were subjected to the crime in 2010. In particular, Southeast Asia is a hotbed for human trafficking based on its role as a transit point for smuggled migrants travelling to Australia due to insecurity and seeking asylum. Within the region, there is massive irregular migration occurring from Myanmar to countries such as Thailand and Malaysia, Indonesia to

Malaysia and People's Democratic Republic of Lao to Thailand. Oftentimes, migrants do not reach their area of destination and are smuggled in transit.

There is consensus on the strong need to identify the victims of trafficking. Identification of victims will not only lead to the prevention of trafficking but also contribute to ending the cycle of exploitation. With well-functioning victim identification systems, protection and assistance services will be able to work efficiently. Identification of victims is indeed the entry point to protection: when a victim is not recognised as such, the victim is not entitled to certain rights that should be guaranteed to victims of trafficking according to international and national law. The proper identification of a victim of human trafficking is not only a precursor for a criminal justice process, especially at the national level but can also serve as case data for policy and eventual policy reform. Despite the importance of victim identification, it remains to be a hurdle for various actors involved in combating human trafficking. Both the public sector and civil society groups consider victim identification as problematic amidst having laws and policies that criminalise human trafficking. The various challenges involved in victim identification are further elaborated in the following section.

Challenges to victim identification

The problem of victim identification in human trafficking springs from the overall problem of the lack of awareness and knowledge about their situation, conditions and root causes of the phenomenon. First responders and other officials involved in assisting victims oftentimes do not have enough training to do so. The implementation of laws and policies against human trafficking becomes a challenge since some government agencies and civil society organisations (CSOs) may not be aware or informed.

As seen from the experiences of both public sector and CSOs, the challenges of victim identification in human trafficking can be classified into two categories: 1) challenges in the victim identification system or capacity; and 2) challenges in accessing potential victims. The first category pertains to the issues faced by the existing victim identification systems and by the first responders or implementing agencies. Issues such as the lack of standardised screening form or indicators; lack of harmonisation among different screening forms or indicators; lack of clear victim identification procedures or guidelines; the varied victim identification skills among responsible officers; and the lack of sufficiently trained first responders on human trafficking and victim identification were cited as some of the challenges in existing systems in various countries.

The second category of the challenges to victim identification focuses more on the hurdles faced by first responders in identifying and responding to victims of trafficking. Some of the issues under this category include: physical inaccessibility such as being aboard long haul fishing vessels; security and safety risks for first responders; lack of incentives to proactively identify victims; and local language difficulties.

More often than not, victims of trafficking prefer not to be identified at all. From the victim's standpoint, trauma and memory loss; lack of

trust in the authorities; reluctance to be identified as a victim of trafficking for fear of trafficker's retaliation; and social stigma that can lead to possible loss of income-earning opportunities all contribute to lack of motivation or interest to be identified as a victim.

In addition, there are misconceptions that only women can become victims of trafficking for sexual exploitation, despite the fact that men can also be trafficked for such purposes. Moreover, there can also be a misconception that only men are trafficked for forced labour despite the contrary. This is further complicated by the fact that trafficking for forced labour is relatively a new approach and governments often do not consider this dimension with regard to trafficking in persons.

Indeed, victim identification is a challenge for agencies involved in combating human trafficking. This problem is rooted in the need to address the inherent weaknesses in the existing system and the increased coordination between national agencies, international organisations and CSOs. The case of Malaysia and its implementation of its Anti-Trafficking in Persons Act (ATIP) of 2007 provide a good example of how challenging it is for both the public sector and CSOs to identify victims of trafficking.

The Malaysian example

Prior to 2007, Malaysia did not have a specific law on human trafficking. It relied mainly on its Immigration Law and Child Act of 2001. However, these laws only focused on prosecution and did not elaborate further on victim identification for human trafficking. As the problem prevailed, policymakers deemed that a law specific to human trafficking should be established. Hence, in 2007, a human trafficking law in the form of the ATIP was implemented. It is implemented by a Council comprised of various Malaysian agencies involved in preventing human trafficking. The Council is

composed of about sixteen organizations headed by the Ministry of Home Affairs and comprised of the Ministry of Foreign Affairs, Ministry for Women, Family and Community Development, Ministry for Internal Security, Royal Malaysian Police and Royal Malaysian Customs, to name a few.

Under the ATIP of 2007, there are three (3) phases involved in assisting the victims of trafficking. The first phase involves the rescue operation for the victims followed by the assignment of an interim protection officer while the case is being investigated. Lastly, a protection order is issued by the Court once it has been proven that the victim is indeed a trafficked victim and that the trafficker is given criminal charges. In these three (3) phases, the identification of the individual as a trafficked victim takes place in the first phase and investigation to determine whether they are indeed victimised and in need of protection occurs under the second phase. Once the individual is proven to be a trafficked victim, they are given certain privileges such as the right to work in the country for no more than 3 years before going home to their country of origin. However, the implementation of the law remains a challenge since there is lack of awareness and capacity challenges for first responders in identifying victims of trafficking.

Discussion

The Malaysian case shows the difficulties and challenges faced by actors involved in identifying victims of trafficking. It entails coordination among the various ministries involved and a keen sense of awareness and understanding for the situation of the victims and how trafficking occurs. Despite the presence of a law to protect the victims and access to protection services, victims are not always willing to testify against the traffickers. In addition to this, the case shows the complexity of existing screening forms and identification systems. Some of the indicators are not applicable for all groups and types of human trafficking.

This strongly supports the need for increased coordination with international organisations such as the IOM and the United Nations High Commission for Refugees (UNHCR). Both agencies have the capacity (e.g. availability of translators, victim identification system) and resources that can assist national agencies engaged in the prevention of human trafficking.

The sharing of capacities and the building-up of knowledge and awareness will greatly influence governments to conduct more victim screening and identification. Moreover, this can lead to the harmonisation of initiatives and actions by the implementing agencies involved. Improving the capacity of the first responders and agencies involved can also spur more dialogue and coordination between them as seen in the case of Malaysia. There is certainly room for improvement in the current victim identification systems and increased coordination among implementing actors can help improve the implementation of human trafficking laws. The effective implementation of existing human trafficking laws is hinged upon the capacities of actors involved and the constant collaboration between them.





RETURN AND (RE)INTEGRATION OF VICTIMS OF TRAFFICKING

This session looked into issues surrounding identified trafficking victims; the types of response mechanisms and strategies available to governments, prospects for the victims themselves, and the numerous challenges that emerge when considering the long-term future of victims of trafficking.

State obligations versus victim needs

Once victims of trafficking are identified, governments are primarily responsible for ensuring their safety and well-being. This entails protective custody, attention to immediate medical and personal needs, collecting testimonies and starting the necessary investigative and legal procedures. Eventually however, as per current practice, victims of trafficking are often returned to their countries of origin (repatriation) and sometimes (re)integrated in the host/destination country.

Most countries in Asia, at present, have preferred to repatriate victims of trafficking to their country of origin, upon the completion of trafficking investigations and resultant legal proceedings. Despite a seemingly simple and straightforward procedure, governments dealing with victims of trafficking nonetheless have faced numerous obstacles. Bureaucratic and administrative complications, coupled with issues of encouraging participation from victims themselves, present a common dilemma. The first hurdle faced by most governments in following through the repatriation process for TIP victims comes from the slow legislative processes and legal proceedings. This

often results in victims being compelled to remain within the confines of “temporary” shelters or safe houses for extended periods of time, sometimes even years, amounting to involuntary detention. Maintaining the custody of victims for long durations under strict supervision and conditions brings about its own set of problems.

The operations, rules and regulations of the shelters are at times questionable. Oftentimes the conditions of these shelters exclude income generating activities/opportunities, lead to high rates of frustration and at times even violence within the shelters. Some governments have made efforts to rectify these issues, by adopting policies which would allow for income generating employment for victims, or fast-track the judicial process for TIP cases, but major policy implementation lags have resulted in few changes on the ground.

Another obstacle governments have often faced is collecting and verifying information of the victims. This significantly slows down investigations and the due legal processes to resolve the case. While at times this is due to the lack of interpreters or good diplomatic/consular relations with certain countries where the victims originated, other times the victims themselves are incapable or hesitant to provide the necessary information, which again stalls or delays the expediency of repatriation.

The inability to ascertain the origins and other important personal history of victims in a timely fashion could be due to numerous factors like health/medical conditions, loss or no memory (especially if the victim was trafficked when very

young), trauma or PTSD (more prevalent in abuse cases) or due to fear of persecution (personal as well as family) in the country of origin. In the latter case, a victim of trafficking could also become a refugee, in which case the principle of *non-refoulement* applies. Stigma is another major hurdle which victims find difficult to overcome, and hence victims tend not to fully cooperate. There are however, also reported cases where victims voluntarily refuse to divulge information due to their awareness of the lengthy legal proceedings of TIP cases, or from fear of being housed in designated shelter homes indefinitely.

Alternatives to a return policy

Difficulties faced by governments in effectively managing the return of TIP victims to their countries of origin, as well as due to pressure from victims themselves, have resulted in efforts to explore options other than repatriation. The possibility of integration or re-integration into the society of destination country is one of the more obvious policy choices. There are now suggestions of even more strategies like integration into a third country.

(Re)integration in the country of destination is sometimes a necessity, especially in cases where repatriation might not guarantee the betterment of conditions for the victim, or worse if there are direct threats to the victim's life or well-being upon return. Assessing the probability of the victim being trafficked out again, if repatriated, is also another consideration that needs to be taken into account. Recovery or rehabilitation of a trafficked victim entails the recovery of their socio-economic inclusion, and this has to be the primary concern when governments decide on the long-term future and well-being of victims of trafficking TIP victims. This alternative to repatriation does have a legal basis as duly mentioned in Article 7 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which states that: "...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." Some domestic legislation in the region also noted this possibility as well.

Devising a (re)integration policy for TIP victims presents its own set of challenges. It would mean revisiting, changing or updating existing laws concerning immigration and foreign employment, and other regulations which might be relevant. This would be necessary in order to grant victims some form of legal status and protection while also allowing for the possibility to return or emigrate from the country voluntarily. The special T-Visa currently offered in the US to victims of trafficking, which sets out a clear pathway towards permanent residency and even full citizenship in the long-run, serves as a good example that shows how such a system or framework could be possible.

Even for cases where the repatriation of victims might be necessary for procedural/legal reasons, special provisions which would allow for the victim to re-migrate back into the country of destination (this time legally) need to be put in place. This would work well in the case of labour trafficking victims, especially if there is already an employer who is willing to hire/re-hire the originally trafficked person. This entails that reintegration or any other alternative strategies to address the long term needs of victims of trafficking will only be successful when it is focused on the needs and rights of the victims themselves.

The need for greater cooperation and multi-sectorial approach

Strong bilateral cooperation between governments of country of origin and destination country on an operational level is critical not only in mitigating instances of trafficking but also in terms of helping victims' rehabilitation. Greater cooperation would lead to efficient identification

and family tracing, case management, as well as speedy repatriation when necessary. It would also help in better detection, detention and even extradition of human traffickers operating between the two countries.

There is also a greater chance that strong cooperation would result in better outcomes for victims. Countries would be able to work together to address the needs of the victims in both countries, be it health, safety, well-being related or otherwise. Chances and possibilities of formulating alternative repatriation channels through social workers for example or making provisions for victims to not be restricted to the confines of shelter homes for extended periods of time through better monitoring on both sides would also be significantly increased.

Beyond the interest for administrative, legal and victim rehabilitation immediacy, the well-being of TIP victims in the long-run would be boosted significantly when there is better monitoring. Here cooperation and involvement of other sectors like NGOs, social service organisations, and/or private institutions will be vital in addressing the long-term social and economic rehabilitation of victims. Cooperation thus needs to extend beyond the government-to-government level.

Countries which have welcomed the involvement of NGOs in working with TIP victims have seen positive impacts. One of the main advantages of NGOs is their access and better capacity to reach out to communities in various regions of a country, including those which might have high incidences of trafficking. By being in close proximity to vulnerable communities as well as returned victims, NGOs are often times better suited to offer crisis intervention, provision of shelters, counselling and legal assistance, vocational training, and regular follow-up for (re) integration.

Such services which are essential but not always looked into or guaranteed by the state bureaucracy is critical as a support mechanism

in the lives and livelihoods of TIP victims. A decentralised and multi-sectorial approach also has the added benefit of dedicated action and targeted services to different categories of TIP victims (e.g. newly rescued TIP victims, victims of many years, sex trafficking victims, etc.). Lastly, the problem surrounding stigma is probably also best addressed on a more local level.

Discussion

The lack of proper networks and official cooperation among the civil societies and NGOs that work on trafficking in the various countries is a serious shortcoming that could be addressed and relatively easily established, on an international or even a regional level. This would open avenues for different sectors and actors to help the victims. It would also erode the current heavily government-dependent system in dealing with TIP victims, whether in terms of operating shelter homes, repatriation or (re)integration.

Another issue raised was with regards to the terminologies used in the field. There seems to be inconsistencies in the terms used between countries. This includes for example the use of the terms repatriation vis-à-vis deportation, labour trafficking victim vis-à-vis illegal migrant, shelters vis-à-vis detention facilities. It was highlighted that each word comes with its own set of connotations and meanings and this could vary from one country to another. Standardising the terminology, its meanings and implications in the field of TIP was highlighted as being important so all authorities and parties could start on the same page and there would be little room for misunderstanding.

The issue of terminology as well as involvement of actors other than governments is very much tied into the issue of TIP victim protection. These protections would address both the short- and long-term future of victims. Protection therefore needs to be guaranteed to help victims and thwart the growing scourge of human trafficking.

POLICIES AND STRATEGIES TO PROTECT VICTIMS OF TRAFFICKING

The session explored the best practices being implemented by Singapore and Taiwan to combat trafficking in persons (TIP). Being highly developed economies and dependent on migrant workers, Singapore and Taiwan have been identified as destination countries for human trafficking. While accentuating the need for source or origin countries to effectively address the root causes of human trafficking, both Taiwan and Singapore are strengthening their policy responses to better protect the victims and prosecute the perpetrators.

Both Singapore and Taiwan have adopted their respective national action plans on human trafficking, which outline their overall strategies to prevent trafficking, protect the victims, prosecute the traffickers and establish partnership with civil society organisations, international institutions and foreign governments. Both countries also established inter-agency committees to forge cooperation among government agencies as they recognised the multifaceted nature of human trafficking which requires coordinated approach from relevant state agencies. In 2007, Taiwan established the Inter-agency Coordination Committee which is composed of 14 ministries and 6 delegates from NGOs. All TIP-related cases can be brought to this committee where reviews and decisions are executed on a three-month basis. Singapore created its Interagency Task Force for Trafficking in Persons in 2010 in recognition of the threat of Trafficking in Persons (TIP). Co-chaired by the Ministry of Home Affairs and the Ministry of Manpower, the Task Force includes representatives from the Singapore Police Force, Immigration and Checkpoints Authority, Ministry of Social and Family Development, Ministry of

Health, Ministry of Law, Ministry of Foreign Affairs and the Attorney General's Chambers. The aim of the Taskforce is to implement holistic, co-ordinated strategies to combat TIP more effectively.

To further boost its anti-human trafficking efforts, Taiwan passed the Human Trafficking Prevention Act in 2009. The Singapore Interagency Taskforce on TIP has been working alongside a Member of Parliament in conducting consultative sessions with stakeholders for a private member's bill on TIP. With these consultations, the taskforce has identified the need for a dedicated anti-TIP legal framework to enable the government to deal with TIP comprehensively and holistically.

Both Singapore and Taiwan have institutionalised victim-centric mechanisms to identify and protect possible victims of human trafficking. Singapore continues to train its front-line officers to detect possible victims and strengthen competency across government agencies. They are sent to TIP training programmes organised by international agencies to share and learn regional and global trends and seek opportunities for networking with foreign counterparts. Singapore has also been improving its TIP awareness campaign by educating foreign workers on their employment rights and employment agencies on their legal obligations and by utilising both mainstream and social media. The Ministry of Home Affairs keeps updating its sex trafficking victimology research. More importantly, the government has an integrated support system through its partnership with NGOs to assist victims and build shelters for them. The government and NGOs provide other essential forms of assistance

to victims, such as interpretation service, legal services, support services, job skills training, and piecemeal employment while they are in shelters. Child victims are admitted to children's homes, receiving foster care, as well as access to clinical, psychological and therapeutic programmes.

In Taiwan, the judicial police and prosecutors may request assistance as necessary from social workers or relevant experts while identifying human trafficking victims; suspected human trafficking victims may likewise request assistance from social workers or relevant experts. The government and commissioned NGOs, provide human trafficking victims, or suspected ones under protection and sheltering, with the following services (among others): (1) protection of personal safety; (2) necessary medical assistance; (3) interpretation assistance; (4) legal assistance; (5) psychological advice and counselling; (6) being accompanied when questioned (interrogated) throughout the investigation or trial and; (7) necessary financial assistance.

Taiwan's judicial police authority, the prosecutors and the court closely coordinate to fast-track the investigation of suspected cases and to immediately identify and protect the victims. Victims are also given temporary and working visas, even permanent residency if they meet the requirements, allowing them to legally stay and work in Taiwan while their case is in court. Victims who wish to return to their country (area) of origin would be financially assisted and the costs of repatriation shall be borne by the trafficker. Victims are also not required to attend court proceedings as their testimonies can be immediately documented. Any human trafficking victim located outside Taiwan may be questioned, cross-examined through remote audio-visual technology in a Taiwan overseas representative office. Any property or profit from assets acquired from human trafficking shall be confiscated regardless of its ownership except the part that shall be returned to victims.

In terms of international partnership, Singapore has been closely working with its regional counterparts in the ASEAN and international partners, particularly INTERPOL. The Ministry of Manpower regularly coordinates with the embassies of source countries to update them on Singapore's employment and immigration regulations.

However, despite these good practices, Singapore and Taiwan face various challenges to implement effective victim identification and prosecute cases. In Singapore, some TIP victims are reluctant to surface and assist in prosecuting the traffickers as they may face discrimination, stereotyping and financial difficulties. It remains hard to identify which cases fall under TIP and which ones are common labour disputes.

In Taiwan, there is only one TIP case in which seized cash of a trafficker is successfully transferred to a TIP government fund. It also takes a long time to wait for the verdict, which makes it harder to levy reparations from the perpetrator for national expenses incurred for the protection of the victim. Law enforcers usually hold different viewpoints from prosecutors in victim identification, which might greatly affect victim protection if their legal status changes.

Discussion

The lack of a TIP Law in Singapore is not considered as a hindrance to fight human trafficking. There are existing statutes, such as the Penal Code, Women's Charter, and Employment Act, which can be used by the Singapore government to protect the victims and prosecute traffickers. If a case contains elements of TIP, it will be referred to the Attorney-General's Chamber which is able to fast-track the investigation and file the case, since it has a dedicated unit assigned for TIP.

Due to the transnational nature of TIP, the Singapore government works closely with

international agencies and NGOs to address the root causes of human trafficking in source countries, including providing assistance to the victims and alerting them to the risks of being re-trafficked.

While it remains an overwhelming task to clearly differentiate cases of human trafficking with those arising from labour disputes, Singapore still provides adequate protection and assistance to victims of labour disputes.

In Taiwan, there are recorded cases of migrant women who are victims of domestic violence perpetrated by their Taiwanese husbands. Aside from legally assisting the victims, Taiwan has revised its immigration rules allowing the abused foreign wives to legally stay in Taiwan, even if their Taiwanese husbands have already divorced them.

Other challenges to combat human trafficking and compensate the victims in Taiwan include lengthy court proceedings and the lack of cooperation from victims who have already returned home. In some cases, monetary compensation could not be given to victims once the verdict is issued as they could no longer be reached by Taiwanese authorities in their country of origin. Determining and confiscating the perpetrators' assets, which were derived from trafficking, are still a difficult task for relevant authorities. In addition, marathon trials can still last for one or two years. Normally the victims return home after the first hearing, making them inaccessible and this can jeopardise the case against the perpetrators.

PROGRAMME

DAY 1, 26 June 2014 (Thursday)

09:00-09:30 Welcome Remarks

Prof. Mely Caballero-Anthony

Associate Professor, S. Rajaratnam School of International Studies (RSIS);
Head, RSIS Centre for Non-Traditional Security (NTS) Studies;
Nanyang Technological University, Singapore

Mr Jeremy England

Head of Regional Delegation (Malaysia, Singapore, Brunei)
International Committee of the Red Cross (ICRC)
Kuala Lumpur, Malaysia

09:30-09:45 Keynote Address

Victim Protection: Legal Framework and Practical Concerns

Mr Albert Moskowitz

Regional Prosecutorial Advisor
Australia-Asia Program to Combat Trafficking in Persons
Bangkok, Thailand

09:45-11:15 Session I

Overview of the Regional Framework on the Protection of Victims of Trafficking

Moderator:

Prof. Mely Caballero-Anthony

Associate Professor, S. Rajaratnam School of International Studies (RSIS);
Head, RSIS Centre for Non-Traditional Security (NTS) Studies;
Nanyang Technological University, Singapore

09:45-10:00 The Bali Process and the Protection of Victims of Trafficking

Mr Greg Kelly

Co-Manager
Regional Support Office of the Bali Process
Bangkok, Thailand

- 10:00-10:15 **ASEAN and the Protection of Victims of Trafficking**
- Mr Rafendi Djamin**
Indonesian Representative to the
ASEAN Intergovernmental Commission on Human Rights
Jakarta, Indonesia
- 10:15-10:30 **COMMIT and the Protection of Victims of Trafficking**
- Mr Sebastian Boll**
Regional Research Analyst
UN Action for Cooperation against Trafficking in Persons (UN-ACT)
Bangkok, Thailand
- 10:30-11:15 **Discussion**
- 11:30-13:00 Session II**
Understanding the Protection Needs of Victims of Trafficking
- Moderator:**
Prof. Mely Caballero-Anthony
Associate Professor, S. Rajaratnam School of International Studies (RSIS);
Head, RSIS Centre for Non-Traditional Security (NTS) Studies;
Nanyang Technological University, Singapore
- 11:30-11:45 **The Protection Needs of Women Trafficked for Sexual Exploitation**
- Dr Huong Le Thu**
Visiting Fellow
Institute of Southeast Asian Studies (ISEAS)
Singapore
- 11:45-12:00 **Moving beyond the Classic Protection Framework: The Protection Needs of Persons Trafficked for Forced Labour**
- Dr Supang Chantavanich**
Professor Emeritus
Asian Research Center for Migration (ARCM)
Institute of Asian Studies
Chulalongkorn University, Thailand
- 12:00-12:15 **The Specific Needs of Child Victims of Trafficking**
- Mr David Bloomer**
Regional Protection Adviser
Save the Children, Singapore
- 12:15- 13:00 **Discussion**

14:00-15:30 Session III
Access to Protection: Challenges regarding the “Identification” of Victims of Trafficking in Southeast Asia

Moderator:

Dr Alistair D.B. Cook

Research Fellow

RSIS Centre for Non-Traditional Security (NTS) Studies

Nanyang Technological University, Singapore

14:00-14:15 **The Link between Smuggling and Trafficking and the its Implications on the Identification of Victims of Trafficking**

Mr Sebastian Baumeister

Project Coordinator (Migrant Smuggling and Human Trafficking)

United Nations Office on Drugs and Crime (UNODC)

Regional Office for Southeast Asia and the Pacific

Bangkok, Thailand

14:15-14:30 **Problems and Challenges regarding the “Identification” of Victims of Trafficking in Southeast Asia**

Ms Masako Ueda

Trafficking in Persons Focus Officer

International Organization for Migration (IOM)

Regional Office for Asia and the Pacific

Bangkok, Thailand

14:30-14:45 **Government Experience in “Identification” of Victims of Trafficking**

Ms Syuhaida binti Abdul Wahab Zen

Deputy Secretary

Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants,

Ministry of Home Affairs, Malaysia

14:45-15:30 **Discussion**

15:45-17:15 Session IV
Return and (Re)Integration of Victims of trafficking

Moderator:

Mr Sébastien Moretti

Regional RFL and Migration Adviser

International Committee of the Red Cross (ICRC)

Kuala Lumpur, Malaysia

- 15:45-16:00 **Challenges related to the Repatriation and Reintegration of Victims of Trafficking**
- Ms Varaporn Naisanguansri**
Senior Project Assistant for Labour Migration and Assistance to Vulnerable Migrants
International Organization for Migration (IOM), Thailand
- 16:00-16:15 **Alternatives to the Return and Reintegration of Victims of Trafficking in their Country of Origin**
- Mr Sebastian Boll**
Regional Research Analyst
UN Action for Cooperation against Trafficking in Persons (UN-ACT)
Bangkok, Thailand
- 16:15-16:30 **Practical Experience on the Reintegration of Victims of Trafficking**
- Mr Suong Sopheap**
Regional Manager
Cambodian Women's Crisis Center (CWCC)
Banteay Meanchey Regional Office
- 16:30-17:15 **Discussion**
- End of Day 1**

DAY 2, 27 June 2014 (Friday)

- 09:00-10:00 **Session V**
Policies and strategies to protect victims of trafficking
- Moderator:**
Dr Alistair D.B. Cook
Research Fellow
RSIS Centre for Non-Traditional Security (NTS) Studies
Nanyang Technological University, Singapore
- 09:00-09:15 **Mechanisms and Strategies to Respond to the Needs of Victims of Trafficking: The Case of Singapore**
- Ms Liza Goh**
Deputy Director,
Rehabilitation and Protection Group, Policy Branch
Ministry of Social and Family Development (MSF),
Singapore Interagency Taskforce for Trafficking in Persons

09:15-09:30 **Best Practices and Strategies to Respond to the Needs of Victims of Trafficking: The Case of Taiwan**

Mr Bill Lee

Executive Officer
Immigration Affairs Division for Human Trafficking Issues
National Immigration Agency
Taipei, Taiwan

09:30-10:00 **Discussion**

**10:15-11:15 Break-Out Sessions:
Checklists on the Main Protection Elements concerning the Victims of Trafficking**

Moderator:

Mr Sébastien Moretti

Regional RFL and Migration Adviser
International Committee of the Red Cross (ICRC)
Kuala Lumpur, Malaysia

Group 1: Checklist on the Main Protection Elements concerning the Identification of Victims of Trafficking

Group 2: Checklist on the Main Protection Elements concerning the Protection and Provision of Assistance to Victims of Trafficking

Group 3: Checklist concerning the Solutions to the situation of Victims of Trafficking

11:15-12:15 Summary of Breakout Sessions and Integration

12:15-12:30 Closing Remarks

Mr Jeremy England

Head of Regional Delegation (Malaysia, Singapore, Brunei)
International Committee of the Red Cross (ICRC)
Kuala Lumpur, Malaysia

Prof. Mely Caballero-Anthony

Associate Professor, S. Rajaratnam School of International Studies (RSIS);
Head, RSIS Centre for Non-Traditional Security (NTS) Studies
Nanyang Technological University, Singapore

End of Roundtable

LIST OF SPEAKERS AND MODERATORS*

**in alphabetical order according to last names*

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- 4. Mr Sebastian Boll**
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- 8. Mr Rafendi Djamin**
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- 9. Mr Jeremy England**
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- 16. Ms Varaporn Naisanguansri**
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- 17. Mr Suong Sopheap**
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- 18. Ms Masako Ueda**
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About the ICRC

The International Committee of the Red Cross (the ICRC), established in 1863, is an impartial, neutral, independent humanitarian organisation providing assistance and protection to those in need due to the effects of armed conflict and other situations of humanitarian concern. With a mandate that stems essentially from the Geneva Conventions of 1949, the ICRC also promotes the laws that protect victims of war.

A trusted, professional provider of humanitarian assistance and expertise, with operations in over 80 countries globally, the ICRC has worked for nearly 100 years in Asia and currently has offices in 23 countries overseeing programmes throughout the Asia Pacific region. Within SE Asia, the ICRC has seven offices covering the ten ASEAN member countries and East Timor. Together with national Red Cross and Red Crescent societies, and their International Federation, the ICRC is part of the world's largest humanitarian network.

Based on over 150 years of experience, the ICRC is a reference for international humanitarian law (IHL), conditions and treatment in detention environments, health in unstable communities and the restoration of family links. The ICRC works with national and other appropriate authorities, as well as national Red Cross and Red Crescent Societies, to develop and promote international humanitarian standards and to deliver practical assistance where it is needed. The ICRC also works with all relevant authorities to promote IHL, supporting them with the integration of relevant treaties into national legislation and the training of relevant national institutions responsible, including the armed forces.

Globally, the ICRC has been visiting places of detention for over 100 years. In 2013, it visited over half a million detainees in 97 countries and territories. During these visits, the ICRC explores a wide range of issues that have an impact on the wellbeing of detainees and detaining authorities, including the health care system, occupancy rates, quality of detention structures, nutrition, water and sanitation systems, the ability of detainees to communicate with their families, as well as the treatment of detainees by staff and by other detainees. The ICRC shares its observations and eventual recommendations through a confidential dialogue with the concerned authorities. At the same time, the ICRC, in coordination with the detaining authority, offers some direct services to the persons detained.

Recognising the region's interest in humanitarian affairs, the ICRC engages with national and regional authorities, the media and civil society entities to share expertise, raise profile and participate in debates on various humanitarian concerns and raise awareness of Red Cross Red Crescent principles. These engagements allow the ICRC and relevant institutions to share expertise and analysis and to promote the understanding of each other's roles and responsibilities.

About the Centre for NTS Studies

The Centre for NTS Studies was inaugurated on 6 May 2008 by Dr Yaacob Ibrahim, Minister for the Environment and Water Resources. It conducts empirically-grounded research to produce policy-relevant analyses aimed at furthering awareness and building capacity to address non-traditional security issues in the Asia Pacific and beyond. These issues are challenges to the survival and well-being of peoples and states. They arise from non-military sources such as climate change, resource scarcity, infectious diseases, natural disasters, food shortages and transnational crime. The dangers are transnational in scope and require comprehensive – political, economic and social – responses, as well as the humanitarian use of military force.

Vision

To mainstream and advance the field of non-traditional security studies in regional and international security discourse to complement traditional approaches to security that emphasises sovereignty, political and military independence, and defence.

Mission

To conduct research and produce policy-relevant analyses aimed at furthering awareness and building capacity to address non-traditional security issues and challenges in the Asia Pacific region and beyond.

Research Activities

To fulfil this mission, the NTS centre aims to:

- Advance the understanding of non-traditional security issues and challenges in the Asia Pacific by highlighting gaps in knowledge and policy, and identifying best practices among state and non-state actors in responding to these challenges
- Provide a platform for scholars and policymakers within and outside Asia to discuss and analyse non-traditional security issues in the region
- Network with institutions and organisations worldwide to exchange information, insights and experiences in the area of non-traditional security
- Engage policymakers on the importance of non-traditional security in guiding political responses to non-traditional security emergencies and developing strategies to mitigate the risks to state and human security
- Contribute to building the institutional capacity of governments, and regional and international organisations to respond to non-traditional security challenges

The Centre's research activities focus on the following programmes:

- Climate Change, Resilience and Sustainable Development
- Energy Security
- Food Security
- Health Security
- Water Security
- Peace, Human Security and Development

Networking and Outreach

The Centre serves as the Secretariat of the Consortium NTS Studies in Asia (NTS-Asia), which brings together twenty research institutes and think tanks from across Asia, and strives to develop the process of networking, consolidate existing research on NTS-related issues, and mainstream non-traditional security studies in Asia. The Centre is also the Coordinator of the ASEAN-Canada Research Partnership (2012–15), which is supported by the International Development Research Centre (IDRC) of Canada. It also serves as the Secretariat of the initiative.

About RSIS

The S. Rajaratnam School of International Studies (RSIS) was established in January 2007 as an autonomous School within the Nanyang Technological University. Known earlier as the Institute of Defence and Strategic Studies when it was established in July 1996, RSIS' mission is to be a leading research and graduate teaching institution in strategic and international affairs in the Asia Pacific. To accomplish this mission, it will:

- Provide a rigorous professional graduate education with a strong practical emphasis,
- Conduct policy-relevant research in defence, national security, international relations, strategic studies and diplomacy,
- Foster a global network of like-minded professional schools.

GRADUATE EDUCATION IN INTERNATIONAL AFFAIRS

RSIS offers a challenging graduate education in international affairs, taught by an international faculty of leading thinkers and practitioners. The Master of Science (MSc) degree programmes in Strategic Studies, International Relations, Asian Studies, and International Political Economy are distinguished by their focus on the Asia Pacific, the professional practice of international affairs, and the cultivation of academic depth. Thus far, students from more than 50 countries have successfully completed one of these programmes. In 2010, a Double Masters Programme with Warwick University was also launched, with

students required to spend the first year at Warwick and the second year at RSIS.

A small but select PhD programme caters to advanced students who are supervised by faculty members with matching interests.

RESEARCH

Research takes place within RSIS' six components: the Institute of Defence and Strategic Studies (IDSS, 1996), the International Centre for Political Violence and Terrorism Research (ICPVTR, 2004), the Centre of Excellence for National Security (CENS, 2006), the Centre for Non-Traditional Security Studies (Centre for NTS Studies, 2008); the Temasek Foundation Centre for Trade & Negotiations (TFCTN, 2008); and the Centre for Multilateralism Studies (CMS, 2011). The focus of research is on issues relating to the security and stability of the Asia Pacific region and their implications for Singapore and other countries in the region.

The school has five professorships that bring distinguished scholars and practitioners to teach and to conduct research at the school. They are the S. Rajaratnam Professorship in Strategic Studies, the Ngee Ann Kongsi Professorship in International Relations, the NTUC Professorship in International Economic Relations, the Bakrie Professorship in Southeast Asia Policy, and the Peter Lim Professorship in Peace Studies.

INTERNATIONAL COLLABORATION

Collaboration with other professional schools of international affairs to form a global network of excellence is a RSIS priority. RSIS maintains links with other like-minded schools so as to enrich its research and teaching activities as well as adopt the best practices of successful schools.

