

HANDBOOK

FOR DIPLOMATIC AND CONSULAR PERSONNEL

ASSISTANCE AND PROTECTION OF VICTIMS OF HUMAN TRAFFICKING



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PURPOSE OF THE HANDBOOK

The handbook on how to assist and protect Victims of Human Trafficking (VoTs) is important that you as consular staff are properly equipped since you are often the first contact point between the VoTs originated from Lesotho and the Government in the country in which you serve.

This handbook will increase your knowledge about Trafficking in Persons (TIP) and will provide you with tools on how to react if there is any suspicion or discovery of a case of human trafficking. The following chapters will show what you, as a

consular officer, can do to properly assist and protect Victims of Trafficking (VoTs). In the back of the handbook, you will find the telephone numbers of relevant organizations that you should call once you suspect or come across a VoT.

EQUIP YOU WITH THE CAPACITY TO:

- Act as a first filter against human trafficking, for example, when processing visa applications
- Protect individuals and nationals against exploitation
- Assist in cases of safe return for identified victims
- Build partnership with relevant actors to prevent and fight against human trafficking

GIVE YOU AN OVERVIEW OF:

- What human trafficking is
- Why it takes place
- International legal framework on human trafficking

ASSIST YOU TO:

- Identify victims of human trafficking
- Refer them to the right people and organizations
- Understand the special considerations that need to be kept in mind when dealing with victims of trafficking

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WHAT IS TRAFFICKING IN PERSONS (TIP)

Trafficking in persons is exploitation. It is a serious crime and a modern form of slavery that exploits vulnerable groups in society.

Trafficking in persons is exploitation. It is a serious crime and a modern form of slavery that exploits vulnerable groups in society. It is the practice of people being tricked, coerced or otherwise removed from their home or country to be forced into situations that are highly exploitative. Victims of trafficking are often promised legitimate employment opportunities either within their own country or internationally only to find that they have been deceived by traffickers.

Once isolated and away from their friends and family, they are vulnerable to a range of control mechanisms, such as violence or the threat of violence against themselves or their family, coercion, imprisonment, drug use and the seizure of identity

and travel documents. They are often unable to contact friends or family, or have their correspondence monitored.

Furthermore, some feel so ashamed of their situation or fear criminal proceedings, deportation or retribution from the traffickers or the stigma attached to being labeled a victim of trafficking that they are afraid to raise the alarm.

Trafficking in Person (TIP) is a hidden phenomenon in society. It is happening around us on a daily basis, but we cannot easily see the exploitation as it can be disguised behind a mask of legal, consensual work.

VICTIMS OF TRAFFICKING ARE ABUSED FOR:

- **Sexual exploitation** – in Prostitution, Pornography etc.
- **Labour exploitation** – particularly, in Agriculture; Catering; Cleaning; Construction; Factory; Mining, Shops and Restaurant work and a number of other sectors
- **Domestic servitude**
- **Organ removal**
- **Forced begging and delinquency**
- **Forced and exploitative marriages**
- **Child exploitation**



IT IS IMPORTANT THAT YOU AND THE CONSULAR SECTIONS ARE FAMILIARISED WITH:

- What the trafficking situation is in the country you represent (Kingdom of Lesotho)?
- What the trafficking situation is in the country in which you are based?
- Are the countries you work in/for countries of origin, transit or destination?
- Who is affected by human trafficking and what are the vulnerable groups?
- Are victims of trafficking mainly women, men, children or both?
- Which nationalities or groups in society are trafficked?
- What types of exploitation exist?

MYTHS: Many people are trafficked across international borders; however, trafficking also occurs within countries, a situation known as internal trafficking. Persons must cross a national border to be considered a victim of trafficking.

THE INTERNATIONAL LEGAL FRAMEWORK HUMAN RIGHTS CONCEPT AND HUMAN TRAFFICKING

Trafficking in persons is a serious crime where the human rights of its many victims are violated. Human rights stand at the pinnacle of international law and are the foundation of action by the international community.

Human rights are fundamental, inherent to the condition of human beings and set the boundaries for the exercise of personal dignity in a democratic state. Human rights are universal, inviolable and interdependent. They are not time-bound, of extraterritorial application and are indivisible.

According to the **United Nations Recommended Principles and Guidelines on Human Rights and Trafficking in Human Beings**: “The human rights of trafficked persons shall be at the center of all efforts to prevent and combat trafficking to protect, assist and provide redress to victims.”

THE INTERNATIONAL CHARTER OF HUMAN RIGHTS

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

OTHER INTERNATIONAL HUMAN RIGHTS INSTRUMENT

- International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- International Convention on the Rights of the Child and its Optional Protocols on the Involvement of Children in Armed Conflicts as well as the Sale of Children, Child Prostitution and Child Pornography (1989)
- International Convention on the Protection of the Rights of All Migrant Workers and their Families (1990)
- Forced Labour Convention (1930)
- Abolition of Forced Labour Convention (1957)
- Discrimination (Employment and Occupation) Convention (1958)

A number of international human rights instruments are relevant in the fight against human trafficking to ensure the respect of the human rights of the victims of this crime.



TO RESPOND SPECIFICALLY TO HUMAN TRAFFICKING, SEVERAL INTERNATIONAL LEGAL INSTRUMENTS HAVE BEEN ADOPTED, SUCH AS THE:

- **The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** (also known as the **Palermo Protocol**), which entered into force in 2003, is a protocol to the UN Convention against Transnational Organized Crime (UNTOC). It is an international crime convention and the international benchmark on trafficking in human beings. It provides the first encompassing international definition of the crime:

- o **‘Trafficking in Persons’** shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. ‘Exploitation’ shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
- o The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph 3a of this article shall be irrelevant where any of the means set forth in subparagraph 3a have been used.
- o The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article. Trafficking is often referred to as a chain of events, where a set of illicit means are used, starting with the recruitment and leading to the exploitation of the victim. This is reflected in Article 3 which states that three interrelated elements must be present in order to speak of human trafficking:
- o **ACTIVITY** – recruitment, transportation, transfer, harbouring or receipt of persons
- o **MEANS** – threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power. Taking advantage of a position of vulnerability, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person
- o **PURPOSE** – with the intention of exploitation within one of the exploitative forms specified within Article 3 The Palermo Protocol has been ratified by all UN Member States.

Ratifying States are required to implement the provisions of the Protocol and the definition of trafficking in persons into national law. For consular officers it is important to review the national legal framework on human trafficking in the country you represent (Lesotho) and in the country where you are posted in order to be familiarized with relevant national legislation on human trafficking. It is based on recognition of the principle that trafficking in persons constitutes a violation of human rights and an offence to the dignity and integrity of the human being. It is a legally binding instrument that aims to Prevent trafficking, Protect the human rights of its victims and Prosecute traffickers.

THE CONVENTION PROVIDES A NUMBER OF MEASURES, INCLUDING:

- Victims of trafficking must be recognized as such to avoid police and public authorities treating them as irregular migrants or criminals
- Victims of trafficking will be granted physical and psychological assistance and support for their reintegration into society medical treatment, counseling and information, as well as appropriate accommodation
- Victims are entitled to receive compensation
- Victims are entitled to a reflection period of a minimum of 30 days a renewable residence permit may also be granted
- Trafficking will be considered as a criminal offence: traffickers and their accomplices will therefore be prosecuted
- The private life and the safety of victims of trafficking will be protected throughout the course of judicial proceedings
- The possibility of criminalizing those who use the services of a victim if they are aware that the person is a victim of trafficking in persons
- The possibility of not imposing penalties on victims for their involvement in unlawful activities, if they were compelled to do so by their situation
- The encouragement of co-operation between public authorities, non-governmental organizations and members of civil society

THE CONVENTION APPLIES TO:

- All forms of trafficking: national and transnational, whether or not it is related to organized crime
- All victims: women, men and children
- All forms of exploitation: sexual exploitation, forced labour or services, and so forth

THE ROLE OF CONSULAR AND DIPLOMATIC PERSONNEL IN ASSISTING VICTIMS OF HUMAN TRAFFICKING

A number of the consular functions are related to the work against human trafficking and you can play a crucial role in protecting your nationals and also protecting other nationalities from falling victim to trafficking in the country you represent. Consular staff can play a key role in combating trafficking in persons and supporting its victims. It is therefore crucial that consular staff have the basic knowledge as well as working methods to identify and assist victims of human trafficking.

CONSULATES AND THE CONSULAR SECTIONS AT THE EMBASSIES MIGHT COME INTO CONTACT WITH HUMAN TRAFFICKING VIA:

1. Contact from local authorities or NGOs asking for assistance or information in a human trafficking case – they might be investigating a case, or assisting a person from the country you represent and want to get in contact with you
2. Direct or indirect call for help from victims – victims might contact their consulates/ embassies for assistance either themselves or through family and friends
3. People approaching the consular section seeking other assistance, for example with the issuance of a new passport, assistance to travel back home and so on, may need to be looked at more closely:
 - Ask yourself what could the actual reason be for asking for your assistance?
 - Are they potentially victims of crime?
4. Visa applications from other nationalities wanting to travel to your country
 - Things to consider:**
 - What are their risks of being trafficked to or in your country?
 - Is there anything suspicious in their visa application, such as the reference persons, the people the person is traveling with or their reasons for traveling?
 - Are their working documents in order?
 - Is it safe for this person to accept this job?

THE VIENNA CONVENTION ON CONSULAR RELATIONS

The Vienna Convention on Consular Relations is a multilateral international law agreement outlining consular practices that came into force in 1967. It states the roles, rights and responsibilities of consular officers when carrying out their duties in the sending and receiving states, a number of which are relevant to consular activities to assist victims of trafficking. The Vienna Convention protects the interests of the sending state and its nationals, individuals and corporate bodies, in the receiving state, within the limits permitted by international law.

THE VIENNA CONVENTION REGULATES AND ENSURES THAT THE CONSULAR STAFF CAN:

- Issue passports and travel documents to nationals of the sending state and visas or appropriate documents to persons wishing to travel to the sending state
- Help and assist nationals of the sending states
- Safeguard the interest of minors and persons lacking full capacity who are nationals of the sending state

Q & A Consular Officer:

- a) **How can I use the Vienna Convention to assist a victim of trafficking?** Article 5, Consular Functions, says that you are obliged to help and assist nationals of the sending State and to safeguard the interests of minors or persons lacking full capacity. The Convention also states that you are required to respect and protect the human rights of your nationals.
- b) **Can I visit a person who is detained or imprisoned?** Yes, you can if the person wants you to. Article 36, Communication and Contact with Nationals of the Sending State says that if a national is in prison, custody or detention and wants to be in contact with her/his consulate or embassy then consular officers have the right to visit and to communicate with her/him freely. The person detained must be informed, by the detaining authority, that they have the right to notify and contact their consulate or embassy. If a national requests to see a consular officer then the competent authority is required to inform the consulate or embassy without delay. The consulate or embassy should automatically be informed in the case of minors or persons lacking their full capacity.
- c) **Can I arrange for legal assistance for a victim of trafficking if she/he requests it?** Yes, you can arrange for appropriate legal representation and the processing of legal documents in accordance with the wishes of the national. Additionally, Article 38, Communication with the Authorities of the Receiving State, says that consular officers are free to contact the competent local authorities of their consulate district and central authorities in exercising their duties.
- d) **We can also issue replacement travel and identity documents, could this help a victim of trafficking?** Yes, a victim of trafficking may have lost their identity or travel documents or their documents may have been confiscated by the trafficker, for example as a means of control. In this case, you should help with the reissue of the appropriate documents. You can also act as a notary for citizens of the country you represent.

WITH THE RIGHT KNOWLEDGE AND WORKING METHODS CONSULAR OFFICERS SHOULD BE ABLE TO:

- Prevent persons from being trafficked, protect victims of trafficking and prosecute the traffickers
- Share information, where appropriate and when you have the informed consent from the victim, with law enforcement agencies and assist in criminal proceedings. Refer victims of trafficking to specialized service providers (social, medical, psychological, and legal, amongst others).
- Inform and advise potential victims, NGOs, international organizations in the country of origin and destination.
- Educate your colleagues about trafficking in human beings. Assist victims of trafficking (translation, interpretation, travel documents and other assistance).

- Identify potential victims (through visa applications, requests for assistance, and so on) and prevent human trafficking to happen.

INDICATORS TO LOOK OUT FOR WHEN PROCESSING VISA APPLICATIONS:

Depending on where you are based, one of the functions of a consular officer is often to issue visas or appropriate documents to persons applying to travel abroad for recreation, study or work. During this process consular officers can invite individuals for an interview to discuss the documents that they have submitted and their motivations for traveling. This is a chance for you to gather more information and to look deeper in to any suspicions you may have. This is an opportunity to identify potential victims before being trafficked.

1. THE PURPOSE OF TRAVEL • *Does she/he have a clear understanding of the purpose of travel? • What type of opportunity has been offered to her/him? • How did she/he learn about the opportunity? • Who offered her/him the opportunity and why? • Does she/he have a clear understanding of what the opportunity entails? • Has she/he signed an agreement or contract? Can she/he provide a copy? • What promises have been made to her/him about the placement, hiring and conditions of employment? • What sector will she/he be employed in? Are these sectors prone to trafficking in human beings? • Has she/he paid someone money to assist them with the application? • Did someone prepare her/him for this interview?*

2. TRAVEL PLANS • *Has she/he already purchased a ticket? • Has she/he the financial means to purchase the ticket? • Has someone else purchased the ticket for her/him, and in that case who? • Does she/he have to reimburse the cost of the ticket? • Under what conditions must she/he reimburse the cost of the ticket? • How is she/he paying for the trip? • What is her/his income level? • Is the trip affordable for her/him? • Is there a clause in her/his contract for the return and reimbursement of the ticket? • Will she/he be traveling alone or as part of a group? • Does she/he know the other members of the group? • What are the other people in the group like – age, gender and educational background?*

3. STUDY VISAS • *Why does she/he want to study in the country of destination and at the specific institution? • Does her/his educational background match the requirements for the course? • How long is the course? • What are the tuition fees? What is the cost of living? • Does her/his visa permit her/him to work alongside his/her study? • Does she/he intend to work alongside his/her study? • How is she/he paying for her/his studies and living expenses? Is it affordable for her/him? • What is her/his income level?*

4. TRAVEL AND EMPLOYMENT AGENCIES • *Did she/he organise her/his travel independently or was she/he assisted?*

• *Are the invitation documents legitimate? • Does the travel or employment agency have a reputation for bad practices – human trafficking, falsifying documents, exploitation? • Has this company/individual provided invitations to people before? Is the number of invitations provided suspicious?*

5. THE EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE OF THE APPLICANT • *What is her/his current profession and past experience? • Do her/his educational certificates match her/his qualifications? • Does she/he have the qualifications needed for the opportunity offered abroad?*

6. VISA AND LIVING IN LESOTHO • *Will someone assist her/him when she/ he arrives? • Has she/he arranged to meet someone when she/he arrives? What are the instructions? • Has she/he already arranged for somewhere to live in the country of destination? • Will the earnings from the proposed job be sufficient to live on?*

7. ADVICE & ASSISTANCE FROM CONSULAR PERSONNEL WHEN ISSUING VISAS • *The traveler should make a photocopy and scan her/his passport and identity documents. • Provide the contact information and addresses of the embassies and consulates, law enforcement bodies, helplines (see referral phone numbers on page 68) and emergency assistance in the country of destination. • Provide information about the immigration rules in the country of destination, such as, whether she/he is required to register with local authorities upon arrival. • Explain the conditions of her/his tourist, study or work visa, such as duration of validity, entry/re-entry, whether it permits work. • Advise them about the risks they may face. TOURIST VISAS • Why does she/he want to visit the country? • Has she/he got a return travel ticket? • Does she/he have friends or family in the country of destination? If yes, please ask her/him to provide details.*

CHAIN OF ASSISTANCE – HOW THE CONSULAR OFFICE CAN HELP

Victims of trafficking require specific assistance and support and should be helped by trained and specialized professionals. The chain of assistance is a concept used to describe the network of cooperation between governmental and non-governmental actors working in the field of counter-trafficking to ensure the correct help and support to victims. The chain of assistance is often also referred to as the national referral mechanism. The actors in the chain of assistance are for example; social service providing authorities or non-governmental organizations, the police, migration or border guard authorities, health actors, prosecutors and lawyers.

The purpose of the chain of assistance is to refer a victim of trafficking to the most appropriate authority ensuring a victim-centered and rights-based approach throughout the various identification, assistance and protection processes. A clear

division of tasks is of utmost importance to provide the victim of human trafficking with pressing needed support. Referrals should be provided in an immediate and appropriate manner as soon as the person is identified to be a potential victim of trafficking.

THE ROLE OF THE CONSULAR OFFICERS IN THE CHAIN OF ASSISTANCE IS TO:

- Identify if a person is a potential victim of trafficking or at risk of being trafficked
- Inform the person about the national coordinating agency or the relevant specialized organizations that can provide them with assistance and offer to contact them on the persons behalf. They will then be responsible for the crisis intervention, rehabilitation/reintegration, contact with the relevant authorities in the country of origin, and provide integration in the receiving state or return assistance to the country of origin
- Be in continuous contact with the specialized agencies/ organizations in the country hosting the consulate or embassy and in the home country.

WHAT CAN CONSULAR OFFICERS EXPECT FROM NATIONAL ACTORS AND SERVICE PROVIDERS AND VICE VERSA?

- Support and understanding of their respective roles
- Consultations and intervention in emergency situations Information on legal procedures, social assistance and shelter availability
- Help with translation and interpretation, cultural mediation when needed
- Information sharing to guarantee the safety of the victim and a safe integration or return

CONSULAR ASSISTANCE - WHERE THE VICTIM IS CURRENTLY RESIDING REFERRAL FOR ASSISTANCE TO COUNTRY OF ORIGIN (LESOTHO)

- **Confirmation of identity**
- **Access to temporary residence permits**
- **Interpretation**
- **Provision of travel documents – Passport**
- **Issuance of other certificates and documents**
- **Rehabilitation:** Medical, Psychological, Social, Legal, Shelter
- **Reintegration:** Temporary or permanent residence permit, Work permits, Vocational training
- **Safe return:** Departure assistance
- **Money** (without conditions)
- **Safe return:** Airport assistance, Transportation to the final destination
- **Shelter**

- **Rehabilitation:** Medical, Psychological, Social, Legal
- **Reintegration:** Vocational training, Family support, Micro business, Contact the national coordinating agency or the relevant specialized organizations. For reintegration Try to understand their situation through interview questions. Get the assistance of a registered interpreter for interviews and to help translate documents. Passport or issuance of other certificates and documents Person needs assistance in the country where your consulate or embassy is based or in the person’s country of origin Lost, stolen or confiscated travel documents or visa Identifies themselves as a victim of trafficking or raises suspicions based on the general indicators.

IMPORTANT PRINCIPLES TO FOLLOW DURING REFERRAL PROCEDURES

- Respect for human rights and dignity – victims of trafficking have the right to justice, non-punishment, assistance, compensation and liberty and security which includes the right not to be detained, not to be expelled, respect for the principle of non-refoulement and not to be subject to re-entry bans
- Informed consent of the victim is required at all stages of the assistance process
- Non-discrimination and opposition to assistance to victims of human trafficking on the basis of both direct and indirect discrimination on grounds of disability, ethnicity or national origin, colour, race, creed, gender, marital status, domestic circumstances, age, HIV status, sexual orientation, gender identity/expression, religion, language, political belief or any other grounds
- Confidentiality and the right to privacy must be respected with high importance at all stages. Exceptions may arise when the victims safety or the safety of others is at stake • Self-determination and participation in the decision-making process
- Individualized treatment and care and the equitable distribution of resources according to the needs of the victim

MYTH 1. Much of the existing research and media coverage on trafficking has focused on women and children; however, men are also being trafficked into all kinds of exploitation; especially labour exploitation. only women and children can be victims of trafficking.

MYTH 2. Though some victims of trafficking are brought into countries illegally, others travel using legal documents or enter on valid work, student or tourist visas who are then abused or exploited.

MYTH 3. Whereas some victims of trafficking are taken by force, many are tricked or lured into leaving willingly, often through false promises of better life/employment opportunities at the destination. all victims of trafficking are abducted, kidnapped or taken against their will.

BY IDENTIFYING A VICTIM OF TRAFFICKING YOU CAN:

- Prevent or stop the exploitation
- Inform her/him of her/his rights to assistance and protection and empower her/him to make informed decisions
- Refer her/him to responsible agencies that will provide specialised assistance and protection measures
- Enable law enforcement bodies and prosecution authorities to investigate the case and bring justice to the victim

VICTIMS OF TRAFFICKING ARE SELDOM IN A SITUATION WHERE THEY WOULD IDENTIFY THEMSELVES AS VICTIMS, BECAUSE THE PERSON IS:

- Unwilling to be labeled as a victim or stigmatized
- Unaware of her/his rights and the concept of human trafficking or that her/his experience constitutes human trafficking
- Unaware of the assistance granted to a victim of trafficking
- Having feelings of guilt or shame about her/his exploitative situation
- Afraid of retributions to her/his family or her/himself
- Afraid of imprisonment, deportation or monetary fines
- Dependent on the abuser (“**Stockholm Syndrome**”)

A consular officer needs to avoid the risk that victims of trafficking may be mistaken for irregular migrants and subsequently deported or put in detention facilities. Although trafficking in persons and human smuggling are two very distinct phenomena, many actors still interpret them interchangeably. This can have serious implications for the treatment and support provided to victims of human trafficking if they are incorrectly identified. Both trafficking in persons and human smuggling are illegal businesses that are often perpetrated by criminal networks, which profit from the vulnerabilities of people who seek better life opportunities.

WHAT IS THE DIFFERENCE BETWEEN HUMAN TRAFFICKING AND SMUGGLING?

Trafficking Victim is a person whose individual rights have been violated. Human smuggling does not violate individual rights as such, but the political interest of the state which considers that its borders and migration laws have been violated. Nevertheless, smuggled persons are also vulnerable to violations of their human rights and can subsequently become victims of trafficking. Furthermore, smuggling is always transnational, whereas human trafficking also occurs within the same country. One can also distinguish the phenomena in terms of consent. Although often taking life threatening risks and having to endure a lot of suffering during the transportation, smuggled migrants have consented to the smuggling. Trafficked victims

either never consented, or if they did initially, the consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers. These distinctions affect how cases are handled, as well as the rights and the status of the individuals involved. Proper identification is therefore crucial to ensure that victims of human trafficking receive the assistance they are in need of and entitled to.

THE IMPORTANCE OF ACCURATE IDENTIFICATION OF VICTIMS OF TRAFFICKING

- Require specialized assistance and protection.
- Are likely to have immediate and acute physical and psychological health needs that are not normally present in cases involving smuggled or irregular migrants
- ...have suffered from serious and grave crimes and may still be at risk. Particular arrangements and procedures can therefore be necessary for both the victim and the personnel working for the organization providing assistance.

IDENTIFYING A VICTIM OF HUMAN TRAFFICKING

It is important that victims of trafficking are identified and assisted by trained and educated staff. **IF YOU SUSPECT** that an individual is a victim of trafficking and if she/he wants help you should, with the consent of the victim, report the situation to the relevant authorities/organizations/assistance providers.

IF YOU IDENTIFY someone as a potential victim of trafficking you should treat them as a victim of trafficking **YOU MUST ACT FAST** to assist a victim of trafficking, so you must be familiar with the procedures ... identifies her/himself as a victim of trafficking; or ...shows indications of exploitation.

If you are assisting someone with a visa application, travel documents, marriage/ birth/death certificate or in other situations and that person... ..you and your colleagues must decide whether the person is a potential victim of trafficking. There are a number of indicators that can help to identify a potential victim of trafficking.

GENERAL INDICATORS OF HUMAN TRAFFICKING

- **Age** – consider the age of the person in comparison to the age on the documents
- **Gender**
- **Nationality/Ethnicity** – can the identity be verified? Are they who they say they are?
- **Documentation** – carefully review the documentation provided such as personal information, point of entry and stay documents

- **Last Location** – investigate the routes travelled and the conditions under which the entry visa/work permit was enquired
- **Signs of abuse or physical violence**
- **Signs of trauma or psychological abuse** – uncertainty, insecurity, nervousness
- **Assessment from referring agency/individual**
- **Sector of employment:** You should use your knowledge of the trafficking situation in the country you are based combined with general and more direct indicators to build a clearer picture of the person's situation and the probability of them being a trafficking victim. Note that these are generalizations and exceptions will exist.

- Lack of access to washing facilities This is not an exhaustive list and may not be present in all situations and cases.

MYTH VS REALITY: *Even if a person accepts a proposed situation or to work under exploitative conditions, they can still become a victim of trafficking if the offer they accepted differs considerably from the conditions they face in the destination country or if illicit means have been used. a person can never consent to the illicit means and nobody voluntarily chooses to be trafficked. the person knew what was going to happen to her/him, so she/he cannot be considered a victim. You should also reflect upon the Myths and Misunderstandings throughout this handbook to look beyond the stereotypes.*

LACK OF CONTROL – RESTRICTED FREEDOM OF MOVEMENT AND COMMUNICATION

- Passport, travel, identity or employment documents held by someone else or only having copies of them
- Unable to communicate in the language of the destination country
- Injuries from control measures or from assault
- Not allowed to make or receive calls – limited contact with family or social contact
- Limited or no freedom of movement or only if accompanied by a supervisor
- High degrees of control and surveillance by their supervisor (including physical and psychological abuse and/or fines)
- Dependent on the supervisor for services such as transportation, accommodation, food and so on
- Living at the workplace

CONDITIONS OF EXPLOITATION

- Having to pay off a debt to their supervisor for transportation, documents, residence, food or protection (debt bondage)
- Not allowed access to earnings, low pay or only allowed to keep part of their earnings
- Not having an employment contract or only having a falsified one
- Doing a job or service which is different from that advertised or expected – may have been tricked or coerced
- Injuries or impairments typical of certain jobs
- No days off or holiday time • Lack of access to medical care
- Working excessive hours
- Without adequate food, clothing or hygiene products
- Food, clothing or hygiene products are provided on the condition of working
- Isolation from friends or family
- Living with others subject to similar conditions
- Living on or close to the worksite
- Temporary, mobile, overcrowded or makeshift accommodation

THE FOLLOWING QUESTIONS CAN GIVE A CLEARER PICTURE ABOUT THE SITUATION OF A PRESUMED VICTIM OF TRAFFICKING:

1. SEXUAL EXPLOITATION: DOES THE PERSON

- ...perform sexual services against her/his will or under force?
- ...perform services in an environment that is different from that advertised or expected because the environment is sexualized?
- ...perform sexual services under different circumstances than previously agreed?

2. BEGGING OR PETTY CRIMES: IS THE PERSON...

- ...forced to beg or commit acts of petty crime –for example stealing or selling drugs – especially if she/he is disabled, elderly or underage?
- ...threatened with violence or punishment if she/he does not steal or collect enough?
- ...living with adults who are neither guardians nor relatives?
- ...living and travelling in large groups across the entire country or region?

3. LABOUR EXPLOITATION:

DOES THE PERSON... • ...have a contract? • ...have a work permit? • ...work illegally long hours? • ...receive very low payment or no payment at all? • ...work in dangerous conditions (including physically dangerous and unsanitary)? • ...use dangerous equipment or substances? • ...have the necessary safety gear (including equipment and clothing)? • ...have the required/fundamental training and professional certificates? • ...have the ability to terminate her/his work situation? • ...know her/his labour rights and that she/he can join a trade union organization? • ...pay taxes? • ...work in an environment other than advertised?

IS THE PERSON... • ...allowed to choose the services given or to whom? • ...able to choose the schedule? • ...able to end the imposed activities on her/his own accord? • ...able to refuse unprotected or violent sex? • ...aware of the regulations on prostitution in the country in which she/he is in? • ...threatened with violence or punishment? • ...able to keep her/his earnings?

4. EXPLOITATION IN PRIVATE HOMES – DOMESTIC SERVITUDE

DOES THE PERSON... • ...live with the family without her/his own living area? • ...eat separately from the family? • ...leave the house on her/his own accord?

ALSO, DOES THE PERSON have a history of registration in several cities or countries with different identities, child protection authorities and/or in connection with crimes?

INTERVIEWING POTENTIAL VICTIMS OF HUMAN TRAFFICKING

As victims of trafficking have been deceived, coerced or abused by others, including authority figures, they can be reluctant to trust those offering them assistance.

A COMPLEX RANGE OF REACTIONS ARE NORMAL, INCLUDING • relief • sadness • fear • anger and a hostile attitude • suspicion toward the identifying actor • exhaustion • denial • apathy

KEY ISSUES FOR THE VICTIM:

SAFETY – personal safety and that of the family or others
STATUS – in the country they have been identified in (legal, irregular migrant, victim or other)

CONFIDENTIALITY – fear of being stigmatized by the public or media and possible family consequences; this is especially acute in cases of trafficking for sexual exploitation

FEAR – of the reprisals by the traffickers and, in case of participation in court proceedings, fear of having to testify in the presence of their trafficker

RE-TRAUMATISATION – from reliving the abuse experienced. The majority of victims of trafficking will have experienced violence, physical and psychological trauma. Therefore, when you are interviewing them you must be sensitive and patient to avoid triggering grief reactions, emotional stress and anxiety. You need to build their trust and increase their self confidence. This will help their recovery process as well as making it easier to interview them. Wherever possible you should avoid causing the victim to recall negative experiences in a way that could cause her/him to feel stigmatized, retraumatized, ashamed, disempowered or hopeless.

ALWAYS USE A VICTIM CENTERED APPROACH:

- Focus on the situation and the rights and needs of the person
- Give the victim autonomy and respect
- You should empower the victim to make her/his own decisions and never judge them ALWAYS REMEMBER that the life they have led is different from yours and so their experience and reference points may not match your expectations.

INTERVIEW BASICS

Remember that you are there to help not to force help upon the person. Interviews may be at the consular office or you may have to go to another location - service provider office or shelter, police station, migration office or detention centre, hospital or clinic or the office of the assigned legal firm. When scheduling an interview, personal security for both the victim and consular staff should be taken into account.

INTERVIEW CONDITIONS

- Ensure that the interview takes place in a closed private space without the possibility of being overheard • The only people allowed to be present should be the victim, the interviewer(s), an official interpreter (where necessary) and a qualified support person (such as a lawyer, social worker or psychologist) where appropriate
- If the interview is conducted away from the consular section then you should be able to speak with the victim without staff from the organization or agency present, unless the victim specifically requests it
- Interviews should be free from interruptions – mobile phones should be turned off and a “Do not disturb” sign could be displayed

1. INTRODUCTION • Introduce yourself • Describe your role and the consulate or embassy you represent • Invite everyone present to introduce themselves • Ask if the victim has any questions about the people present • Ask if they feel secure and comfortable – tell them where the bathroom is and offer refreshments • Ask if they are suffering from any pain or discomfort and if they require medical assistance.

2. EXPLANATION • Briefly explain your role in providing assistance and the purpose of the interview • Explain that some questions will relate to their history and the process that they have been through • Reassure them that you will be sensitive but that some topics may be upsetting and painful to recall • Tell them that they can take a break whenever they choose • Tell them that they can ask questions or seek clarification at any time • Reassure them that all information will be kept strictly confidential.

3. PREPARING TO INTERVIEW A VICTIM, ALWAYS CONSIDER:

- Who will participate?
- Is the gender of the interviewer appropriate?
- Where will the interview take place?
- What questions will be asked?

INTERVIEWING A VICTIM OF TRAFFICKING IS NOT AN INTERROGATION

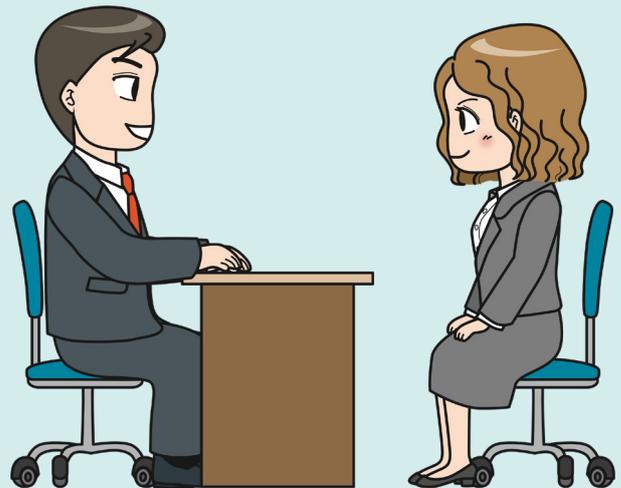
DO NO HARM should be your guiding principle. Always fully respect the victim's concerns, agency and wishes and obtain their informed consent. This is non-negotiable.

BEFORE YOU BEGIN ASK THEM IF... • ...they have understood what has been explained • ...they agree to continue with the interview • ...they know how they can report criminal offence committed against them • ...they have been told about available social and legal services and assistance – check that they have the correct and full information

INTERVIEW DO'S & DON'TS POSSIBLE INITIAL INTERVIEW QUESTIONS:

DO... • Can you choose to leave the place where you are living? • Do you have your own personal space? • Do you have your own key to your residence? • Do you have to ask permission to visit a doctor, the shops, the market or other places of your choice? • Can you send or receive mail? • Do you have access to internet? • Can you make or receive personal phone calls? • Do you own your own mobile phone or SIM card? • Do you receive your own money? • Do you have a bank account? • Does your employer pay your salary into your own bank account? • Do you have control of your own Passport/Travel/Employment documents? • Did you have a verbal agreement? • Did you sign an employment contract? Do you have a copy of that contract? • Are the activities that you do the same as those you expected or were told?

DON'T... • Ask anything that may cause stress, aggravate their situation or re-traumatize the victim • Ask presumptuous or leading questions. For example: • Are you being coerced? • Are you being victimized? • Ask the same question over and over again. This would pressurize the person and make the interview feel like an interrogation, which is stressful and breaks trust. Consider other ways to get the answer you seek and approach the question from a different angle • Make promises that you are unsure you can deliver If you believe that the presumed victim is suffering as a result of the interview you should review this chapter to see if the process can be made less stressful. This may mean that you must restrict your own contact with the person to avoid placing the presumed victim under further stress or discomfort.



DO... • Listen to the persons own description of their experienced situations and be prepared to ask questions from different angles • Ask straight forward questions that can easily be understood • Ask “yes/no” questions to avoid the person having to recount their entire experience in detail right away • Refer to the indicators of trafficking to guide further interview questions • Be flexible in your interviewing and be sensitive to the information volunteered by the victim, the exploitation that they have suffered and the assistance they require • Keep the information realistic about the assistance available to the person • Keep in mind her/his right to self-determination • Be patient - take your time and listen

MAKE SURE THAT THEY KNOW THAT THEY CAN HAVE ACCOMMODATION AND ASSISTANCE ARRANGED BY A SPECIALISED SERVICE PROVIDER. IF THEY HAVE NOT ARRANGED FOR THIS BUT ASK FOR THESE SERVICES, YOU SHOULD:

- Provide them with the contact information of these service providers
- Offer to help them to arrange for assistance
- Give them your contact information so that they can request further assistance if required

MYTH VS REALITY: *This is often true but increasingly victims of trafficking are not subject to obvious forms of abuse as traffickers have changed their ‘modus operandi’ and are using more manipulative methods in order to create the illusion of well-being and freedom for their victims. Victims of trafficking are beaten, locked up, without identity documents or any freedom of movement.*

AT THE END OF THE INTERVIEW THE VICTIM OF TRAFFICKING SHOULD BE AWARE OF:

- Their status
- What will happen next
- How you will further assist them, they should have somewhere safe to go after the interview, preferably to sheltered accommodation run by a specialist service provider. You should make every effort to assist them to organize this and arrive there safely.

MYTH VS REALITY: *The traffickers prey on the vulnerable situation of their victims by providing food, clothes, small amounts of money and so forth, to create the illusion of well-being in order to exploit their victims further. a person is not a victim of human trafficking when she/he says that her/his life is easier and economically better than previously. myth reality though many people are trafficked for sexual exploitation, increasingly people are also trafficked into forced labour, domestic servitude, organ removal or for forced begging and delinquency. persons are only trafficked for sexual exploitation myth reality often, victims are lured or groomed into a trafficking situation by a friend or relative rather than a stranger or acquaintance. it cannot be human trafficking when the organizer and the victim are related or married/cohabiting/lovers.*

CHALLENGES It is often not easy to gather sufficient information during the first interview to properly identify and assist the person. You must be patient and build the trust of the victim and always be aware of her/ his physical and psychological needs.

YOU MUST BE SENSITIVE TO... • ...the trauma they may have experienced • ...their cultural background • ...their fears and apprehension

DATA CONFIDENTIALITY

Keep the information confined to as few people as necessary in order to maintain confidentiality and keep the person concerned out of potentially harmful situations.

IF AN ADULT PROVIDES CONSENT FOR HER/HIS INFORMATION TO BE SENT TO SPECIALISED AGENCIES FOR FURTHER ASSISTANCE, YOU SHOULD INFORM THE RELEVANT AGENCY ACCORDINGLY.

DO NOT Release any confidential data unless the victim gives written (and fully informed) consent authorizing the release of personal data for specific purposes and uses. Under any circumstances disclose any confidential data to any individuals whose identity and credentials are not known. Leave printed materials containing confidential data on the victim of human trafficking unattended or in areas accessible to others. Fully inform the person about the collection of data about them and its uses, as well as their right to access the data. Use all due

diligence in the management and disposal of confidential personal data. Keep all printed materials containing confidential data about the victim secure. Ensure that disclosure does not increase risk to the victim or any member of their family, even in the case where a victim has given written consent to the disclosure of confidential data.

DEVELOPING STRATEGIES TO EFFECTIVELY WORK AGAINST HUMAN TRAFFICKING IN THE CONSULAR SECTION

The consular sections should develop working methods based on the chain of assistance and the issues that are most important to the country in which you are based and the country you represent. Can the consular section do anything to enhance the prevention of human trafficking by informing nationals or people applying for visas to the country the consular section represent on how to protect themselves and know their rights? Can you develop targeted information campaigns or distribute other material on how to travel and stay safe? How can you guarantee that the staff at the embassy and consulate are not involved in or contribute to trafficking in persons?

EDUCATE YOURSELF AND YOUR COLLEAGUES ABOUT THE:

- Trafficking process
- International legal framework
- Situation and trends in the country in which you are based and the country you represent (Lesotho)
- Agencies and organizations in the country in which you are based and the country you represent (Lesotho)

Chain of assistance to human trafficking? Do you have a policy to protect domestic workers working for the embassy or the consulate? Ask your colleagues in the consular section and your peers in the diplomatic community of their experiences of handling cases of trafficking in persons to build upon their knowledge. Can you cooperate with other actors such as international organizations, national authorities or NGOs to better counteract human trafficking?

DIPLOMATS AND DOMESTIC SERVITUDE

Unfortunately, a proportion of domestic workers around the world that are employed by diplomats suffer abuses ranging from wage exploitation to trafficking offences. Domestic workers brought into the country by diplomats potentially face greater isolation than other workers due to the fact that their duties are bound to household work because of cultural and linguistic barriers. They are often from a third country and are far away from their family and network. Domestic workers are often even more vulnerable because their employment visa

is often bound to one employer and they are not allowed to transfer to another employer without losing their residence permit and right to work in the country.

Because diplomats generally enjoy immunity from civil and criminal jurisdiction while on assignment, legal resources and remedies available to domestic workers, and the criminal response otherwise available to the host government, are significantly limited. There are however actions that countries,

embassies and consulates can take to prevent these forms of exploitation. Preventive strategies should apply to all domestic workers employed by embassies or consulates in the receiving state independent of where the workers come from, as well as nationals of the sending state working in the receiving state. This should also conversely apply to nationals of the receiving state employed as domestic workers in the country that the embassy or consulate represents.

THE EMBASSY OR CONSULATE CAN SET UP A POLICY AGAINST THE ABUSE OF DOMESTIC WORKERS WITH INSTRUCTIONS TO DIPLOMATS AND CONSULAR STAFF ABOUT THE TREATMENT ACCORDED TO THEIR DOMESTIC WORKERS.

THE INSTRUCTIONS MIGHT INCLUDE;

- Rules against any form of exploitation with repercussions for any form of abuse
- Holding the diplomats responsible for their treatment of domestic workers
- Employment contracts with mandatory provisions, such as minimum wages, holiday, ability to contact family etc.
- Compulsory review of the employment contract for the domestic workers
- Providing domestic workers with information about their rights and how to obtain help if they need it

RISK ASSESSMENT

The specialist service providers or the law enforcement agencies, if they are involved, should perform a thorough risk assessment. You should also evaluate the potential risks to victims of trafficking. Victims of trafficking are subject to a number of threats, including from organised crime, and it is important to be aware of the risks. **STAY SAFE** • Carefully identify and thoroughly assess the security risks involved in each case. • Constantly adhere to best practice security procedures.

GENERIC RISK ASSESSMENT – ASSESSES THE SITUATION IN THE COUNTRY IN WHICH YOU ARE BASED

• *How extensive is trafficking where you are?* • *Are you in a country of origin, transit or destination, or a combination?* • *Is trafficking in persons controlled by organised criminal groups or other networks?* • *Have those groups planned or implemented reprisals against the victims or those assisting them?* • *Are the local law enforcement agencies reliable?* • *Is there known corruption and on what perceived level?* • *How committed is the government to combating trafficking in human beings?* Each case will present different challenges and risks.

Therefore, you must conduct a specific risk assessment based on the individual case and develop a risk management plan. These must be reviewed and revised if new information is presented. You must keep all information concerning the victim, the trafficking process and any organization assisting the victim secure.

You must consider the safety of individuals and organizations that the victim will come into contact with – NGOs or specialized service providers, church groups, interpreters and individuals such as other victims, relatives or friends of victims. Your primary goal must be to properly identify and assist a victim without risking the persons security. But you should be aware that criminal networks can try to access victims or infiltrate service providing organizations by the use of false identity as well as to those assisting them. You can help to design a risk management plan addressing the areas identified in the risk assessment.

THIS SHOULD BE CONTINUOUSLY REVIEWED AND ASSESSED THE FOLLOWING FACTORS AFFECTING RISKS SHOULD BE CONSIDERED IN THE ASSESSMENT:

- The risk of reprisals from traffickers, irrespective of the victim cooperating with law enforcement agencies.
- The risk levels are usually magnified and more immediate when the victims chooses to cooperate with law enforcement agencies
- The organization or authority overseeing the return must perform a risk assessment so that victims are not returned to countries where they might suffer harm, retribution, stigmatization or discrimination. The family environment that the person would return to and the support services available should also be considered. Furthermore, is there a risk for re-trafficking if the victim return home? Return of victims of trafficking to their home country should always be SAFE RETURN safe and dignified. You can help to make sure that this happens. The chain of assistance and the organization overseeing the return process differ from country to country. In a number of countries the International Organization for Migration performs this role, in other countries it is national governmental actors such as the police or migration authorities or nongovernmental organizations.

YOU SHOULD DISCUSS THE RETURN PROCESS WITH BOTH THE VICTIM OF TRAFFICKING AND THE ORGANIZATION THAT IS OVERSEEING THE RETURN PROCESS

- Ask the victim what they have been informed about the return process. Have they made informed decisions? Have they made preparations?
- You can help to prepare documents and assist with travel arrangements, including accompanied return as needed.
- Your other main role should be to act as a coordinator between the country you are based in and the country that the person will return to as you have relevant contacts and information about the return country.
- Contact the organization in the country that they will return to, to arrange for someone to meet the victim of trafficking when she/he arrives. This organization should also help with referral of the victim to specialist service providers in that country.
- Be aware that the transportation phase of the return can mimic aspects of the victim's trafficking experience. To make this less stressful it must be ensured that the victim of trafficking is fully informed about each stage and reassure them throughout.
- Accompanied returns can help to alleviate that stress because the person accompanying the victim can provide support and safety.
- An unsafe return procedure is a breach against the victim's rights and poses great risks to the victim's recovery and safety and it may result in them being re-trafficked article 8 of the palermo protocol requires that any repatriation of victims must be with due regard for their safety, irrespective of whether they have cooperated in any criminal proceedings.

SPECIAL GUIDELINES FOR IDENTIFYING AND ASSISTING CHILDREN

Children are particularly vulnerable and therefore it is more than necessary to be especially sensitive when dealing with individuals under the age of 18. The Vienna Convention ensures that consular staff can safeguard the interest of minors. You must notify the relevant child protection agency in charge of taking decisions on further protection and assistance. Consider that parents and relatives may be involved in the trafficking and exploitation of the child. As children are normally very loyal to their families, you cannot expect that the child will seek protection from child protection services on their own initiative. In 2006, the United Nations International Children's Fund (UNICEF) published guidelines on how to handle a suspected case of child trafficking. There is an established network of National Whenever you come into contact with a child (under 18 years old), special considerations must be made and these cases should be handled by trained child specialists.

