VICTIM IDENTIFICATION TOOLKIT

LIBERTY ASIA
TO PREVENT HUMAN TRAFFICKING

2016
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Preface
Preface

Human trafficking is one of the fastest growing forms of organized crime globally, an industry that is estimated to generate 150 billion dollars per year.¹ There are more than 20 million estimated victims of trafficking in the world and over half of this number are in Asia. Over 25% of this total number of victims are children. Trafficking in persons takes many forms and can include sex trafficking, labour trafficking, marriage trafficking, organ trafficking and child trafficking. Human trafficking is a gross violation of human rights that involves the debasement and commodification of individuals. Its essence is exploitation and its markers are coercion, control and deception. Sex trafficking and labour trafficking are the most common forms of trafficking in Hong Kong although strictly speaking Hong Kong laws only recognize cross-border trafficking in persons for the purpose of prostitution.

The number of victims identified on a national and international level is very low. In 2014, the US Department of State reported that only 44,462 of the estimated 20 million or more slaves in the world are identified worldwide.² This huge disparity between the numbers of victims estimated globally and the actual number identified provides a measure of the monumental task that lies ahead of the counter-trafficking movement on an international and national level. It is very common for authorities to maintain that human trafficking is not an issue that impacts their jurisdiction given the low numbers of victims. However, given the invisibility of victims of trafficking and the hidden nature of the crime, it falls upon civil society (support providers in particular) and members of the law enforcement forces to educate themselves on the complex and multi-layered victim identification process so that those in need do not go unrecognized and unassisted.

This victim identification toolkit is aimed at NGO service providers, the police, immigration officials, teachers, health authorities and other such persons as are likely to encounter victims of human trafficking in the course of their daily work. The toolkit sets out definitions of trafficking and associated concepts such as slavery, debt bondage etc. Common misunderstandings about these definitions are also addressed, for example, the relationship between prostitution and trafficking. Common issues surrounding identification are also discussed. The toolkit then examines human trafficking in the Hong Kong context and also puts forward recommendations for improving the existing legislation and infrastructure. Child trafficking is dealt with separately to ensure that the nuances between child and adult trafficking are adequately drawn out. From a practical standpoint, a directory of support services is also provided with a note of the relevant organizations’ expertise and contact details. In addition, checklists and indicators based on common identification criteria are provided for use by first responders to facilitate targeted information gathering and to assist with identification of victims. A Victim’s Charter is also included so that service providers can use this to inform beneficiary groups of their rights and this can be used independently of the toolkit. The training kit and training evaluation forms set out in the Annex are for the use of NGOs to train staff and volunteers on the topic of human trafficking. The Annex also sets out five different exploitation profiles that examine different forms of trafficking and the totality of the laws they infringe in Hong Kong.

Finally, this toolkit is intended to provide a foundation for further efforts to tackle the challenge that is presented by the identification of victims of human trafficking. If victim

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² US Department of State, Trafficking in Persons Report, 2015
identification processes are not put in place and mainstreamed in the work that support providers and law enforcement services undertake, there is little hope that victims will be identified and rescued or that traffickers will be prosecuted.

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Definitions and Characteristics
DEFINITIONS AND CHARACTERISTICS

This section defines key terms/concepts used throughout this toolkit. As a starting point, it is useful to note that the term “trafficking” and related terms are often misunderstood by governments as well as the general public. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (“Palermo Protocol”) provides a comprehensive definition that is widely accepted by experts in the field of human trafficking. However, not all nations have adopted this definition and many continue to focus on interpreting prostitution as the only form of trafficking. In Hong Kong for example, trafficking is linked with prostitution and movement to and from Hong Kong. This policy is not in keeping with international conventions and standards on human trafficking. The essence of trafficking is exploitation rather than movement. It is therefore important to understand the terms and concepts as defined under international law and standards and examine the characteristics they display in practice.

**Trafficking in persons**

The scope of the Palermo Protocol applies to the prevention, investigation and prosecution of human trafficking offences that are transnational in nature and involve an organized criminal group. The Palermo Protocol also covers the protection of victims of such offences.

“Trafficking in persons” is defined by the Palermo Protocol as:

(a) 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;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

... This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Palermo Protocol arts. 3 and 4.
The Palermo Protocol describes the three elements of human trafficking as: (1) the act of trafficking, (2) the means of trafficking, and (3) the purpose of trafficking.¹

1. **the act** of trafficking:
   - recruitment (can take place in formal and informal ways. Formal ways are through registered or illegal agencies. Informal ways are family, community members, or any other intermediary);
   - transportation (physical movement of victims to an unfamiliar place, far from home and under the control of the traffickers);²
   - transfer (any kind of handing over or transmission of a person to another person);
   - harbouring (accommodating or housing persons whether during their journey or at the place of exploitation); or
   - receipt of persons (meeting victims at agreed places on their journey to give them further information).

2. **the means** of trafficking:
   - threat of force or other forms of coercion;
   - use of force or other forms of coercion;
   - abduction;
   - fraud;
   - deception;
   - abuse of power or a position of vulnerability; or
   - the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

3. **the purpose** of trafficking: exploitation

The Palermo Protocol also defines, at a minimum, the meaning of “exploitation”:
   - 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.

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¹ The three elements of human trafficking are: (1) the Act (recruitment, transportation, transfer, harbouring or receipt of persons), (2) the Means (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim), and (3) the Purpose (for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and removal of organs), Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United nations Convention against Transnational Organized Crime, Resolution 55/25, November 15, 2000.


1. Exploitation of the prostitution of others or other forms of sexual exploitation

The Palermo Protocol does not define these concepts. However, other international documents and national penal codes define acts of sexual exploitation. Although prostitution per se is not illegal in Hong Kong, numerous acts relating to sexual crimes are penalized pursuant to the Crimes Ordinance (Cap 200):

s. 129 Trafficking in persons to or from Hong Kong for the purpose of prostitution
s. 130 Control over persons for purpose of unlawful sexual intercourse or prostitution
s. 131 Causing prostitution
s. 132 Procurement of girl under 21
s. 133 Procurement of mentally incapacitated person
s. 134 Detention for intercourse or in vice establishment
s. 136 Causing or encouraging prostitution of mentally incapacitated person
s. 142 Permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act

2. Forced labour or services

The International Labour Organization’s (ILO) Convention No. 29 defines “forced labour” as:

1. (...) forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. (...) the term forced or compulsory labour shall not include—
   (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
   (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
   (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
   (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
   (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

ILO Convention No. 29, art. 2.
Evidence of “menace of penalty” includes: physical violence against the worker or their family or close associate, sexual violence, threat of supernatural retaliation, imprisonment or physical confinement, financial penalties, denunciation to police or immigration authorities and deportation, dismissal from current employment, exclusion from future employment, exclusion from community and social life, removal of rights of privileges, deprivation of food, shelter or other necessities, shift to even worse working conditions, and loss of social status. However, the prohibition of forced labour is not absolute as the ILO Convention permits certain forms of forced labour (ILO Convention No. 29, art. 2.2).

It is worth noting that slavery always involves forced labour, whereas forced labour may exist without slavery if the element of ownership is not present.

In 2012, the ILO contended that 18.7 million victims, or 90 percent of the estimated 20.9 million slaves, are trapped and exploited in the private sector, with 14.2 million of these forced into economic activities such as agriculture, construction, domestic work or manufacturing.

Many tactics are used to keep workers in states of entrapment along the migration route, from the point of recruitment, all the way to their destinations. Often they are required to surrender their passports, face threats of deportation and harassment and must pay a penalty fee if they wish to end their contracts early. Exploitation frequently starts at the recruitment stage. The often illegal recruitment fees charged to prospective workers for job placement, combined with interest on loans and lower than promised wages, can mean workers essentially end up working for free.

Many workers take loans to pay for travel and other employment agency fees before starting jobs. Workers who acquire this type of debt, frequently under false pretences, are bound in exploitative situations even where they are physically able to leave. This dangerous combination of false promises, debt, and abusive working conditions has forced some workers into situations of extreme exploitation and forced labour.

3. Slavery or practices similar to slavery

Slavery
The Slavery Convention describes slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” (Slavery Convention art. 1(1)). The prohibition on slavery is absolute without any exception.

Practices similar to slavery
Practices similar to slavery are debt bondage, serfdom, forced marriage and delivery of a child for the exploitation of that child under the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

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6 The Anti-Slavery Think Tank, From Experience: How to Combat Slavery in our Generation, Liberty Asia/Share (Asia Pacific) Ltd., 2013, p. 37.
Under Article 1 of the above mentioned Convention, debt bondage is

(a)(…) the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art 1.

Debt bondage generally consists of an artificial debt that cannot be paid off in a reasonable time. The employer/enforcer who engages in this criminal practice artificially inflates the amount of debt, often by adding exorbitant interest, deducting little or nothing from the debt and increasing the amount of time the so called debtor must work.7

The ILO estimates the vast majority of all slaves are forced into labour within the private sector. Therefore, private sector industries must seek an understanding of the characteristics and experiences of those vulnerable population to this type of exploitation, the specific patterns within which human trafficking networks operate, and the means human traffickers employ to trap workers, such as debt, contract fraud, false promises, and a lack of recourse for workers.8

4. Servitude

Servitude is a form of exploitation that is often linked to human trafficking. Although the term “servitude” is not explicitly defined by international law, two likely elements of a definition can be extracted from several international interpretations: a dependent, economically abusive labor relationship and no reasonable possibility of escape.9 It is frequently found in unique circumstances, such as work in a private residence or the food service industry, where workers are commonly not visible to the public. These situations create unique vulnerabilities for victims. In the domestic worker context, the workplaces are informal, connected to off-duty living quarters, and often not shared with other workers. Such an environment can isolate domestic workers and be conducive to exploitation as authorities cannot inspect homes as easily as formal workplaces. Investigators and service providers report many cases of untreated illnesses and, tragically, widespread sexual abuse, which in some cases may be symptoms of a situation involving servitude.10

8 The Anti-Slavery Think Tank, supra note 6 at 39.
9 The revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime proposed that servitude “shall mean the condition of a person who is unlawfully compelled or coerced by another to render any service to the same person or to others and who has no reasonable alternative but to perform the service, and shall include domestic servitude and debt bondage”. A/AC.254/4/Add.3/Rev.7, July 19, 2000, Article 2 bis(c). Servitude is not defined, however, in the final version of the Trafficking Protocol. The UNODC Model Law against Trafficking in Persons suggested that servitude “shall mean the labour conditions and/or the obligation to work or to render services from which the person in question cannot escape and which he or she cannot change.”
“Red flags” are markers associated with tactics used by labour brokers and downstream employers to trap workers or maintain them in bondage. These include situations where:

- Identity documents, passports, or other valuable personal possessions are confiscated or withheld;
- Excessive, unexplained, or illegal deductions are made from workers’ salaries that result in induced indebtedness;
- Wages (regular or overtime) are withheld, delayed, or unpaid;
- Workers do not have control over their bank accounts;
- Workers are forced to lodge financial deposits or “security” fees, e.g., as “runaway insurance”; 
- Workers are threatened, harassed, or suffer corporal punishment;
- Freedom of movement is curtailed, especially in migrant workers’ housing;
- Workers are unable to terminate their employment without incurring significant financial penalties;
- Workers are required to assume the cost of repatriation under all circumstances;
- Contract substitution is practiced (such as requiring the worker to sign a new contract specifying lower wages, higher charges for housing, or otherwise less favourable working conditions).

### Child trafficking: definition of child, forms of child trafficking

#### General situation

The most recent ILO global child labour estimates were for the year 2012 and indicated that 168 million boys and girls worldwide are engaged in child labour. This accounts for almost 11 percent of the overall child population. Child trafficking is considered to be the “worst form of child labour.” (ILO Convention No.182).

Child victims of trafficking may move in a somewhat independent or unrestricted manner, or they may be accompanied by other children or adults. Children can be trafficked internally or across borders for a variety of exploitative purposes such as sexual exploitation including sex tourism, prostitution, pornography or for forced labor in factories, domestic servitude, and begging rings.

Children who have been trafficked are in a particularly vulnerable situation as they are away from home and usually separated from their family and community. They may also be isolated in a country or region where they do not know the language, cannot get help and have no way to return to their home. Such isolation makes children vulnerable to trafficking and/or many other forms of abuse. Trafficked children are totally at the mercy of their employers or the people who are controlling their lives and hence are at risk of sexual aggression, starvation, loss of liberty, beatings and other forms of violence.

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11 The Anti-Slavery Think Tank, supra note 6 at p. 40.
While both boys and girls may fall prey to human traffickers, the profiles of the trafficked children differ according to demand in the place of destination. This profile may also change as the child matures. For example, in some regions both boys and girls are trafficked from rural or semi-urban areas into 'big cities' to work as child domestic labourers. Boys, however, tend to move on from domestic labour as they approach adolescence and may end up being exploited in agriculture, manufacturing or service industries. Girls are more likely to stay in child domestic labour situations for longer. Though statistics show that it is mostly women and girls who fall victim to sex trafficking, it is important to note that boys and young men are also vulnerable to trafficking for sexual exploitation.

Control methods used in child trafficking are similar to those used for trafficking adults: physical violence, sexual abuse, threats to the child and/or family, withholding identity documents, drugs and alcohol. Children are particularly vulnerable to these control methods as they may be less able to distinguish right from wrong and defend themselves when faced with a dangerous situation.

The Palermo Protocol identifies child trafficking as a special case where the presence of one of the core elements -- the “means of trafficking” -- is not essential. The use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the giving or receiving of payments or benefits to a person in control of the victim do not need to be present to constitute child trafficking. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is adequate in order to consider a child a victim of trafficking. (Palermo Protocol art. 3(c)). In the case of child trafficking, the trafficking act may be penalized even if the act does not involve any means of the crime as stipulated by the Palermo Protocol.

Definition of child

The United Nations Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”. (Convention on the Rights of the Child, art. 1). A “child” is also defined as “any person under eighteen years of age” under article 3(d) of the Palermo Protocol.

Under the above conventions, any individual under the age of eighteen is automatically considered a child, thereby benefitting from the special treatment afforded to children under these conventions.

The definition of child under Hong Kong law is different from that set out under the international standards. Different pieces of legislations define different age limits. For example, according to the Prevention of Child Pornography Ordinance (Cap 579), “child” means a person under the age of 16 (section 2 (1)).

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14 Id. at p.29.
15 See note 1.
16 Please see Part 6, Child Trafficking, for further details.
Forms of child trafficking

1. Child sexual exploitation

The United Nations Convention on the Rights of the Child stipulates that:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;
(b) The exploitative use of children in prostitution or other unlawful sexual practices;
(c) The exploitative use of children in pornographic performances and materials

Convention on the Rights of the Child, arts. 19 and 34.
The United Nations Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, art. 2.

ILO Convention No. 182 on the Worst Forms of Child Labour defines “the worst forms of child labour” as “(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances” (article 3).

The Crimes Ordinance sets out a number of sexual offences against children:
- s. 118C Homosexual buggery with or by a man under 21 (only if the victim was under 16)
- s. 118D Buggery with a girl under 21 (only if the victim was under 16)
- s. 118G Procuring others to commit homosexual buggery (only if to procure a victim under 16)
- s. 118H Gross indecency with or by a man under 21 (only if the victim was under 16)
- s. 123 Sexual intercourse with a girl under 13 (only if the offender was 18 or above)
- s. 124 Sexual intercourse with a girl under 16 (only if the offender was 18 or above)
- s. 127 Abduction of an unmarried girl under 18 for sexual intercourse
- s. 135 Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
- s. 138A Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances
- s. 140 Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse
- s. 141 Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act (only if the victim was under 16 and the offender was 18 or above)
- s. 146 Indecent conduct towards child under 16

2. Child forced labour

The United Nations Convention on the Rights of the Child states that: “States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.” (Child Convention, art. 32)
ILO Convention No. 182 on the Worst Forms of Child Labour defines “the worst forms of child labour” as:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(...)

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

ILO Convention No. 182, art. 3.

**Trafficking, smuggling, migration**

Human trafficking, smuggling and migration are closely related actions with certain distinctions. In all three cases movement is involved. At the end of migration or smuggling the migrant is often free to make his/her own choices and the smuggled person may walk away freely. However, a trafficked person is subjected to exploitation (often in multiple ways) and may not leave at his/her own choice.

According to the International Organization for Migration (IOM) migration is “the movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.”

Migration may take place through regular or irregular channels and may be freely chosen or forced upon the migrant as a means of survival.

Types of migration:

- **Permanent immigrants** – documented migrants admitted for permanent resettlement in the host country.
- **Temporary migrant workers** – admitted by a country for the explicit purpose of exercising an economic activity such as contract migrant workers.
- **Refugees** – “any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country” (1951 Convention Relating to the Status of Refugee, art. 1A(2)).
- **Irregular or undocumented migrant workers** – those who do not comply with the conditions necessary to be authorised to enter, stay and engage in a remunerative activity in the country of employment. They can be:
  1. Those who enter the country legally but whose stay or employment contravene the law (for example, an overstayer);

2. Those whose stay and entry are lawful but who do not have the right to work and are engaged in illegal or illicit employment;
3. Those who enter the country illegally and who seek to change their status after arrival to find legitimate employment;
4. Those who have entered the country illegally, whose stay is unlawful and whose employment is illegal.\(^{18}\)

Irregular migration is “movement that takes place outside the regulatory norms of the sending, transit and receiving countries. (...) From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations. From the perspective of the sending country, the irregularity may be, for example, cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term “illegal migration” to cases of smuggling of migrants and trafficking in persons.”\(^{19}\)

If the method of migration is irregular, then a smuggler may assist the migrant by facilitating illegal entry into a country, for a fee. The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the “Migrant Smuggling Protocol”) defines “smuggling of migrants” as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident” (article 3). The fee may be exorbitant and may expose the migrant to serious dangers in the course of the journey. On arrival at his/her destination, the migrant is free to make his/her own way and usually does not see the smuggler again.

For trafficked persons, it is often only once they arrive in the country of destination that their real problems begin. They have often been promised a job that does not exist or forced to work in jobs or conditions that they did not agree to. What makes trafficking identifiable and distinct is not the movement of a person from one place to another, or the site of work per se, but the brokering, lack of consent and the exploitative conditions of work.\(^{20}\)

In practice, the distinction between migrant smuggling and trafficking in persons is not always easy to establish and maintain. Many trafficked persons may begin their journey as smuggled migrants and continue as trafficking victims in order to pay off large transportation costs. It is at this later stage that the exploitative end-purposes of trafficking (debt bondage, extortion, use of force, forced labour, forced criminality, forced prostitution) will become apparent.\(^{21}\)

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\(^{18}\) Anti-Slavery International, supra note 2, at p.6.
\(^{19}\) IOM, supra note 17, at p.54.
\(^{20}\) Anti-Slavery International, supra note 2, at pp. 5-6.
Prostitution vs. trafficking

Prostitution and trafficking are not interchangeable terms although they are often used interchangeably in the context of commercial sexual exploitation. Certain anti-prostitution groups view all prostitution as harmful and as a form of violence against women.\textsuperscript{22} They believe that prostitution fuels trafficking and therefore argue for the criminalization of prostitution as a measure to indirectly address trafficking. This, however, is not in line with current international views. International law does not criminalize prostitution; it leaves individual States to address the issue as they see fit. Criminalizing prostitution to combat trafficking confuses the national issue of prostitution with the international crime of human trafficking.

According to the Palermo Protocol the exploitation of the prostitution of others is one of the forms of exploitation. This definition is deliberately wide, and was not intended to be limited to prostitution or pornography per se. It allows States Parties to further define and address the issue of prostitution in their respective domestic laws. Since the Palermo Protocol was concluded, several different definitions of “sexual exploitation” have emerged, confirming that many of the earlier controversies documented are alive and well.\textsuperscript{23}

This table\textsuperscript{24} presents a summary of differences between prostitution and sexual exploitation.

<table>
<thead>
<tr>
<th><strong>Prostitution</strong></th>
<th><strong>Sexual exploitation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual is generally aware of the type of work in which he/she will participate (voluntary involvement).</td>
<td>Individual is generally unaware of the type of work he/she will be doing (involuntary involvement).</td>
</tr>
<tr>
<td>Individual works independently or with a pimp.</td>
<td>Individual always has a pimp or trafficker.</td>
</tr>
<tr>
<td>Commonly work in the same geographic location.</td>
<td>Commonly are moved by the trafficker to different locations.</td>
</tr>
<tr>
<td>Paid.</td>
<td>Generally unpaid.</td>
</tr>
<tr>
<td>May be legal or illegal.</td>
<td>Always illegal.</td>
</tr>
<tr>
<td>Does not always involve force, fraud, or coercion.</td>
<td>Always involves force, fraud, or coercion.</td>
</tr>
</tbody>
</table>

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Issues Surrounding Identification of Victims of Trafficking
In 2014, the US Department of State reported that out of the more than 20 million estimated victims of trafficking worldwide, only 44,462 victims were identified as trafficking victims.\(^1\) This illustrates the fact that current victim identification processes and those who implement them are failing to identify the vast majority of victims. A greater understanding of the multi-layered identification process is required and first responders ought to understand the issues affecting victim identification processes. The following section aims to examine some such issues.

**Identification is a complex and multi-layered process**

Due to the complex and hidden nature of the human trafficking crime, identification is not a straightforward process. There are several components to this process ranging from the assessment following the initial referral to the conclusion of a police investigation and formal judicial recognition of victimhood following court proceedings.\(^2\) Due to various reasons set out below, not all suspected cases of trafficking undergo these different levels of identification. Preliminary identification is key as it entitles a victim to justice in order to protect their rights. At this stage, a victim may also be referred to relevant support services. Recognition at the end of a police inquiry makes it easier to access support because it legitimizes the victim’s situation especially where the latter is involved in a violation of immigration and/or criminal laws and therefore not entitled to access support per se. Judicial recognition often entitles the victim to further rights, e.g. restitution, residence etc.

The Organization for Security and Co-operation in Europe (OSCE) describes the many levels of victim identification as follows:\(^3\)

**Victim identification** is a complex and time-consuming process that may involve the following stages (but not necessarily all of them):

- Preliminary identification of presumed victims by non-specialized police in partnership with community members;
- Identification by specialized police units for the purpose of deciding whether the crime of human trafficking was committed;
- Procedural identification where the victim is already a part of a criminal justice process as a witness or an injured party (usually done by public prosecution); and
- Judicial identification (done by court decision) that gives a victim the right to ask for or receive compensation.

**Gender**

Women’s low status in their country of origin often colours their experience as victims. In particular, there is a real reluctance to come forward and seek help as that would involve an admission of actions that are likely to bring shame on the victim. For a victim, concealing their identity becomes a means of escaping re-victimization.

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3 See Id.
Fear of authorities
Victims’ lack of cooperation with the police is often an issue faced by investigations into human trafficking cases. Victims’ perceptions are often influenced by their experience with authorities in their own country of origin. In particular, in many states, law enforcement officials are often corrupted or complicit in human trafficking activities hence leading to victims’ lack of faith in their ability to help. In many cases, police are often a means used by the Government to perpetuate a rule of fear and victims are inherently fearful of such officials.

Fear of reprisals
Traffickers often recruit victims from neighbourhoods/families known to them. This becomes a means of controlling and securing the compliance of victims by persistently making threats to the victim in relation to his/her family and friends. As a result, victims often refuse to collaborate with the police investigation for fear of inviting reprisals against their loved ones. Victims often fear reprisals upon themselves if they fail to comply with the traffickers’ orders. Such reprisals can take the form of beatings, sleep or food deprivation and extreme isolation.

Nexus between immigration/crime and trafficking
Human trafficking often involves breaches of immigration and/or criminal laws by victims as a direct result of being trafficked. Moreover, the focus on the element of movement in the act of trafficking serves to frame trafficking as an immigration/criminal issue as opposed to a gross abuse of human rights. Victims are often criminalized for falling foul of immigration laws and this further shrouds their victim status. Victims’ fear of deportation often leads to traffickers strengthening their control over victims.

The Palermo Protocol does not expressly require States to refrain from criminalizing victims but best practice guidelines such as The Recommended Principles and Guidelines on Human Rights and Human Trafficking of the UN High Commissioner for Human Rights denounce criminalization of victims. Criminalization of victims significantly decreases the chances of them seeking help from the authorities and limits victims’ ability to access justice and claim their rights. This also has a knock-on effect on the likelihood of successful prosecution against a perpetrator.

Victims’ lack of understanding of their victimhood
Victims often blame themselves for their plight (e.g. where the victim has incurred a debt and is repaying the trafficker using his/her earnings) or are ashamed of their situation and therefore fail to self-identify. Moreover, the fact that victims often fall foul of immigration laws and have a poor understanding of the laws of the destination country and subsequently of their rights makes it harder for them to realize that they are victims with certain rights that may be exercised.

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4 *Id.* at II.1.
**Relationship with the trafficker**

Victims are often bound to their traffickers by intricate relationships ranging from personal relationships through marriage to simply their perception that the trafficker, often a fellow countryman, will be their sole support network in a foreign land. Traffickers are often the sole link between the victim and the outside world especially where the victim’s immigration status is irregular. The trafficker in this scenario often purports to protect the victim from the authorities and uses this as means of controlling the victim. Control (physical or psychological) is a central feature of the relationship between a trafficker and his/her victim. In addition, victims often suffer from Stockholm Syndrome which in turn makes identification even harder to achieve due to the victim’s misguided notion that the trafficker is there to protect them and look out for their interests.\(^7\)

\(^7\) See note 5.
Sources


Government Response to Human Trafficking
Government Response to Human Trafficking

The ‘Not here’ attitude

Across the different echelons of society and the different branches of the Hong Kong Government there has been a real belief that trafficking is not an issue that affects or concerns Hong Kong. There are a number of factors that have contributed to the “Not here” attitude and these include the very low number of identified victims and prosecuted cases, the lack of statistics and the lack of awareness amongst front line responders and the general public of the crime of human trafficking. From a government perspective, even if it was to acknowledge there was an issue, the existing legal framework was adequate to deal with the same.

There is a stark contrast between the Hong Kong Government’s perception of trafficking in Hong Kong and that of the US Department of State Trafficking In Persons Report which brands Hong Kong a “destination, transit, and source territory” for human trafficking victims hailing from countries such as mainland China, the Philippines, Thailand, other Southeast Asian countries, Nepal, Colombia, Chad and Uganda. On the other hand, the Hong Kong Government’s view is that there is “no sign or evidence” that Hong Kong had become a human trafficking hub. Specifically, the government rejected descriptions of the city as a destination, transit and source territory for sex trafficking and forced labour.

This attitude has changed somewhat in the past few months from “Not here” to one of being faced with pressure to respond to the issue. A landmark judicial review case heard on January 12, 2016 marks the first time the government is facing a legal challenge over its failure to pass laws protecting victims of forced labour and human trafficking. In this case, the victim alleged that his employer was verbally and physically abusive, subjected him to long work hours, withheld his wages and confiscated his travel document, all telltale signs of human trafficking. He is said to have sought assistance from the Hong Kong Police, the Immigration Department and the Labour Department to which he received none. This served as a ground for his claim that there had been a continuing breach of his rights under Article 4 of the Hong Kong Bill of Rights Ordinance, which prohibits servitude and forced labour. The outcome of the judicial review is awaited by many who see this as the only real catalyst for change. A series of police actions in the recent months to intercept and arrest a number of human trafficking syndicates have also put human trafficking on the radar. Issues remain as these suspects continue to be treated as just human smugglers and victims continue to be treated as committing immigration violations, thus facing deportation.

Foreign Domestic Helpers (“FDH”) have been an integral part of the social fabric of Hong Kong for many years. There appears to be a real reluctance on the part of the government to intervene in matters relating to FDH as these are perceived to be part of the private domain.

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1 US Department of State, Trafficking In Persons Report 2015, p.179.
In 2014 there was one conviction for labour violations in a high-profile case involving a Hong Kong employer who subjected an Indonesian domestic worker to physical abuse and withholding of wages, among other trafficking indicators. A number of employment agencies that charge exorbitant placement fees and confiscate passports and other essential documentation from FDH continue to operate freely in Hong Kong. Labor officials conducted inspections of approximately 1,300 employment agencies but revoked the licenses of only three. The Draft Code of Practice for Employment Agencies is non-binding and not likely to really curtail exploitative practices within employment agencies in Hong Kong. Often victims of trafficking for sexual exploitation enter Hong Kong as FDH.

Several reports indicate that a very high number of Indonesian helpers are trafficked to Hong Kong. Leaving their countries under the burden of a hefty placement fee paid to a local agency to secure a position in Hong Kong these women are already trapped. On arrival in Hong Kong, their wages, sometimes for almost their entire first year of employment, are paid directly to the placement agency by the employer. There is also anecdotal evidence of employers and placement agencies colluding and terminating FDH’s contracts to extract a further placement fee from them. FDH confined to such situations often fear losing their jobs and become extremely vulnerable to highly exploitative practices within the employers’ homes. The Hong Kong Government should take a greater interest in this issue and proactively enforce laws that prohibit such activity, including by stepping up inspections of placement agencies and collaborating with source countries to effectively contain the issue at both ends. A review of certain policies, for example the mandatory live-in policy and the two-week stay following termination of a contract, should also be revisited given that they facilitate exploitation of FDH.

A paradigm shift is required so that Hong Kong can seriously acknowledge that human trafficking is an issue in Hong Kong and like every violation of human rights, it needs to be prevented, investigated and prosecuted alongside the provision of a supportive and protective space for its victims. In the event that the judicial review is allowed, the finding of an obligation on the Government to create a legal framework to combat human trafficking will speed up this process and will result in a more strategic and comprehensive response from the Government, one that should elicit greater collaboration and support from civil society and other stakeholders.

**Weak legislative framework and the lack of adherence to international standards including the Palermo Protocol**

Hong Kong has not adopted the Palermo Protocol and as such its definition of trafficking and the existing anti-trafficking provisions are seriously lacking in depth and “bite”. Trafficking in Hong Kong is simply defined as the movement to and from Hong Kong for the purpose of prostitution (s. 129 of the Crimes Ordinance). This limited piece of legislation is supplemented by a battery of ancillary provisions such as living off the earnings of prostitution (s. 137 of the Crimes Ordinance). The current definition and the existing ancillary provisions make prostitution the key issue detracting from the actual

7 South China Morning Post, *Caritas Hong Kong and the fights against human trafficking*, 10 March 2013.
8 Amnesty International, *Exploited for Profit, Failed by Governments, Indonesian Migrant Domestic Workers Trafficked to Hong Kong, November 2013; Hong Kong Federation of Asian Domestic Workers Unions, Position Paper on Illegal Agency Fee Overcharges of Migrant Domestic Workers; and Indonesian Domestic Workers Union Survey 2012.*
crime of trafficking. This limitation is archaic and inconsistent with international law. Moreover, the focus of Hong Kong’s legislation is very much on the movement rather than the exploitation and this represents a gross misunderstanding of the crime of human trafficking. Framing the crime in terms of movement is placing it squarely within the realm of immigration law and policy whereas it should be treated as a gross abuse of human rights. If the problem is wrongly defined then the proposed solutions will likely be wrong too.

There is no criminal prohibition on forced labour nor does the law recognize any forms of trafficking other than trafficking for sexual exploitation for the purposes of prostitution. The anti-trafficking offence is set out in the Crimes Ordinance and the ancillary offences are scattered through the Crimes Ordinance, the Immigration Ordinance and the Employment Ordinance.

In Hong Kong there were few prosecutions for human trafficking between 2006 and 2014. In 2014, the government did not prosecute any suspects for trafficking and reported significantly fewer convictions than in 2013. Poor enforcement and prosecution is a recurrent theme in many other jurisdictions, including the United Kingdom and Australia. There are a variety of reasons for this: poor identification leads to few cases being prosecuted; and criminalization of victims, fear of reprisals and inadequate criminal justice support for victims often leads cases to crumble due to victims’ inability or unwillingness to provide evidence. Even though the offence of trafficking in persons in Hong Kong is punishable by 10 years’ imprisonment, the highest sentence given for this offence to-date is 5 years and 9 months. In some cases a fine and suspended sentence are also deemed appropriate. There is a need for prosecutors, the judiciary and defence lawyers to be trained on handling trafficking cases effectively. Better training of the legal community and front line law enforcement officials in addition to improvement of victim protection provisions in the Criminal Justice System will greatly enhance the quality and quantity of prosecutions in Hong Kong. Moreover, the culture of disbelief that permeates the different elements of the system needs to change to give victims a chance to have their day in court.

What Hong Kong needs is comprehensive legislation that:

- truly reflects the Palermo Protocol definition of human trafficking;
- elevates trafficking for forced labour and practices similar to slavery to the same ranks as trafficking for sexual exploitation. In particular, the definition of trafficking should recognize examples of forced labour practices relating to FDH, for example, debt bondage situations that arise from placement agencies charging extortionate fees;
- provides for asset forfeiture given that trafficking is a huge money making business and these measures will help to disrupt traffickers’ operations;
- makes provision for a victims’ compensation fund that victims can access should they wish to seek compensation for wrongs endured whilst in Hong Kong;
- provides for civil penalties and business/operating license forfeitures to be

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10 US Department of State, supra note 1, at p.180.
11 See note 6.
applied to employers who employ trafficked people;

- grants victims immunity from prosecution for certain crimes committed as a direct result of being trafficked. For example, breaching conditions of stay or being involved in illegal prostitution activities;
- clearly spells out victim protection measures without which victims are unlikely to feel safe and therefore unlikely to collaborate with authorities. The law should be drafted from a law enforcement and victim protection perspective to succeed in its aims;
- addresses money laundering, corruption and racketeering activities as these are all closely linked with human trafficking; and
- provides for targeted sentencing of offenders with enhancements available in some circumstances e.g., repeat offenders, public officials complicit in trafficking, child trafficking, trafficking of the physically and/or mentally impaired, individuals who use a position of trust to take advantage of their victims, etc.

**Lack of training of first responders**

First responders are generally those likely to encounter victims in their daily line of work. They can be police officers, border officials, airport staff, health professionals, educators, interpreters, social workers, lawyers and judges. The Hong Kong Government maintains that police officers are given regular training on latest trends in human trafficking, victim identification and access to support services for victims. In 2014, authorities trained approximately 500 front-line police officers and immigration officials on trafficking. In addition, frontline officers carry “Action Cards” for “Debriefing of Human Trafficking Victims”. Official anti-trafficking efforts in Hong Kong are headed up by the Organized Crime and Triad Bureau (“OCTB”). The OCTB has stated that anti-trafficking training is a part of the Standard Criminal Investigation Course and Special Duty Squad course provided by the Police Detective Training Section. Furthermore, enforcement officers regularly participate in conferences, workshops and seminars on anti-trafficking related subjects.

In 2014, authorities identified twenty-six potential sex trafficking victims, an increase from seven in 2013. However, the government did not prosecute any suspects for trafficking and reported significantly fewer convictions than in 2013. Four trafficking investigations were initiated, all of which remained pending at the close of the reporting year. Authorities also did not refer any potential victims to facilities where they could receive care in comparison to the previous year where all identified victims were referred to care facilities. It is astonishing that following the arrest of over 4,000 people in 2014 on suspicion of taking up unlawful employment in the form of sex work that the human trafficking figures remain so low. The same applies for the forced labour cases, where 2,179 FDH were granted visa extensions to resolve legal disputes and yet not one case of trafficking for forced labour.

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12 US Department of State, supra note 1, at p.180.
13 Legislative Council Panel on Constitutional Affairs, supra note 9, at paragraphs 14.3 and 14.5.
14 Hong Kong Security Bureau, Response to TVB Pearl report, August 2013.
15 See supra note 6.
16 Id.
17 Coconuts Hong Kong, Over 4,000 mainlanders arrested for unlawful prostitution in 2014, 6 February 2015.
has been identified.\(^{18}\) Similarly high numbers of visa extensions from previous years have yielded not a single forced labour case.

It appears that many trafficking for forced labour cases are slipping through the net due to a lack of education on identification, compounded by weak laws and the fact that trafficking is not core police business. This leads to the conclusion that the training officers are receiving is not adequate or that training received is not being implemented adequately in practice. Together these factors account for the very low recognition rate of trafficking victims in Hong Kong.

**Counter-trafficking is not core police business**

For effective policing to make a difference in counter-trafficking, it is essential that it is well-funded and supported by the central government. Human trafficking is organized crime and should be tackled as such and not simply as an immigration crime.\(^{19}\) Being the specialist anti-trafficking unit, the OCTB should aspire to lead by example and share best practice with units dotted around Hong Kong. The OCTB should build its expertise in combatting human trafficking as a gross abuse of human rights rather than as a matter that is close to immigration crime owing to parallels drawn between smuggling and trafficking and because those trafficked often have irregular immigration status or forged documents. Viewing trafficking as an immigration crime simply leads to the criminalization of victims who find themselves trapped in an irregular immigration situation.

Given how little is known about trafficking for forced labour in Hong Kong, the OCTB should take firm and decisive action to learn more about the issue by initiating rigorous training and education on the subject and perhaps by running a pilot project for a specified period of time that would allow valuable learning on the subject. HK Police Forces should be educated about the indicators for forced labour and educated about the need to investigate document retention, excessive placement fees and other such indicators that are all markers for debt bondage situations.

With the OCTB leading the charge, anti-trafficking should be made part of the core business of all police officers with the OCTB coordinating operational matters and taking the lead in ensuring that training pertaining to all forms of trafficking is rolled out to all police forces in Hong Kong. Costs for running counter-trafficking activities should be mainstreamed into operational budgets for core police work.

\(^{18}\) US Department of State, *supra note 1*, at p.181.

The lack of a central referral mechanism

A National Referral Mechanism (“NRM”) is a structure that formalizes the cooperation between a state and NGOs with the primary purpose of protecting the rights of victims of trafficking by ensuring fair and equal identification and referral of victims to support services.\(^{20}\) The cornerstones of an effective national referral mechanism are collaboration between NGOs and the Government and victim protection. NRMs have been successfully trialed and set up in a number of jurisdictions such as the United Kingdom\(^{21}\) and Vietnam.

The benefit of a central referral system is the formalization of victim identification and onward support service referral mechanisms. These structures are crucial in ensuring early identification of victims and fair assessment of each suspected case of trafficking. The mechanism is operated by a central body (preferably constituted by key stakeholders e.g. law enforcement and NGOs) which processes all cases within a fixed time frame.

Outcomes can vary from a finding of no trafficking and therefore no onward referral to support services to a finding of trafficking and onward referral to support services. There will also be borderline cases where the evidence hints at trafficking but the victim may not be cooperative enough to confirm this is the case. It is for such reasons that it is essential for NRMs to be flexible enough to accommodate such cases.

NRMs are best suited when tailored to a country’s needs. However, there are 4 core components\(^{22}\) that a NRM must include:

1. Identification protocols and clear guidance on onward referral to support services. It is essential that this process is in accordance with the wishes of the victim, and they should have a say over the process they are being made to be a part of.
2. The support services should include specialized shelters, access to medical services, psychological assistance, legal advice, repatriation services (if requested) and other such assistance as may be appropriate in the given circumstances.
3. Protocols on collaboration between victims and law enforcement. These should be made very clear to the victim, and the victim should have the final say in the course of action they wish to pursue.
4. Cross-participation of a range of actors with the view to participating in the provision of a multi-functional solution to this intricate issue.

Hong Kong would benefit greatly by the implementation of a national referral mechanism, one that should be established following a consultation between Government, NGO stakeholders and beneficiary victims. The harmonization of victim identification and support services will go a long way in supporting victims and making it more conducive to assist police with their investigations.


\(^{22}\) OSCE, supra note 20, at p.16.
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Actors Involved in the Identification Process and their Likely Encounters with Victims
Actors Involved in the Identification Process and Their Likely Encounters with Victims

The victim identification process involves many actors and may include a great variety of law enforcement agencies, non-governmental organizations involved in victim support, health care institutions, etc. In order to achieve effective victim identification, actors should be trained accordingly and effective information-sharing networks should be operated.

Front line staff

Front line staff are those officers (such as border guards, immigration officers), labour inspectors, health care providers and social workers who first come into contact with presumed trafficking victims and are able to refer the victim to the appropriate safeguarding networks.

NGOs, social care providers, religious organizations

Trafficking victims feel reluctant to seek help from authorities. Their perceptions are influenced by experiences (from authorities, the traffickers) mostly in their country of origin. Due to the fear of authorities, the role of NGOs, social care providers and religious organizations in support provision is crucial.

Victims are likely to contact these organizations directly. Many victims attend drop in centers at NGOs, social care services and/or religious organizations and access help personally. Relatives and friends of victims may as well contact these centers for information, advice, and help.

Hotlines and helplines operated by these organizations also receive calls seeking help.

Social workers, religious workers, and trained volunteers are invaluable sources of support that can be directly accessed by victims. They guarantee confidentiality and take great care not to compromise the safety of those they support. They collaborate with other organizations and agencies to ensure that the victims’ needs are adequately met.

Although trafficking victims do not generally consider themselves as ‘victims,’ NGOs, social care providers and religious organizations have extensive experience of victim identification. Their personal relationship with the clients often leads to the willingness to testify in court.¹

Social workers who work with children need to pay particular attention to certain clues that make some children more vulnerable than others, such as feelings of isolation, low self-esteem, risk-taking behaviors and/or lack of self-worth. A list of behavioral indicators

pertaining to child sex trafficking and labour trafficking compiled by the US Department of Education can serve as a useful guide for social workers when providing services to victims or potential victims.  

**Border guards**

Trafficking victims may enter Hong Kong
- presenting their genuine passports; or
- as undocumented migrants presenting stolen or forged documents.

A person lacking identification documents or travel documents or presenting another person's identity and travel documentation at a border or other checkpoint is a strong indicator of trafficking in persons. However, in practice all of the above could potentially be indicative of trafficking, of smuggling or of irregular migration.

Victims are likely to have been coached with a story to tell the authorities at the border. They may act as if instructed by someone and knowledge gaps are very common in such cases.

According to the US Department of State Trafficking In Persons Report, Hong Kong is a destination, transit and source territory. Therefore, border officials should bear in mind that they may also encounter trafficking victims while trying to leave Hong Kong.

Almost all estimates of the scale of trafficking are based on statistics relating to the numbers of illegal migrants intercepted while being trafficked across borders. A major problem is distinguishing between trafficked and non-trafficked illegal migrants.

Accurate identification of a victim of trafficking who has not yet been exploited requires a border official not only to identify people whose migration has been facilitated by third parties, but to also determine whether those parties may have the requisite intent to exploit.

Most indicators of trafficking emphasize the exploitation phase of trafficking and place less emphasis on the recruitment stage. These indicators can be irrelevant or even misleading to border officials who must identify trafficked victims before any exploitation has taken place unless such indicators are combined with proactive questioning and monitoring, such as the following:
- Lack of credibility of situations observed and information provided by travellers;
- Purpose of travel compared with other apparent signs, e.g. luggage, money, physical condition of travellers, profession declared, etc.;

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Actors Involved in the Identification Process and Their Likely Encounters with Victims

- Luggage, e.g. quantity and type compared with statements of travellers;
- Items carried in luggage;
- Different citizenship of people in groups travelling together;
- Driver answering questions for all travellers;
- Same vehicles or means of transport used several times transporting different people;
- Same passport used several times by different people;
- Observing common features of travellers, e.g. physical appearance, age etc.;
- Individuals travelling together do not know each other;
- Behaviour and body language that indicates tension, unease, etc.8

It must also be noted that these indicators could suggest migrant smuggling or irregular migration as much as they point to trafficking. Having applied these indicators at a border checkpoint, in-depth investigation should be carried out following referrals.

**Police**

Trafficking victims are often identified pursuant to a police investigation.

Often, victims are also identified:

- through the investigation of other crimes associated with human trafficking, such as prostitution, fraud, pimping, violation of labour laws, money laundering;
- by certain sectors’ (construction, manufacturing) supervision;
- during vice raids;
- following anonymous tip-offs9; and
- during regular patrolling.

A Rescue and Restore Campaign Tool Kit10, developed by the US Department of Health & Human Services, contains key questions for law enforcement officers to consider when determining whether someone is a victim of human trafficking.

**Immigration services**

As the authority issuing visas, immigration services may also encounter victims. Therefore, immigration officers should be aware of their applicants’ overall behavior:

- How does the client talk?
- Does he/she seem coached by someone?
- Is he/she alone during the interview?

When issuing foreign domestic helper (FDH) visas, immigration officers should take into consideration the possibility of various trafficking scenarios such as forced labour, debt bondage, servitude and sexual exploitation.

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FDH’s visa extensions are often to resolve legal disputes with employers/agencies. These may also indicate the possibility of forced labour.

A list of useful trafficking indicators can be found in the Human Trafficking Indicators Pamphlet compiled by the US Immigration and Customs Enforcement (ICE). This pamphlet also gives an overview of ICE’s role in combating human trafficking.


A community health worker conducting a survey in the Korail slum, Bangladesh. ©Lucy Milmo/DFID
Health care providers

Health care providers are often the only professionals to interact with trafficking victims who are still in captivity. Given the lack of independent movement of victims, health care professionals should be aware that victims are often accompanied by another person often the perpetrator, such as a pimp. It is a general phenomenon that trafficking victims receive medical care on an emergency basis only. They often do not have timely access to health care, and by the time they reach a clinician it is likely that health problems are well advanced.

Common health problems amongst trafficking victims include:12

- Anxiety
- Chronic pain
- Cigarette burns
- Complications from unsafe abortion
- Contusions
- Depression
- Fractures
- Gastrointestinal problems
- Headaches
- Oral health problems
- Pelvic pain
- Post-traumatic stress disorder
- Sexually transmitted infections
- Suicidal feelings
- Unhealthy weight loss
- Unwanted pregnancy
- Vaginal pain

Healthcare professionals should screen patients to determine whether they may be victims of human trafficking. A toolkit, developed by the US Department of Health and Human Services, contains a useful list of questions for health care professionals to consider when questioning potential victims.13

Labour inspectors

Labour inspectors examine work conditions and the protection of workers while engaged in their work such as working hours, wages, safety, health and welfare, the employment of children and young persons. Inspectors may enter freely at any time of the day or night any workplace liable to inspection without prior notice, and are able to speak privately with persons on site.

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Inspectors should be able to distinguish poor working conditions from forced labour using certain indicators:

- Does the worker show any signs of mistreatment, mental confusion, anxiety?
- Do supervisors/employers demonstrate violent behavior?
- Is the worker locked up at the workplace?
- Is the worker forced to sleep at the workplace?
- Does the worker make statements that are incoherent or show indoctrination by the employer?
- Are workers forced to work excessive (unpaid) overtime or to carry out tasks that they prefer not to do, and are the workers threatened if they refuse?
- Does the worker have to repay high recruitment or transportation fees? If so, are these deducted from the salary?
- Is the worker forced to pay excessive fees for accommodation, food or working tools that are directly deducted from the salary?
- Are work permits tied to a specific employer? Has there been any complaint about the employer before?
- Does the worker have a regular employment contract?
- Has the worker received any wage at all?
- Do the workers have access to their earnings?
- Are wages paid on a regular basis?
- Is the worker in possession of his identification documents?
- Is the worker performing work in an industry that is heavily dependent upon manual labor such as agriculture, mining, fishing, construction, domestic services, textile, carpet-making or food services?
- Is the worker from a country or ethnic group that is experiencing high levels of migration due to economic or political concerns?

Actors of the criminal justice system

Actors of the criminal justice system are:
- Prosecutors
- Defense lawyers
- Judiciary
- Interpreters
- Prison staff

These actors may encounter trafficking victims during civil/criminal procedures. In most cases trafficking victims appear as offenders in violation of immigration and/or criminal laws. Nevertheless, these offenders may show certain signs of behavioral disorders resulting from their experiences as victims:

- fear of authorities
- signs of PTSD
- lack of understanding of their victimhood
- complex relationships with the trafficker

Any suspicion of trafficking should be reported and investigated without delay and the victim must be subjected to a needs assessment. The Anti-human trafficking manual for

criminal justice practitioners by UNODC serves as a practical guide and training tool for criminal justice practitioners.\textsuperscript{15} The manual discusses practices in every phase of criminal justice response from identification of victims through investigations and prosecutions of trafficking. A list of indicators for different types of trafficking situations was also included to assist criminal justice practitioners to determine whether trafficking may have taken place.

**Consulates**

Consular staff may come into contact with human trafficking via\textsuperscript{16}
\begin{itemize}
  \item local authorities, NGOs seeking information in relation to a particular trafficking case or consulate staff might be assisting police with their investigations;
  \item direct/indirect call for help from victims. Victims might contact their consulates/embassies for assistance either themselves or through family and friends;
  \item people seeking other form of assistance (i.e. issuance of a new passport, assistance to travel home);
  \item other nationalities’ visa applications.
\end{itemize}

The Handbook for Diplomatic and Consular Personnel on how to Assist and Protect Victims of Human Trafficking by Council of the Baltic Sea States provides a list of useful indicators for consular officials in particular indicators to look out when processing visa application.\textsuperscript{17}

\textsuperscript{15} UNODC, *Anti-Human Trafficking Manual for Criminal Justice Practitioners*, p.3.
\textsuperscript{17} Id. at pp. 26-28.
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**US Immigration and Customs Enforcement**, *Human Trafficking Indicators Pamphlet*. 
Identification Protocols and Questionnaires
This section sets out various checklists and indicators for use by first responders when interviewing victims to make an assessment of victimhood. The purpose of the indicators is to outline markers that indicate a trafficking situation and the checklists aim to help the first responder ask the correct questions, to elicit the type of information that will allow them to make an informed assessment of victimhood.

Scenarios of forced labour (debt bondage etc.) and sexual exploitation are covered as well as the very particular situation of foreign domestic helpers bearing the burden of extortionate placement fees. Child trafficking indicators and a child trafficking assessment form are offered for the user’s reference.

Victims of human trafficking often suffer from various Post-Traumatic Stress Disorder (PTSD) symptoms that affect the way they come across during interview or their recollection of events. This section also offers some indicators of PTSD.

**Checklist 1: Ascertaining trafficking scenario – Indicators**

**Recruitment**
- A third party arranged the travel and work documents.
- The fees and/or interest rates charged by the recruiter(s) are excessive.
- The individual is in debt and the family and/or loved ones back in the country of origin have guaranteed re-payment of the debts.
- False, inaccurate or misleading information was provided by the recruiter or by the employer to the individual. This includes the nature of the job, location or employer.
- The individual was deceived about family reunification.
- The individual was deceived through promises of marriage or adoption.

**Personal documents and belongings**
- The person’s passport and/or other travel or identity documents were confiscated.
- The person’s personal belongings were confiscated.
- The person has a false identity, work and/or travel documents.
- The person is prohibited from possessing and/or transferring earnings and savings.

**Violence or threat of violence**
- The person faced psychological abuse (this includes verbal abuse).
- The person shows fear or signs of depression.
- The person faced physical abuse, including beatings and/or forced drug consumption (he/she has bruises or other signs of physical abuse).
- Mandatory medical testing, pregnancy tests, forced abortion have been performed on the person/contraceptives were given by force.
- Sexual abuse and/or harassment, including rape, forced abortion.
- The person faced abuse of vulnerability, i.e. difficult family situation, illegal status, lack of education, language barrier, lack of information, psychological or emotional dependency, threat to inform family or community, forced into illicit/criminal activities, denunciation to authorities
- The person faced threats of violence or abuse, including threats to others, for example family at home.
Working conditions

- The terms of the employment contract or verbal agreement are not respected by the employer or the person was forced to sign a new contract upon arrival in the receiving country.
- The person is forced to perform tasks for which he/she was not recruited and/or which are not stipulated in the employment contract.
- The person is working excessive or irregular hours.
- The person is exposed to occupational risks which compromise his/her health and safety. The worker is not provided with protective gear or equipment.
- The person is not provided with occupational health and safety information or training in his/her own language. The information provided is inadequate.
- The person is not paid for the work done or the payment is delayed.
- The person is underpaid compared to wages promised or to the national minimum wage, where applicable.
- Significant deductions are made from the salary (i.e. to pay for placement fees or in the form of compulsory savings).
- The person is denied benefits which he/she is entitled to (i.e. paid holiday, sick leave, maternity leave).

Living conditions

- The person pays an excessive amount of money for substandard accommodation.
- The person has been deprived of food, water, sleep or medical care.
- The person is denied the right to freedom of thought, conscience and religion/ expression.

Freedom of movement

- The person is not allowed to move freely without permission and/or control.
- The person is physically isolated, confined to his/her place of work or his/her location, or under surveillance.
- The person is subjected to arbitrary or unlawful interference with his/her right to privacy, family, home etc.
Checklist 2: ILO indicators of forced labour

The presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases you may need to look for several indicators which, taken together, point to a forced labour case. Overall, the set of eleven indicators below covers the main possible elements of a forced labour situation, and hence provides the basis to assess whether or not an individual worker is a victim of this crime.

The indicators are:
- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

Checklist 3: Child trafficking indicators

In addition to all indicators outlined under Checklist 1, the following are also useful indicators in the case of children suspected of being victims of trafficking.

Indicators:
The child in question:
- is travelling without parents or relatives;
- is travelling with an adult who is not a relative and who insists on staying with the child at all times;
- has forged identity documents;
- has a rehearsed story with significant unaccounted for gaps;
- is not participating in normal schooling or has frequent unexplained absences;
- is engaged in work that is not suitable for children;
- is being seen in inappropriate places such as brothels or factories;
- has little or no time for playing;
- has no friends of his or her own age outside of work;
- has valuables such as mobile phone, jewellery, money, that he/she cannot possibly account for;
- is receiving repeated unexplained phone calls;
- is giving the impression of being undernourished, tired, exhausted;
- bears marks of physical violence or abuse; and
- is seemingly living under unacceptable conditions.
Checklist 4: Post-traumatic Stress Disorder (PTSD) indicators

Those interviewing victims should be aware of the following post-traumatic stress disorder (PTSD) symptoms that commonly manifest themselves in victims of trafficking.

There are three main types of symptoms:

1. Re-experiencing the traumatic event
   The symptoms:
   - Avoiding reminders of the trauma
   - Increased anxiety and emotional arousal
   - Intrusive, upsetting memories of the event
   - Flashbacks (acting or feeling like the event is happening again)
   - Nightmares (either of the event or of other frightening things)
   - Feelings of intense distress when reminded of the trauma
   - Intense physical reactions to reminders of the event (e.g. pounding heart, rapid breathing, nausea, muscle tension, sweating)
   - Gaps in memory

2. Avoidance and numbing
   The symptoms:
   - Avoiding activities, places, thoughts, or feelings that remind you of the trauma
   - Inability to remember important aspects of the trauma
   - Loss of interest in activities and life in general
   - Feeling detached from others and emotionally numb
   - Sense of a limited future (you don’t expect to live a normal life span, get married, have a career)

3. Increased anxiety and emotional arousal
   The symptoms:
   - Difficulty falling or staying asleep
   - Irritability or outbursts of anger
   - Difficulty concentrating
   - Hyper-vigilance (on constant “red alert”)
   - Feeling jumpy and easily startled

Checklist 5: Interview screening questions – Gathering Information

Opening
- Introduction
- Explain the individual’s current situation as you understand it

Providing Information
- Explain the purpose of the interview
- Explain the structure and the proceedings of the interview
- Explain the role of an interpreter or cultural mediator if there is one
**Gathering Information**
- Gather information about the different elements to the situation
- Point out (possible signs of) trafficking

**Taking further steps**
- Undertake and agree an assessment of needs and risks
- Arrange shelter
- Do what you can to ensure the individual's safety
- Arrange a short term permit to stay
- Arrange aid and assistance
- Arrange contact with local assistance service providers

**Obtaining Corroborative Documents**
- Obtain corroborative documents from the individual if there is one
- Follow-up with appropriate parties if the individual is not in possession of such documents

**Closing**
- Come to an agreement about how you will stay in contact
- Follow-up
- Make clear and specific agreements on any other relevant matters

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**Checklist 6: WHO's ethical and safety recommendations for interviewing trafficked women**

*The recommendations should be used in conjunction with existing professional standards applicable to the work being conducted. These recommendations provide a set of ten basic standards for interviewing women who are in or have left a trafficking situation.*

1. Do no harm;
2. Know your subject and assess the risks;
3. Prepare referral information – do not make promises you cannot fulfill;
4. Adequately select and prepare interpreter and co-workers
5. Ensure confidentiality;
6. Ensure consent is informed and real;
7. Listen to and respect each trafficked person’s assessment of their situation and risks to their safety;
8. Do not re-traumatisе;
9. Be prepared for emergency intervention; and
10. Put information collected to good use.
Checklist 7: Interview techniques – PEACE interview model

1. **Planning and preparing for the interview**
   - Conduct a risk assessment;
   - Conduct other assessments — physical health assessment, psychological assessment, immediate needs such as appropriate clothing, meals and accommodation, immigration status;
   - Determine the location of the interview;
   - Prepare means to record the interview;
   - Determine the number and gender of the interviewers; and
   - Arrange for social support/intermediaries for the victim.

2. **Engaging with the victim/witness and explaining the process and content of the interview**
   - Explain the interview process to a victim;
   - Establish a rapport with a victim; and
   - Terminate the interview and make alternative enquiries where the victim is severely traumatized.

3. **Account from the victim/witness is obtained**
   - Open the interview by asking the victim to give a free narrative account. This is an uninterrupted account of relevant events in the victim/witness’s own words.

4. **Closing an interview appropriately**
   - Recap and summarize;
   - Allow victim/witness to ask questions; and
   - Review for any new or changed risks the interview has revealed.

5. **Evaluating the content of the interview**
   - Always consider and assess any risks to the victim, their family or others that have been revealed in the interview;
   - Evaluate after each interview, no matter how short the interview was;
   - Assess the mental and physical condition of the victim in light of what has happened in the interview. This may involve reference to experts such as doctors and psychologists;
   - Use your written plan to identify which objectives have and have not been achieved; and
   - Work closely with other investigators and those managing the investigation to identify further enquiries to be made outside the interview and further points to explore inside the interview.
Checklist 8: List of guiding questions

Recruitment and Entry into the Country

- How was contact initiated between the individual and his/her recruiter? (Personal contact/newspaper advertisement/radio advertisement/internet advertisement/television advertisement/sold by family members/kidnapped/forced marriage/forced adoption/other)
- If the individual was abducted/forced/coerced to leave the place, how?
- What kind of work did the individual believe he/she was going to be engaged in before leaving the place of origin? (Au Pair/baby-sitter/agriculture/domestic/sweatshop labor/selling/begging/other form of low-level criminal activities/dancer-entertainer/sex worker/waitress/other/NA)
- What was the individual told would be his/her salary following arrival at the final destination?
- Was there some sort of work contract signed?
- Was there any third party arranging their travel/documents/work? If yes, what was the relation based on? (professional agency/member of family/friend/member of community, etc.)
- Did the individual pay any money to the recruiter in advance?
- If any travel costs were incurred before departure, who paid them?
- How did the individual get into this country? Did he/she cross the border at an official entry point? What was the individual’s immigration status upon arrival?
- Did the individual use his/her own identity documents or were false identity documents provided?
- Where are the identity documents now?

Working Conditions

- What activity has the individual been engaged in since his/her arrival at the final destination?
- How soon after arrival at the final destination did the activity begin?
- Was the individual forced to engage in activity against his/her will? If yes, how?
- Were any wages paid? How? How much?
- Was the individual allowed to keep his/her earnings?
- Did the individual have to pay a debt to recruiters/transporters/exploiters? If yes, how much?
- Are there records or receipts of what is owed to the employer/recruiters?
- What were the working conditions like? (working hours, health and safety, transport, supervision, etc.)
- Can the individual leave his/her job or work situation if he/she wants to?
- Were the individual’s rights to free time, paid holiday etc. respected?
- Was the individual provided with adequate information on health and safety and training in his/her own language?
**Living Conditions**
- What type of accommodation was provided, if any? Housing conditions (heating, running water, etc.)
- Does the individual have to pay an excessive amount for his/her accommodation?
- Was the individual’s freedom of movement restricted? Any locks and chains?
- Was the individual ever allowed to leave the place he/she was living? Under what conditions?
- How was movement in public places handled (car, van, bus, subway, etc.)? Who supervised the movement in public places?
- Has the individual ever been deprived of food, water, sleep or medical care?
- How was the purchase of private goods and services handled (medicines, prescriptions, etc.)?
- Was the person allowed to have social contacts? If yes, was the individual’s communication ever restricted or monitored?

**Threats and Coercion**
- Was the individual ever threatened with harm if he/she tried to leave?
- Was the individual ever physically abused (shoved, slapped, hit, kicked, scratched, punched, burned, etc.) by anyone?
- Were there any objects or weapons used in the physical abuse?
- Was the individual ever sexually abused (sexual assault/unwanted touching, rape, sexual exploitation, etc.) by anyone?
- Did anyone ever force the individual to do something physically or sexually that he/she did not feel comfortable doing? (undergo any medical tests, pregnancy tests or abortions, etc.)
- Did anyone ever introduce the individual to drugs or medications? Was any contraceptives given by force?
- Did the individual ever witness any threats, physical abuse or sexual abuse against another individual if he/she tried to leave?
- Has the individual’s family been threatened?
- Does the individual know about any other person’s family being threatened?
- Was knowledge of this abuse ever communicated to a person outside this situation (police reports, domestic violence reports, hospital records, social service records, etc.)?

**Current Situation**
- Was the individual able to leave the situation?
- If the individual was able to leave, how did that happen?
- Were social workers, any law enforcement agencies, advice centers or other institutions involved?
- Was a friend or a community member involved? Does the individual maintain social contacts with other workers/community members etc.?
- If the individual is still in the situation, does he/she want to leave? If yes, what prevents him/her from doing so? If not, what makes him/her stay?
- Has the individual received any help so far?
- Who provided the help to the individual? What kind of help was it?
- What help does the individual need now? (shelter, clothing, money, etc.)
- Does the individual want to return home? If yes, why? If no, why not?
- If the individual stays in the destination country, what does the individual think will happen?
• What are the immediate risks faced by the individual, and/or his/her family?
• What are the long-term risks faced by the individual, and/or his/her family?
• Is the individual willing to help with law enforcement? If so, how?

_Corroborative Documents_
• Police or immigration reports
• Any documentation or travel tickets
• Immigration departure or landing cards
• Medical reports in relation to abuse suffered during the trafficking process
• Copies of bogus employment contract or copies of original advertisement
Checklist 9: Checklist for Use in FDH Cases Involving Employment Agency Fees

**Home Country**
Name of agency in home country:
Address of agency in home country:
Name of person you dealt with at the agency:

How much money were you told you have to pay the agency in your home country in total?
How much money have you paid the agency in your home country so far?

What were you told the payment was for?
If you know the amounts for specific items, please write these below:
- Photo:___
- T-shirt/jacket:___
- Video:___
- Medical(s):___
- Internet:___
- Pregnancy test(s):___
- Processing fees:___
- Trainings:___
- Air fare:___
- Food:___
- Placement fee:___
- Lodging:___
- Other (please state):

Were you referred by the agency in your home country to a lending company?
Yes [ ] No [ ]
If Yes, what is the name of the lending company?
What was the amount of the loan?

Did you receive cash/cheque from the lending company?
Yes [ ] If Yes, how much? ________
No [ ]
Loan repayment instalment amount:
How many instalments do you have to pay?
How much of the loan have you paid back so far?
Did you sign any post dated or blank cheques?
Yes [ ] No [ ]
If Yes, how many cheques did you sign?

**Hong Kong**
Name of agency in Hong Kong:
Address of agency in Hong Kong:
Name of person you dealt with at the agency:

How much money were you told you have to pay the agency in Hong Kong in total?
How much money have you paid the agency in Hong Kong so far?

What were you told the payment was for?
If you know the amounts for specific items, please write these below:
- Photo:___
- T-shirt/jacket:___
- Video:___
- Medical(s):___
- Internet:___
- Pregnancy test(s):___
- Processing fees:___
- Trainings:___
- Air fare:___
- Food:___
- Placement fee:___
- Lodging:___
- Other (please state):

Were you referred by the Hong Kong agency to a lending company?
Yes [ ] No [ ]
If Yes, what is the name of the Hong Kong lending company?
What was the amount of the loan?

Did you receive cash/cheque from the lending company?
Yes [ ] If Yes, how much? ________
No [ ]
Loan repayment instalment amount:
How many instalments do you have to pay?
How much of the loan have you paid back so far?:
Checklist 10: Child Trafficking Assessment Form

Details of the Child
1. Surname
2. Given Name
3. Date of Birth/Age
4. Place of Birth
5. Ethnicity
6. Nationality
7. Language
8. Religion
9. Detail the relationship of the accompanying person to the child – are they an agent/young person/legal representative?
10. Mobile Phone Number
11. Home Phone Number
12. Current Address
13. Previous Address(es)
14. Date of arrival in Hong Kong
15. Date of departure from country of origin

Details of the Accompanying Person
Details of the accompanying person claiming to be the guardian/care taker/relative of the child:
1. Surname
2. Given Name
3. Date of Birth/Age
4. Place of Birth
5. Ethnicity
6. Nationality
7. Language
8. Religion
9. Detail the relationship of the accompanying person to the child – are they an agent/young person/legal representative?
10. Contact Number
11. Current Address
12. Previous Address(es)
13. Date of arrival in Hong Kong
14. Date of departure from country of origin

Education
1. History of education (In the child’s country as well as in Hong Kong)
2. Is the child currently attending school? Yes [ ]   No [ ]
   If Yes, Name of the school
   Address of the school teacher’s name
   If No, why not:
Income and Employment

Consider possible exploitation or any intent to exploit the child. Explore the following:
Working conditions/hours/transport/free use of earnings/any deductions from salaries to
repay debts/family dependent on earnings/sending money home/knowledge of any others
in similar situations/expectations on the child to do things.

1. Does the child receive money? (e.g. amount, for what purpose, from whom, how often,
   what is the money used for)
2. Is the child required to earn a minimum amount each day?
3. Previous Employment/Conditions
4. Current Employment/Conditions/Work Permit
5. Does the child have a choice if he/she works?
6. How does the child perceive work and expectations/responsibilities to provide for
   himself/herself or others? (Consider the child’s pre-trafficking profile – childhood
   experiences, family’s financial circumstances and cultural and familial values towards
   work)

Family

Details of the relationships between adults, siblings, extended family and the child may
be useful when cross referencing with other trafficked children assessments and family
relationships with suspected traffickers.

1. Family composition. Detail background and any concerns about the family of origin.
   Explore the details of the extended family. Be aware that traffickers often pose as
   extended family.
2. Does the child have any contact with the family?
   • Detail the current whereabouts of family in Hong Kong or abroad.
   • Is the family aware and in agreement with the child’s current circumstances and
     care-arrangements?
3. Financial Circumstances of family. Give consideration to the fact that the child or
   family may be in debt for the cost of travel/job placement, families may also have paid
   an agent to take their children to a ‘better life’. Less commonly children may be sold.
4. Circumstances or reasons why the child left their family.

Relationships

Be mindful that if a child has been trafficked, he/she is likely to have been coached by the
trafficker on what to say including the nature of the child’s relationship with the trafficker and
what activities he/she has been involved with.

1. What is the relationship between the child and the person he/she is staying with or
   accompanied by? Is this a private fostering arrangement?
2. How and when did they meet? (In the country of origin/en route/in Hong Kong)
3. What does the child know about this person? Include any additional information
   known about this person(s). (Establish how well the child knows this person, what
   work/activities this person does, whether the child had prior knowledge of this person
   before meeting them).
4. What is the quality of the relationship between the person and the child? (How does the
   child behave in relation to this person(s))
5. Does the child have any relatives or friends in Hong Kong? (Highlight where there are
any other relationships where there is concern for the child).

6. Does the child feel confident asking someone for help if needed? (Aim: to assess quality of relationship with the accompanying person)

7. Who would the child like to live with in Hong Kong? (Be mindful that a trafficker may have coached and put pressure on the child about where they should live). If not within the current arrangements, explore the reasons why. (record the name and address of the person the child wishes to live with).

**Recent Travel History**

A trafficked child is unlikely to disclose clear and accurate information about his/her journey. In many cases the child will have been warned not to disclose particular information to protect agents and traffickers. Some journeys will involve complicated routes and many changes involving varied methods and travel such as lorries, walking, cars and planes. Children may also be passed between agents and traffickers en route.

Points to Note:

- Trafficking may occur at any stage throughout the child’s journey to or within Hong Kong; it is not limited to the child’s final destination.
- Children who have been trafficked into Hong Kong can be further trafficked internally within Hong Kong or to Macau or China.
- Hong Kong nationals are also vulnerable to internal trafficking and may also be trafficked out of Hong Kong.
- A child may be trafficked into Hong Kong through legitimate routes using passports and travel visas – though documentation can be fraudulent.
- A child may also be smuggled through covert routes into or within Hong Kong and or may have no identification documentation.
- A child who has been trafficked may arrive in Hong Kong alone or accompanied by an adult and/or other children. Some children will have had multiple experiences of trafficking. Children who have been trafficked before are at risk of being re-trafficked.

1. What is the reason for leaving the country/place of origin?
2. When did the journey commence?
3. Who did the child leave or travel with?
4. What was the relationship with this person?
5. Did the child know him/her? Yes / No
6. By what means of transport did they travel?
7. What was the route and length of the journey and were there any stopovers?
8. How was the child and any other children treated during the journey?
9. Did the child, family or any other party pay for the journey?
10. Did the child, family or any other party owe anything for the journey?
11. Who had control of the child’s travel documentation/passport during the journey?
12. Upon arrival in Hong Kong, did the child pass through immigration control? Or did the child enter Hong Kong illegally?
13. Was the child able to confirm name or address of the person meeting him/her upon arrival?
14. Does the child have any on-going contact with the person who facilitated his/her travel into/within Hong Kong?
15. Upon arrival in Hong Kong, who took responsibility for the child and where did the child sleep?
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16. Has the child lived at multiple addresses? With whom? (List all previous and current addresses)
17. Is the child unable or reluctant to disclose personal details or information related to accommodation?
18. Is the child currently in possession of his/her own identification documents and/or passport?
19. Is the child in possession of false documentation or genuine documentation that has been altered or fraudulently obtained? (e.g. his/her personal details such as name and DOB on the documentation are incorrect).

Current Circumstances
This section may provide an insight about possible types of exploitation for which the child may have been trafficked. Look for indications in the child’s daily life that demonstrate restrictions of the child’s independence and control mechanisms by another person. An assessment of independence will of course need to take into account the cultural norms in which the child has grown up.

Current Accommodation
1. What type of accommodation was provided, if any?
2. What are the conditions of accommodation e.g. heating, running water, furnishings and cleanliness?
3. Do any other children/adults/family members or visitors live at this accommodation? (nature/history of relationship)
4. What are the current sleeping arrangements? (Including are they locked in at night?)
5. Does the child have freedom of choice about where he/she chooses to live?
6. Does the child have to pay/do favours for the accommodation?
7. Does the child have control over his/her privacy and possessions?

Daily Living Routine
1. Describe the current routine e.g. sleep patterns, self-care, and meal times – do they have sufficient food?
2. What activities did the child do at home in his/her country of origin and what does the child do now? Is the child spending time alone?
3. Who does the household chores e.g. cleaning, grocery shopping and cooking?
4. Is the child involved in any criminal activities (e.g. recovered from cannabis farm/factory, street crime, petty theft, pick pocketing, begging etc.)?
5. Is the child deprived of his/her earnings by another person?
6. Is the child familiar with local services such as shops and parks? Can the child identify places he/she has been?
7. Does the child work in various locations?
8. Does the child make use of the internet to form online relationships, particularly with adults?
9. Is the child involved in social activities with no plausible explanation of the source of necessary funding?
**Freedom of Movement**
1. How did the child travel to the place of assessment?
2. Is the child’s freedom of movement restricted? (e.g. does the child have a curfew? is the child limited in which places he/she can go to? Is the child allowed to go out alone or with friends?)
3. Is the child able to have social contacts and friends?
4. Does the child have free access to his/her accommodation (do they have keys)?
5. Does the child have a mobile phone? (Who can the child contact and who contacts the child, who purchased the phone and who pays the bills?)

**Physical Health**
1. What was the child’s physical presentation? (If seen on more than one occasion note whether the child has more than one set of clothing.)
2. Has the child ever taken medication?
3. Has the child had any sexual experiences? (Give consideration to contraception, abortion, STIs and sexual violence in the context of exploitation.)
4. Is the child currently experiencing any pain, injuries or any concerns regarding his/her health? (Give consideration to any abuse.)
5. Are there physical indications of the child having been working (being overly tired at school or indications of manual labour – condition of hands/skin, backaches etc)?
6. Are there any indications of substance dependency/misuse and drugging)?
7. Are there any indications of post-traumatic stress e.g. irregular sleep patterns, nightmares, flashbacks etc.?

**Emotional Health**
1. Does the child harbor excessive fears/anxieties (e.g. about an individual, of deportation, disclosing information etc.)?
2. Is the child withdrawn or refuses to talk/appears afraid to talk to a person in authority?
3. Does the child show signs of physical neglect – basic care, malnourishment, lack of attention to health needs?
4. Does the child show signs of emotional neglect?
5. Is the child socially isolated? is there a lack of positive, meaningful relationships in the child’s life?
6. Does the child suffer from poor concentration or memory, irritable/unsociable/ aggressive behavior?
7. Are there indications of trauma or numbing?
8. Does the child exhibit self-assurance, maturity and self-confidence not expected in a child of such age?

**Abuse**
1. Are there any indications that the child has suffered/or is suffering any form of abuse? If so how does the child perceive this abuse? (Consider the history of abuse, relationship with trafficker/s and trafficking experience. The child may have distorted views of the abuse and may not view the trafficker as an abuser).
2. Was the child recovered from a place of exploitation (brothel, cannabis farm)? Was the child involved in any criminal activities?
3. Did the child go missing and has subsequently been found in areas where he/she has no known links?
Safety

The aim of this section is to identify whether the child is currently or potentially at risk of harm, and to assess the child’s capacity to ensure his/her own safety.

1. Has the child gone missing and have there been multiple missing periods? What were the circumstances of the disappearances and are there any emerging patterns?
2. Does the child receive frequent, unexplained and unidentified phone calls whilst in placement or temporary care?
3. Has the child been involved in any criminal activity? Are there any indications of forced involvement or exploitation?
4. Has the child been seen at places known to be used for sexual exploitation?
5. If the child were injured or ill, what would he/she do?
6. Is the child ever left at places of accommodation on his/her own?
7. Is the child concerned about the safety of his/her family/other children in his/her home country?
8. Does the child claim to be in debt bondage or “owe” money to other persons (e.g. for travel costs, before having control over own earnings)?
9. Does the child enter or leave vehicles driven by unknown adults?
10. Are there adults loitering outside the child’s usual place of accommodation?
11. Does the child leave home/care setting in clothing unusual for the individual child (e.g. inappropriate for his/her age)?
Sources


Help Guide, Symptoms of Post-Traumatic Stress Disorder

Helper for Domestic Helpers, Client Intake Form, 2013

International Labour Organization (ILO), Operational Indicators of Trafficking in Human Beings, 2009.


London Safeguarding Children Board, Trafficking Assessment, February 2011

UK Government, Human Trafficking Victims Referral and Assessment Form, 2010


Identification Protocols and Questionnaires

Child Trafficking
Child Trafficking

Child trafficking in Hong Kong

Trafficking is a hidden crime and its victims are mostly silent. This has proven to be true in cases of child trafficking in Hong Kong given the paucity of information and data. In its Concluding Observations, the UN CRC Committee noted the “lack of procedures to identify and support child victims of sexual exploitation and trafficking in Hong Kong […] The limited access to justice, shelter, medical services, psychological counseling and compensation for child victims of sexual exploitation and abuse under the national legislation in mainland China, Hong Kong SAR and Macau SAR”. ¹

The US Department of State Trafficking in Persons Report ² refers to child victims twice:

• Apart from the men and women, children are trafficked to Hong Kong for the purpose of sexual exploitation and forced labour.
• Children are found in prostitution under the phenomenon of “compensated dating” ³.

According to the NGO Zi Teng, ⁴ the most prevalent trend in trafficking for sexual exploitation in Hong Kong involves girls from China’s poor farming villages. These girls’ neighbours or “sisters” exploit the girls’ low education level and their lack of awareness, and entice them by making claims that they can earn a very high salary if they work as a sex worker in Hong Kong. The truth turns out to be completely different. Having been tricked, these girls must work because they owe significant sums of money to the “middle-man” who organizes travel to Hong Kong and a place to stay/work.

Offences under Hong Kong law applicable to children

Offences relating to the exploitation of children in Hong Kong for sex and labour are set out in the Crimes Ordinance, the Prevention of Child Pornography Ordinance, the Offences Against the Person Ordinance and the Employment of Children Regulations.

Sexual exploitation offences (and related offences) are listed in the Crimes Ordinance: ⁵

s. 129  Trafficking in persons to or from Hong Kong for the purpose of prostitution
s. 47   Incest by men
s. 48   Incest by women of or over 16
s. 123  Intercourse with girl under 13
s. 124  Intercourse with girl under 16
s. 126  Abduction of unmarried girl under 16
s. 127  Abduction of unmarried girl under 18 for sexual intercourse

¹  UN CRC Committee, Concluding Observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013), para. 44 (d) and (e).
³  Compensated dating usually means teenage students providing companionship or, in most cases, sexual favours in exchange for money or gifts that help improve their standard of living, available at http://www.timeout.com.hk/big-smog/features/44507/the-burning-issue-compensated-dating.html.
⁴  Zi Teng is a Hong Kong based NGO. http://www.ziteng.org.hk/2010MAY02_e.php.
⁵  Crimes Ordinance, Cap 200.
s. 135  Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
s. 138A Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances
s. 140  Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse
s. 141  Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act
s. 146  Indecent conduct towards child under 16

The Prevention of Child Pornography Ordinance:6

s. 3(1)  Prints, makes, produces, reproduces, copies, imports or exports child pornography
s. 3(2)  Publishing child pornography
s. 3(3)  Possessing child pornography
s. 3(4)  Advertising child pornography

In addition, there are further sexual exploitation offences set out in the Crimes Ordinance that apply to children and adults:

s. 118  Rape
s. 118A Non-consensual buggery
s. 118B Assault with intent to commit buggery
s. 118D Buggery with girl under 21
s. 118G Procuring others to commit homosexual buggery
s. 118H Gross indecency with or by man under 21
s. 119  Procurements by threats
s. 120  Procurement by false pretenses
s. 121  Administering drugs to obtain or facilitate unlawful sexual act
s. 122  Indecent assault
s. 130  Control over persons for purpose of unlawful sexual intercourse or prostitution
s. 131  Causing prostitution
s. 132  Procurement of girl under 21
s. 134  Detention for intercourse or in vice establishment

The Offences Against the Person Ordinance7 also sets out various provisions relating to child abuse:

s. 26  Exposing child whereby life is endangered
s. 27  Ill-treatment or neglect by those in charge of child or young person
s. 39  Assault occasioning actual bodily harm
s. 40  Common assault
s. 42  Forcible taking or detention of person, with intent to sell him
s. 43  Stealing child under 14

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6 Prevention of Child Pornography Ordinance, Cap 579.
7 Offences Against the Person Ordinance, Cap 212.
Regarding the employment of children for labour, the Employment of Children Regulations makes it an offence to:

- Regulation 4(1) Employ a child or cause or permit a child to be employed under the age of 13 years
- Regulation 4(1) Employ a child in industrial undertaking
- Regulation 6(2)(a) Employ a child in a place where intoxicating liquor is sold or consumed, dance halls, gambling establishment, kitchen, hairdressing saloon or massage parlour.

In addition, if a child is not attending school without a reasonable excuse, the Permanent Secretary has the power to order attendance at primary school or secondary school.\(^9\)

**Special protection**

Child victims of trafficking need special protection. The UN Convention on the Rights of the Child applies to Hong Kong and as such the best interests of the child prevail.

Hong Kong’s child protection laws are as follows:

The Protection of Children and Juveniles Ordinance\(^{10}\) provides the Director of Social Welfare with the power to intervene for the protection of children, for example, by taking a child in need of care or protection to a place of refuge or other appropriate places.\(^{11}\) This power extends to children who have been brought into or are being taken out of Hong Kong by force, threats, intimidation, false pretenses or other fraudulent means.\(^{12}\)

A child or juvenile in need of care or protection is defined as a child or juvenile “(a) who has been or is being assaulted, ill-treated, neglected or sexually abused; (b) whose health, development or welfare has been or is being neglected or avoidably impaired; (c) whose health, development or welfare appears likely to be neglected or avoidably impaired; or (d) who is beyond the control, to the extent that harm may be caused to him or to others.”\(^{13}\) Any person authorized in writing by the Director of Social Welfare or any police officer of the rank of station sergeant or above, may take the child who appears to be in need of urgent medical or surgical attention for treatment to a hospital.\(^{14}\)

The Criminal Procedure Ordinance\(^{15}\) authorizes the use in court of video-recorded interviews with a child witness in some cases of sexual or violent offences.\(^{16}\) The court can also permit a child to give evidence via a live television link.\(^{17}\)

Under the Evidence Ordinance,\(^{18}\) a child’s evidence in criminal proceedings shall be given

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\(^{8}\) Employment of Children Regulations, Cap 57B.

\(^{9}\) S. 74 and 78, Education Ordinance, Cap 279.

\(^{10}\) Protection of Children and Juveniles Ordinance, Cap 213.

\(^{11}\) S. 34E, Protection of Children and Juveniles Ordinance, Cap 213.

\(^{12}\) S. 35, Protection of Children and Juveniles Ordinance, Cap 213.

\(^{13}\) S. 34 (2), Protection of Children and Juveniles Ordinance, Cap 213.

\(^{14}\) S. 34F, Protection of Children and Juveniles Ordinance, Cap 213.

\(^{15}\) Criminal Procedure Ordinance, Cap 221.

\(^{16}\) S. 79C, Criminal Procedure Ordinance, Cap 221.

\(^{17}\) S. 79B, Criminal Procedure Ordinance, Cap 221.

\(^{18}\) Evidence Ordinance, Cap 8.
unsworn and shall be capable of being used as corroborating evidence. The deposition of a child’s unsworn evidence may be taken as if that evidence had been given under oath in criminal proceedings.

Physical, psychological and psychosocial problems

Trafficking can have a severe and long-term impact on child victims. Children can suffer physical, psychological and psychosocial problems. Physical problems can include sexually transmitted diseases, unwanted pregnancies, forced abortions, malnourishment, dental problems, injuries, and various pains. Depression, loss of self-esteem, post-traumatic stress disorder, substance abuse, anxiety, are examples of psychological problems that can arise from a child trafficking experience. Children can also suffer from stigmatization by the family or community and loss of confidence in family/social relationships as a direct result of trafficking. In addition, trafficking has a hugely detrimental effect on the education of the child.

How to interview a child

When a trafficked child is rescued, the victim must first be brought to a safe environment and he/she must be provided with medical and psychological treatment as deemed necessary.

General guidelines of the interview:

- The interview should take place as soon as possible after the allegation or suspicion of abuse emerges.
- Only specifically trained staff should interview the child. The child should feel supported and safe during the interview.
- Create an age-appropriate space (i.e. have toys, props available).
- Maintain a simple and informal atmosphere.
- Use child-friendly language. All questions need to be developmentally and culturally appropriate.
- The child should be given an opportunity to tell the story in his/her own way, before explicit questions are asked.
- The questions should begin with open questions and direct or leading questions should be reserved for the later part of the interview.
- Do not press for details when the child seems to have said it all.
- The interview should not be too long to avoid tiring the child.
- End the interview in a reassuring way.

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19 S. 4, Evidence Ordinance, Cap 8.
20 Id.
Please note that younger children might not fully understand adult concepts, such as:  
- Time and dates
- Location (place, country, underneath, behind, above, in front of)
- Duration
- Frequency
- Measurements (height, weight, age, size, distance)

Many of the interviewing strategies employed for young children are less effective with adolescents.  
- Trying to clarify specific language can be a challenge if the adolescent feels the attempt at clarification is condescending. They often wish to be treated as adults and asking for clarification undermines that wish.
- Adolescents are more prone to be volatile and emotional and this may be made worse by stress and traumatic memories.
- Adolescents are dealing with profound hormonal changes. The power of hormonal influences should not be underestimated.
- Adolescents may try to behave as adults and take on too much responsibility. They need to be allowed to develop gradually, and to accept adult duties and responsibilities gradually. In addition, confidence displayed by many adolescents is often a coping mechanism and façade that hides trauma.

The way forward

There is a real need to understand the nature, trends and prevalence of child trafficking to/from Hong Kong. As such, a comprehensive data collection system is necessary to ensure that the Government is able to harvest as much relevant data as possible to inform future prevention, prosecution and victim protection strategies. Moreover, more needs to be done to raise awareness of the issue of trafficking in its various forms across schools and juvenile facilities in Hong Kong (including juvenile detention centres). There should be clear information on how to report sexual exploitation and where to access help. The Government must strengthen the existing infrastructure to improve its response to trafficked children’s multiple needs, including access to secure housing, medical care, psychological support, etc. Front line responders to children’s needs must receive the requisite training to enable them to respond appropriately to the complex needs of trafficked children.

22 Mitchels, Id. at p. 25.
23 Turkel & Tiapula, supra note 21, at p.10; Mitchels, supra note 21, at p.47.
Sources


Turkel, Allison & Tiapula, Suzanna, Strategies for Interviewing Child Victims of Human Trafficking, American Prosecutors Research Institute, National Center of Prosecution of Child Abuse, 2008, vol. 8, no. 5.

UN CRC Committee, Concluding Observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013).

Support Services
Support Services

This section of the toolkit aims to provide the user with an overview of support services available for victims of human trafficking in Hong Kong. Essential details such as contact numbers, addresses (where appropriate) and range of services are indicated for the user’s reference. Please contact the individual service providers for details of criteria to be satisfied for services to be provided to a victim.

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>CEASE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daytime</strong></td>
<td>18281 (English, Cantonese, Mandarin, CHEER translators)</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td>18281 (English, Cantonese, Mandarin)</td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Victims of sexual violence, domestic violence, child abuse, battered women/men, and elder abuse</td>
</tr>
<tr>
<td><strong>Foreign and/or Domestic</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Male and/or Female</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Adult and/or Minor</strong></td>
<td>Adult</td>
</tr>
<tr>
<td><strong>Labor and/or Sex Trafficking</strong></td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td><strong>Provide Legal Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Case Management Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Counseling</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Shelter</strong></td>
<td>Yes (holders of HK ID Card)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Caritas Asian Migrant Workers Social Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daytime</strong></td>
<td>Crisis Hotline: 2147-5988</td>
</tr>
<tr>
<td></td>
<td>Tues-Sun 10am to 6pm (not open on holidays)</td>
</tr>
<tr>
<td></td>
<td>(Cantonese, English, Indonesian, Thai)</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Foreign domestic helpers from SE Asian countries</td>
</tr>
<tr>
<td><strong>Foreign and/or Domestic</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Male and/or Female</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Adult and/or Minor</strong></td>
<td>Adult</td>
</tr>
<tr>
<td><strong>Labor and/or Sex Trafficking</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Provide Legal Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Case Management Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Counseling</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Provide Shelter</strong></td>
<td>No</td>
</tr>
<tr>
<td>Organization Name</td>
<td>Support Services</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>ISSHK</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Daytime</strong></td>
<td>Hope Center: 5188 8044</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td>Adrielle Panares (ISSHK Program Director) Cell: 9344 5369</td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Migrants, refugees, displaced persons and asylum seekers</td>
</tr>
<tr>
<td><strong>Foreign and/or Domestic</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Male and/or Female</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Adult and/or Minor</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Labor and/or Sex Trafficking</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Provide Legal Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Case Management Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Counseling</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Shelter</strong></td>
<td>No</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Against Child Abuse</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daytime</strong></td>
<td>Hotline: 2755 1122 Mon-Fri 9am to 9pm, Sat 9am to 1pm (Cantonese, English)</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Child abuse, parents and teachers concerned with child abuse</td>
</tr>
<tr>
<td><strong>Foreign and/or Domestic</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Male and/or Female</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Adult and/or Minor</strong></td>
<td>Minor</td>
</tr>
<tr>
<td><strong>Labor and/or Sex Trafficking</strong></td>
<td>Both</td>
</tr>
<tr>
<td><strong>Provide Legal Services</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Provide Case Management Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Counseling</strong></td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Provide Shelter</strong></td>
<td>No</td>
</tr>
<tr>
<td>Organization Name</td>
<td>Christian Action</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>Daytime</strong></td>
<td>Woo Sung Street Service Centre: 3422 3820</td>
</tr>
<tr>
<td></td>
<td>Mon 2pm-6pm, Tue - Thur 9am-1pm, 2pm-6pm, Fri 2pm-6pm, 7pm-9pm, Sat 9am-1pm</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td>Shine Center: 3188 4555</td>
</tr>
<tr>
<td></td>
<td>Tues - Fri 9am-9pm</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Call for</th>
<th>All trafficking cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Both</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Both</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Action for Reach Out</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daytime</strong></td>
<td>Hotline: 2770 1002</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td>Call for</td>
<td>Female sex workers that need medical services</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Female</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Adult</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>No</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
<tr>
<td>Organization Name</td>
<td>Helpers for Domestic Helpers</td>
</tr>
<tr>
<td>-------------------</td>
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</tr>
<tr>
<td><strong>Daytime</strong></td>
<td>Drop-In: St-John’s Cathedral, 4-8 Garden Road, Central Mon-Fri 10am to 6pm and Sun 10:30am to 2:30pm (unofficially open until 5pm)</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Mainland Chinese who came to HK legally and want to stay</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Adult</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Labor</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>Yes</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Rainlily</th>
</tr>
</thead>
</table>
| **Daytime**       | Hotline: 2375 5322  
                     Mon-Fri 9am to 10pm  
                     Sat 9am to 1pm |
<p>| <strong>Emergency/24 Hours</strong> |          |
| <strong>Call for</strong>      | Victim of sexual violence |
| Foreign and/or Domestic | Both |
| Male and/or Female | Female |
| Adult and/or Minor | Adult |
| Labor and/or Sex Trafficking | Sex Trafficking |
| Provide Legal Services | Yes |
| Provide Case Management Services | Yes |
| Provide Counseling | Yes |
| Provide Shelter | No |</p>
<table>
<thead>
<tr>
<th>Organization Name</th>
<th>End Child Sexual Abuse Foundation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime</td>
<td>Hotline: 2889 9933 Mon-Fri 10am to 6pm</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td>Call for</td>
<td>Local child victim of sexual abuse</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Domestic</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Both</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Salvation Army</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime</td>
<td>Drop-In Centers at various locations.</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td>Call for</td>
<td>Local youth, poor, elderly, drug addicts, single-parent family, new immigrant</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Domestic</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Both</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Both</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
<tr>
<td>Organization Name</td>
<td>Mission for Migrant Workers</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Daytime</td>
<td>Drop in Center: St-John's Cathedral, 4-8 Garden Road, Central Mon-Fri, Sun 10 am to 5 or 6 pm</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td>Call for</td>
<td>Migrant workers</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Adult</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Labor</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>No</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Enrich HK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime</td>
<td>Workshop Schedule: 2386 5811</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td>Call for</td>
<td>Domestic helpers who need financial advice and training</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Adult</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Both</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>No</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Jubilee Ministries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime</td>
<td>Office number: 2708 8666</td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td>Women in sex industry, especially mainland Chinese</td>
</tr>
<tr>
<td>Call for</td>
<td></td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Female</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Adult</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>Yes</td>
</tr>
<tr>
<td>Organization Name</td>
<td>Ziteng</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>Daytime</strong></td>
<td>Hotline: 2332 7182</td>
</tr>
<tr>
<td></td>
<td>9am-7pm (Cantonese, Mandarin, English)</td>
</tr>
<tr>
<td><strong>Emergency/24 Hours</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Sex workers</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Both</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Both</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>Yes</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>No</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Name</th>
<th>Operation Mobilization</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Daytime</strong></td>
<td></td>
</tr>
<tr>
<td>Emergency/24 Hours</td>
<td></td>
</tr>
<tr>
<td><strong>Call for</strong></td>
<td>Female sex workers in Sham Shui Po (Kowloon) that need general advice and guidance</td>
</tr>
<tr>
<td>Foreign and/or Domestic</td>
<td>Both</td>
</tr>
<tr>
<td>Male and/or Female</td>
<td>Female</td>
</tr>
<tr>
<td>Adult and/or Minor</td>
<td>Both</td>
</tr>
<tr>
<td>Labor and/or Sex Trafficking</td>
<td>Sex Trafficking</td>
</tr>
<tr>
<td>Provide Legal Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Case Management Services</td>
<td>No</td>
</tr>
<tr>
<td>Provide Counseling</td>
<td>No</td>
</tr>
<tr>
<td>Provide Shelter</td>
<td>No</td>
</tr>
</tbody>
</table>
Victim’s Charter of Rights
<table>
<thead>
<tr>
<th>WHAT is human trafficking?</th>
<th>YOU have rights</th>
<th>What are your choices?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human trafficking is a serious violation of human rights and a crime.</td>
<td>Although you may feel isolated, frightened and marginalized by your experiences, you have rights and choices. This leaflet sets out your rights and choices.</td>
<td>➤ You can contact the police about your experience.</td>
</tr>
<tr>
<td>You have been trafficked if you have been brought to (or moved around) Hong Kong by others who have used violence and/or threats to frighten and force you to do work or other things you are unwilling to do.</td>
<td></td>
<td>➤ You can access help from voluntary organisations that can offer you emotional and practical support.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WHEN should you seek help?</th>
<th>WHAT are your rights?</th>
<th>What help is available?</th>
</tr>
</thead>
<tbody>
<tr>
<td>The following are indicators that may help you determine whether you need help:</td>
<td>The right to protection: human trafficking is a crime. If you report it to the police they must respond.</td>
<td>Support could include provision of:</td>
</tr>
<tr>
<td>➤ You were brought to Hong Kong by deception. For example, to work in a job that does not exist or you are being forced to work in a substantially different job under difficult conditions some of which involve breaking the laws of Hong Kong.</td>
<td></td>
<td>➤ Temporary secure accommodation</td>
</tr>
<tr>
<td>➤ You have experienced violence or sexual abuse, or you or your family have been subjected to threats.</td>
<td></td>
<td>➤ Medical treatment</td>
</tr>
<tr>
<td>➤ Your identification (passport) or immigration documents been taken away from you by those who brought you to Hong Kong or by those who you work for.</td>
<td></td>
<td>➤ Counseling and psychological support</td>
</tr>
<tr>
<td>➤ You were forced to pay back large debts to those who brought you to Hong Kong, and your debts are paid but you are still not free to leave.</td>
<td></td>
<td>➤ An interpreter to help ease communication</td>
</tr>
<tr>
<td>➤ Your employer retains all or nearly all of your wages.</td>
<td></td>
<td>➤ Independent legal advice including advice on immigration issues</td>
</tr>
<tr>
<td></td>
<td></td>
<td>➤ Support through court proceedings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>➤ Help with recovery of travel documents and repatriation</td>
</tr>
</tbody>
</table>

FOR IMMEDIATE HELP
CONTACT THE POLICE ON
999
Involving the police

The police can help if you have been a victim of crime. They have a responsibility to keep you safe from those seeking to harm you. They will require your cooperation with investigation and court proceedings. It is your choice whether you wish to assist the police with their enquiries. The police will keep you informed of their investigation.

You may be entitled to ‘special measures’ to help you give evidence in court, for example by giving evidence outside of the court room via a video link.

Contacting independent victim support services directly

You may contact independent victim support providers directly if you do not wish to contact the police or immigration authorities.

WHO is this leaflet for?

This leaflet contains guidance and information aimed at victims of trafficking in Hong Kong.
Recommendations
Recommendations

This section of the toolkit offers recommendations that are aimed at the Government and civil society of Hong Kong. Meaningful change can only be achieved by collaboration and consultation between the Government and civil society. All efforts should be underpinned by the aim of upholding the rights of victims. This section also offers thoughts on ways in which a holistic counter-trafficking strategy can be achieved which will in turn lead to an improvement in victim identification.

A rights-based approach to human trafficking

Human trafficking is an abhorrent crime that involves gross violations of fundamental human rights. Human trafficking should be viewed as a violation of human rights and not as an immigration crime. If one takes the latter view then victims of trafficking can only be seen as criminals and not as victims of crime. A rights-based approach is a pre-requisite for cooperation between victims and law enforcement/prosecution services. A victim is unlikely to collaborate with the relevant authorities if they feel inadequately protected or looked after. Victim care and protection of victim rights is a core ingredient for successful collaboration between victims and police and hence successful prosecutions.

Adoption of a National Plan of Action against Human Trafficking

A National Plan of Action is often the first step a government takes towards formulating a national counter-trafficking strategy. This may be following consultation with relevant stakeholders e.g. independent victim support services and/or a range of enforcement agencies or in many cases consultation follows the publishing of the Action Plan. The Action Plan maps out the actions, sets out timelines, defines the parties involved and the objectives of the actions. This provides governments with a meaningful opportunity to make measured change in a manner that suits the needs of the present time. The key areas to be covered must be Prevention, Protection and Prosecution with victims’ rights being the lynchpin of the Action Plan. Action Plans that focus solely on trafficking as an immigration crime or that single-mindedly focus on the prosecution of traffickers at the expense of victims’ rights are not very likely to get the support of victim support services who are key stakeholders in this process.

A comprehensive legislative framework that adheres to international standards

Hong Kong law is in need of an overhaul to bring it on par with standards set out in international instruments such as the ICCPR, CEDAW, ICESCR, CRC. It needs to first adopt a broader, more holistic and all-encompassing definition of trafficking as set out in the Palermo Protocol, with an emphasis on exploitation and not movement. Further, the definition of trafficking ought to recognize examples of forced labour practices relating to foreign domestic helpers in Hong Kong. For example, debt bondage situations that arise from placement agencies charging extortionate fees.
The law needs to be holistic from all standpoints. For example, from a law enforcement perspective civil penalties and licensing forfeitures should be applied to employers and recruiters of trafficked persons, traffickers should be subjected to asset forfeitures, enhanced sentencing should apply for crimes with aggravating features (e.g involving children), and prosecution for money laundering, racketeering and corruption should also be given due consideration. From the victim's perspective, the law should provide for secure shelter (temporary and long term as required), psychological support, help with substance abuse, medical care, legal advice, vocational training, residence permits and the right to work in appropriate cases, and the right to compensation and/or restitution for losses (pecuniary and non-pecuniary) incurred.

Law enforcement is what ultimately breathes life into a comprehensive legislative framework. The Government has to make the necessary resources and infrastructure available for law enforcement to effectively police the law.

**Non-criminalization of Trafficking Victims**

An essential element of protection of victims and their rights must be that the Government does not prosecute or punish trafficked persons for trafficking-related offences. Non-criminalization of victims will allow them access to justice and protection. The Government should implement robust and effective mechanisms and procedures to allow front line responders to correctly identify victims of trafficking at the earliest available opportunity so that they are swiftly recognized as such and are treated in full accordance with their rights. This includes training frontline responders because the system is only as effective as the identifiers who use the system.

**The need for a central referral mechanism**

A central referral system will allow formalization of victim identification procedures and onward support service referral services. These structures are crucial in ensuring early identification of victims and fair assessment of each suspected case of trafficking. It will also improve collaboration between NGO service providers and government structures for enhanced victim support provision.

**Capacity building in Hong Kong**

Capacity building in Hong Kong is essential to arm communities and service providers with the right skills and knowledge to protect themselves and the vulnerable victims they deal with. Effective capacity building consists of partnership work, strengthening of civil society and individual organizational development. Training and sharing good practice are effective means of securing capacity building.
Make counter-trafficking core police business

The legislative framework is only as effective as the enforcement activities that bring it to life. Human trafficking is organized crime and deserves as much if not more attention than drug trafficking and corruption investigations. Human trafficking should be a priority for enforcement authorities and should be included as part of the performance indicators for the police and other enforcement personnel. This will provide adequate incentive to ensure that enforcement services take this crime seriously.

Credible and reliable data collection

Fragmented data collection, duplication of data sets by different actors and lack of comprehensive definitions within existing data sources lead to an incomplete picture. Lack of credible and reliable data not only hampers the formulation of a targeted response to Hong Kong’s anti-trafficking needs but also hinders the implementation of existing policies. Systematic management and management of data relevant to trafficked populations should be a priority for the Government. The National Referral Mechanism offers the opportunity to put in place an effective data collection and management system.
Annex 1: Generic Exploitation Profiles
## Annex 1: Generic Exploitation Profiles

The purpose of these generic exploitation profiles is to provide users with information on the possible criminal offences (under Hong Kong law) involved in five trafficking scenarios: sex trafficking, construction trafficking, forced labour trafficking, marriage trafficking and domestic trafficking.

### Scenario 1: Sex Trafficking

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source Country</td>
<td>A young Indonesian woman hears about a possible job in Hong Kong working in a restaurant</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She is introduced by a friend to a man who says he can arrange the trip (a trafficker)</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>The statements he makes to her are false and intended to deceive her</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>He helps her to get a passport and a visa in exchange for a fee (US$1,900)</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>This is done by bribing government officials in Indonesia to get the proper papers in order</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>Before leaving she borrows money from the man arranging the travel documents at a rate that exceeds legal limits (for her family)</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She flies to Hong Kong</td>
<td>--</td>
</tr>
</tbody>
</table>
| | Upon arriving, she is told to say she is a tourist who will be staying for ten days, if asked by the immigration officials | For the trafficker & victim  
- Making false statement to immigration officer (s42(1), Immigration Ordinance) |

| Destination Country: Hong Kong (Initiation) | She arrives in Hong Kong | For the trafficker  
- Aiding, abetting, counseling or procuring another’s landing without permission (s38(1)(a), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another’s remaining without permission (s38(1)(b), Immigration Ordinance)  
- Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance)  
- Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance)  

For the victim  
- Landing without permission (s38(1)(a), Immigration Ordinance)  
- Remaining without permission (s38(1)(b), Immigration Ordinance) |
### Annex 1: Generic Exploitation Profiles

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| **Destination Country: Hong Kong (Initiation)** | He takes her passport | *For the trafficker / perpetrator*  
- Possession of another’s identity cards (s7A(1A), Registration of Persons Ordinance)  
- Possession of another’s identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another’s failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance)  
- Obtaining property by deception (s17, Theft Ordinance)  
- Theft (s9, Theft Ordinance)  
- Robbery (s10, Theft Ordinance)  
- Handling stolen goods (s24, Theft Ordinance)  
*For the victim*  
- Failure to produce identity cards (s17C, Immigration Ordinance) |
| | She is taken to an apartment in Kowloon | *For the perpetrator*  
- Permitting children under 13 to resort to or be on premises for intercourse (s140, Crimes Ordinance)  
- Permitting young person to resort to or be on premises for intercourse (s141, Crimes Ordinance)  
- Keeping a vice establishment (s139, Crimes Ordinance)  
- Letting premises for use as a vice establishment (s143, Crimes Ordinance)  
- Permitting premises to be kept or used as a vice establishment (s144, Crimes Ordinance)  
- False imprisonment (common law offence) |
<p>| | She begins to get nervous and starts to ask questions | -- |</p>
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Destination Country: Hong Kong (Initiation)</strong></td>
<td>The man becomes angry and slaps her several times and offers threats against her and her family</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)&lt;br&gt;- Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)&lt;br&gt;- Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)&lt;br&gt;- Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)</td>
</tr>
<tr>
<td><strong>Destination Country:</strong></td>
<td>He explains that if she doesn’t do what she is told, she will be hurt</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Criminal intimidation (s24, Crimes Ordinance)&lt;br&gt;- Soliciting for immoral purpose (s147, Crimes Ordinance)</td>
</tr>
<tr>
<td><strong>Exploitation Period</strong></td>
<td>She is held against her will</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Control over persons for purpose of unlawful sexual intercourse or prostitution (s130, Crimes Ordinance)&lt;br&gt;- Detention for intercourse or in vice establishment (s134, Crimes Ordinance)&lt;br&gt;- False imprisonment (common law offence)</td>
</tr>
<tr>
<td><strong>Destination Country:</strong></td>
<td>She is confined in a room for two days – with little food or water</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- False imprisonment (common law offence)&lt;br&gt;- Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)</td>
</tr>
<tr>
<td><strong>Exploitation Period</strong></td>
<td>She is forced to drink a juice cocktail that is laced with a sedative</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Administering drugs to obtain or facilitate intercourse (s121, Crimes Ordinance)</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
</tr>
<tr>
<td>-----------</td>
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<td>--------------------------------------------------</td>
</tr>
</tbody>
</table>
| In this intoxicated state, men come and have sex with her against her will | For the perpetrator  
- Rape (s118, Crimes Ordinance)  
- Procurement of intercourse by threats or false pretences (s119, Crimes Ordinance)  
- Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance)  
- Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance)  
- Non-consensual buggery (s118A, Crimes Ordinance)  
- Assault with intent to commit buggery (s118B, Crimes Ordinance)  
- Indecent assault (s122, Crimes Ordinance)  
- Abduction of unmarried girls under 18 for sexual intercourse (s127, Crimes Ordinance)  
- Indecent conduct towards child under 16 (s146, Crimes Ordinance) |
| Photos are taken of her with several men in compromising positions | For the perpetrator  
- Indecent assault (s122, Crimes Ordinance)  
- Making and producing child pornography (s3, Prevention of Child Pornography Ordinance)  
- Possessing child pornography (s3, Prevention of Child Pornography Ordinance)  
- Procuring persons under 18 for making pornography (s138A, Crimes Ordinance) |
| She is told that these photos will be sent to her family if she doesn't comply with the house | For the perpetrator  
- Causing or encouraging unlawful sexual act with children under 16 (s135, Crimes Ordinance)  
- Criminal intimidation (s24, Crimes Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| **Destination Country:** Exploitation Period | She is forced to have sex with up to three men a day | For the perpetrator  
- Trafficking in persons to or from Hong Kong (s129, Crimes Ordinance)  
- Living on earnings of prostitution of others (s137, Crimes Ordinance)  
- Rape (s118, Crimes Ordinance)  
- Procurement of intercourse by threats or false pretences (s119, Crimes Ordinance)  
- Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance)  
- Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance)  
- Non-consensual buggery (s118A, Crimes Ordinance)  
- Assault with intent to commit buggery (s118B, Crimes Ordinance)  
- Indecent assault (s122, Crimes Ordinance)  
- Abduction of unmarried girls under 18 for sexual intercourse (s127, Crimes Ordinance)  
- Indecent conduct towards child under 16 (s146, Crimes Ordinance) |
| | She is not allowed to leave the apartment without an escort | **For the perpetrator**  
- False imprisonment |
| | She is not allowed to communicate with anyone at any time | **For the perpetrator**  
- Possession of dangerous drugs (s8, Dangerous Drugs Ordinance)  
- Administering drugs to obtain or facilitate intercourse (s121, Crimes Ordinance) |
<p>| | She is forced to drink whatever the client offers, even if she doesn't want it |</p>
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>If the person doesn’t want to wear a condom, she can’t deny him sex</td>
<td><em>For the perpetrator</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Rape (s118, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Procurement of intercourse by threats or false</td>
</tr>
<tr>
<td></td>
<td></td>
<td>pretences (s119, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Unlawful sexual intercourse with girls under</td>
</tr>
<tr>
<td></td>
<td></td>
<td>13 (s123, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Unlawful sexual intercourse with girls under</td>
</tr>
<tr>
<td></td>
<td></td>
<td>16 (s124, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Non-consensual buggery (s118A, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assault with intent to commit buggery (s118B,</td>
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<tr>
<td></td>
<td></td>
<td>Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Indecent assault (s122, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Abduction of unmarried girls under 18 for</td>
</tr>
<tr>
<td></td>
<td></td>
<td>sexual intercourse (s127, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Indecent conduct towards child under 16 (s146,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She does not receive any payment – whatever they think she needs (food,</td>
<td><em>For the perpetrator</em></td>
</tr>
<tr>
<td></td>
<td>clothing) is provided to her</td>
<td>• Failure to provide food, etc for apprentices or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>servants (s25, Offences Against the Persons</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assault occasioning actual bodily harm (s39,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Offences against the Person Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She is told she must pay back a debt that was incurred when the house</td>
<td><em>For the perpetrator</em></td>
</tr>
<tr>
<td></td>
<td>bought her – she does not know how much this is</td>
<td>• Lending at excessive interest rates (s24,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Money Lenders Ordinance)</td>
</tr>
<tr>
<td></td>
<td>Bribes are paid to a local police officer to turn the other way</td>
<td><em>For the perpetrator</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Offering advantage to public servant (s4,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Prevention of Bribery Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Offering advantage to public servant in regard</td>
</tr>
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<td></td>
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<td>to a contract (s5, Prevention of Bribery Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Offering an advantage to an agent (s9,</td>
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<td></td>
<td></td>
<td>Prevention of Bribery Ordinance)</td>
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<tr>
<td></td>
<td></td>
<td><em>For the police officer</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
</tr>
<tr>
<td>-----------</td>
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<td>--------------------------------------------------</td>
</tr>
</tbody>
</table>
| Destination Country: Exploitation Period | The apartment is rented using money from drug trafficking profits | **For the perpetrator**  
- Trafficking in a dangerous drug (s4, Dangerous Drugs Ordinance)  
- Possession of a dangerous drug (s8, Dangerous Drugs Ordinance)  
- Money Laundering (s25, Organised and Serious Crimes Ordinance & Drug Trafficking (Recovery of Proceeds) Ordinance) |
| | The trafficker have a vice establishment and forced the girl to solicit clients | **For the perpetrator**  
- Soliciting for immoral purpose (s147, Crimes Ordinance)  
- Keeping a vice establishment (s139, Crimes Ordinance)  
- Letting premises for use as a vice establishment (s143, Crimes Ordinance)  
- Permitting premises to be kept or used as a vice establishment (s144, Crimes Ordinance) |
| Source Country: The Return home | After 18 months, she is given her freedom to make room for a fresh trafficked person | **For the perpetrator**  
- Soliciting for immoral purpose (s147, Crimes Ordinance) |
| | She returns, but out of shame she does not communicate what happened to her | -- |
| | She makes up a story that she tried to contact her home but couldn’t get through | -- |
| | She explains that she earned a lot of money but it was sold before she was coming back. | -- |
### Scenario 2: Construction Trafficking

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source Country</td>
<td>A mainland Chinese 16 year old boy learns of a construction project in Hong Kong that requires workers</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>He is given instructions on how to get into Hong Kong on a supply boat</td>
<td>--</td>
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<tr>
<td></td>
<td>He pays the boat owner a smuggling fee</td>
<td>--</td>
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<tr>
<td></td>
<td>When the boat is stopped and he and others are found to be without papers, the captain pays the marine police a bribe</td>
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<tr>
<td></td>
<td>This is added to his debt</td>
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<tr>
<td></td>
<td>He is told he will be paid, but not for the first three months</td>
<td>--</td>
</tr>
<tr>
<td>Destination Country: Hong Kong (Initiation)</td>
<td>The man is greeted at the border</td>
<td><strong>For the trafficker</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Aiding, abetting, counseling or procuring another’s landing without permission (s38(1)(a), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Aiding, abetting, counseling or procuring another’s remaining without permission (s38(1)(b), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance)</td>
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<tr>
<td></td>
<td></td>
<td>• Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td>He is taken to an apartment that is shared by ten other men</td>
<td><strong>For the victim</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Landing without permission (s38(1)(a), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Remaining without permission (s38(1)(b), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td>They are all from different parts of Mainland China</td>
<td><strong>For the trafficker / perpetrator</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Being an employer of a person not lawfully employable (s17I(1), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Illegal immigrants found on construction site (s38A(2), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Failing to keep record of employees (s17K &amp; M, Immigration Ordinance)</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
</tr>
<tr>
<td>-----------</td>
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<td>--------------------------------------------------</td>
</tr>
<tr>
<td><strong>Destination Country: Hong Kong (Initiation)</strong></td>
<td>All of his documents are taken away and withheld from him</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Possession of another’s identity cards (s7A(1A), Registration of Persons Ordinance)&lt;br&gt;- Possession of another’s identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)&lt;br&gt;- Aiding, abetting, counseling or procuring another’s failure to produce identity cards (s17C, Immigration Ordinance &amp; s89, Criminal Procedure Ordinance)&lt;br&gt;- Obtaining property by deception (s17, Theft Ordinance)&lt;br&gt;- Theft (s9, Theft Ordinance)&lt;br&gt;- Robbery (s10, Theft Ordinance)&lt;br&gt;- Handling stolen goods (s24, Theft Ordinance)&lt;br&gt;- <strong>For the victim</strong>&lt;br&gt;- Failure to produce identity cards (s17C, Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td>They are told not to leave the apartment unless to go to the work site</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- False imprisonment (common law offence)</td>
</tr>
<tr>
<td></td>
<td>They are threatened with deportation and imprisonment if they don't follow directions</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Criminal intimidation (s24, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td>One of the men breaks the rules and gets severely beaten</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)&lt;br&gt;- Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)&lt;br&gt;- Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)&lt;br&gt;- Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)&lt;br&gt;- Murder (common law offence)&lt;br&gt;- Manslaughter (common law offence)</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
</tr>
<tr>
<td>-----------</td>
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<td>-------------------------------------------------</td>
</tr>
</tbody>
</table>
|            | Each morning, they are all taken to the construction site | **For the perpetrator**  
• Aiding, abetting, counseling or procuring another's prohibition of taking employment (s38AA, Immigration Ordinance)  
• Aiding, abetting, counseling or procuring another's breaching a condition of stay (s41, Immigration Ordinance)  
• Restriction on employment of persons under 18 years of age on construction sites (reg4A, Construction Sites (Safety) Regulations)  
• Prohibition of untrained & incompetent workmen to operate mechanical equipment (reg45, Construction Sites (Safety) Regulations)  
**For the victim**  
• Prohibition of taking employment (s38AA, Immigration Ordinance)  
• Breaching a condition of stay (s41, Immigration Ordinance) |
|            | Their services are subcontracted through a Hong Kong construction agent | **For the perpetrator**  
• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)  
• Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)  
• Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)  
• Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)  
**For the victim**  
• Prohibition of taking employment (s38AA, Immigration Ordinance)  
• Breaching a condition of stay (s41, Immigration Ordinance) |
|            | His supervisor physically and verbally abuses him over and over again | **For the perpetrator**  
• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)  
• Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)  
• Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)  
• Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)  
**For the victim**  
• Prohibition of taking employment (s38AA, Immigration Ordinance)  
• Breaching a condition of stay (s41, Immigration Ordinance) |
|            | After two months of work, when he asks for his payment he is hit across the face | **For the perpetrator**  
• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)  
• Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)  
• Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)  
• Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance) 
**For the victim**  
• Prohibition of taking employment (s38AA, Immigration Ordinance)  
• Breaching a condition of stay (s41, Immigration Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| Destination Country: Exploitation Period | He works 14 hours a day, seven days a week | *For the perpetrator*  
  - Failure to grant rest days (s17, Employment Ordinance)  
  - Compelling employees to work on rest days (s19, Employment Ordinance)  
  - Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance)  
  - Failure to grant annual leave (s41AA, Employment Ordinance)  
  - Failure to pay annual leave pay (s41D, Employment Ordinance – fine of $50,000)  
  - Failure to pay sickness allowance (s33, Employment Ordinance) |
| Destination Country: Hong Kong (Initiation) | After seven months of this work, he begins to feel he’ll never be paid – the others are asking the same thing | *For the perpetrator*  
  - Obtaining services by deception (s18A(1), Theft Ordinance)  
  - Evasion of liability by deception (s18B, Theft Ordinance)  
  - Fraud (s16A, Theft Ordinance) |
| Destination Country: Hong Kong (Initiation) | After an accident takes place and one of his fingertips is cut off, he is not offered any proper medical care – a makeshift bandage is offered | *For the perpetrator*  
  - Assault with intent to commit arrestable offences (s36, Offences Against the Persons Ordinance)  
  - Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)  
  - Assaulting apprentices or servants (s25, Offences against the Person Ordinance)  
  - Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)  
  - Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)  
  - Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)  
  - Assults with intent to cause certain acts to be done (s25, Crimes Ordinance)  
  - Murder (common law offence)  
  - Manslaughter (common law offence) |
| Major loans for the project were received by several international banks cover construction materials, equipment and staffing | *For the perpetrator*  
  - Money Laundering (s25, Organised and Serious Crimes Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| **One day the immigration police come to the site and visit the foremen (a bribe is paid to the agent to arrest and deport them)** | **For the perpetrator**  
- Offering advantage to public servant (s4, Prevention of Bribery Ordinance)  
- Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance)  
- Offering an advantage to an agent (s9, Prevention of Bribery Ordinance)  
- Making false statement to immigration officer (s42(1), Immigration Ordinance)  

**For the government officials**  
- Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance) | **An hour later all of the men are arrested and brought to an immigration centre**  
--- |
| **The man is deported with no money paid** | **For the perpetrator**  
- Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance)  
- Failure to pay wages on completion (s24, Employment Ordinance)  
- Failure to pay on termination (s25, Employment Ordinance)  
- Illegal deductions from wages (s32, Employment Ordinance)  
- Failure to pay interests on late payment on wages (s25A, Employment Ordinance)  
- Failure to pay end of year payment ($50,000) | **Despite trying to explain that he was cheated, no one listens to his story**  
--- |
## Scenario 3: Labour Trafficking

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source Country</td>
<td>Mainland Chinese woman with sewing skills learns of a good-paying sewing job in Hong Kong</td>
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<tr>
<td></td>
<td>She is given instructions by her sponsor (a trafficker) on how to get a tourist visa to visit the island</td>
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<td></td>
<td>She is told she will be paid a good salary which is not true – no payment will be offered</td>
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<tr>
<td></td>
<td>No written contract is offered</td>
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<tr>
<td></td>
<td>Upon arriving at the border the immigration officer pulls her aside because of the size of her bag</td>
<td>For the trafficker • Aiding, abetting, counseling or procuring another’s landing without permission (s38(1)(a), Immigration Ordinance) • Aiding, abetting, counseling or procuring another’s remaining without permission (s38(1)(b), Immigration Ordinance) • Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance) • Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance) For the victim • Landing without permission (s38(1)(a), Immigration Ordinance) • Remaining without permission (s38(1)(b), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td>As instructed, she offers a small envelope that includes money to bribe the officer which is accepted</td>
<td>For the perpetrator • Offering advantage to public servant (s4, Prevention of Bribery Ordinance) • Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance) • Offering an advantage to an agent (s9, Prevention of Bribery Ordinance) • For the officer • Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance)</td>
</tr>
<tr>
<td></td>
<td>The garments made are going to a major retailer</td>
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<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
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</tr>
</tbody>
</table>
| **Destination Country: Hong Kong (Initiation)** | Upon arriving, she is picked up by an agent who offers her contract to sign in an unknown language | **For the perpetrator**  
- Employer not to enter into contract without reasonable belief that he can pay wages (s31, Employment Ordinance)  
- Fraud (s16A, Theft Ordinance)  
- Prohibition of taking employment (s38AA, Immigration Ordinance)  
- Breaching a condition of stay (s41, Immigration Ordinance) |
| | The details are explained to her | -- |
| | She signs | **For the perpetrator**  
- Employers to inspect documents of new employee (s17J, Immigration Ordinance) |
| | She is asked to hand over her documents so copies can be made | **For the perpetrator**  
- Obtaining property by deception (s17, Theft Ordinance)  
- Possession of another’s identity cards (s7A(1A), Registration of Persons Ordinance)  
- Possession of another’s identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another’s failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance)  
- Theft (s9, Theft Ordinance)  
- Robbery (s10, Theft Ordinance)  
- Handling stolen goods (s24, Theft Ordinance) |
| | When she asks for them back, she is told she can’t have them | **For the perpetrator**  
- Possession of another’s identity cards (s7A(1A), Registration of Persons Ordinance)  
- Possession of another’s identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another’s failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance)  
- Theft (s9, Theft Ordinance)  
- Robbery (s10, Theft Ordinance)  
- Handling stolen goods (s24, Theft Ordinance)  
**For the victim**  
- Failure to produce identity cards (s17C, Immigration Ordinance) |
| | She is taken to a small apartment that has 25 other women from different locations (only one speaks Mandarin) – attached to the apartment is a sewing workshop | **For the perpetrator**  
- For the perpetrator  
- Being an employer of a person not lawfully employable (s17I(1), Immigration Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each day she is forced to work 16 hours a day, seven days a week – sewing</td>
<td>For the perpetrator:</td>
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<tr>
<td></td>
<td>- Failure to grant rest days (s17, Employment Ordinance)</td>
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<tr>
<td></td>
<td>- Compelling employees to work on rest days (s19, Employment Ordinance)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Failure to grant holidays or failure to pay holiday pay (s39 Ordinance)</td>
<td></td>
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<tr>
<td></td>
<td>- Failure to grant annual leave (s41AA, Employment Ordinance)</td>
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<tr>
<td></td>
<td>- Failure to pay annual leave pay (s41D, Employment Ordinance)</td>
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<tr>
<td></td>
<td>- Failure to pay sickness allowance (s33, Employment Ordinance)</td>
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<tr>
<td>If she makes a mistake or is short on her quota, she is hit</td>
<td>For the perpetrator:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)</td>
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</tr>
<tr>
<td></td>
<td>- Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)</td>
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</tr>
<tr>
<td>She is given two meals a day</td>
<td>For the perpetrator:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)</td>
<td></td>
</tr>
<tr>
<td>She is not allowed to leave the premise for any reason</td>
<td>For the perpetrator:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- False imprisonment (common law offence)</td>
<td></td>
</tr>
<tr>
<td>She is told that she owes money as outlined in the contact — the amount is unclear</td>
<td>For the perpetrator:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Fraud (s16A, Theft Ordinance)</td>
<td></td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
<td>Possible Criminal Offence(s) &amp; Maximum Penalties</td>
</tr>
<tr>
<td>-----------</td>
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<td>--------------------------------------------------</td>
</tr>
</tbody>
</table>
| Destination Country: Exploitation Period | She is told she will not be paid until this amount is covered. | *For the perpetrator*  
- Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance)  
- Failure to pay wages on completion (s24, Employment Ordinance)  
- Failure to pay on termination (s25, Employment Ordinance)  
- Illegal deductions from wages (s32, Employment Ordinance)  
- Failure to pay interests on late payment on wages (s25A, Employment Ordinance)  
- Failure to pay end of year payment ($50,000)  
- Obtaining services by deception (s18A(1), Theft Ordinance)  
- Evasion of liability by deception (s18B, Theft Ordinance) |
|  | After six months, she is told she will get money from that point on, but the money will be held by the manager. |  |
|  | Bribes are paid to local labor inspectors to ignore the business and the zoning breeches. | *For the perpetrator*  
- Offering advantage to public servant (s4, Prevention of Bribery Ordinance)  
- Offering advantage to public servant in regard to a contract (s5, Prevention of Bribery Ordinance)  
- Offering an advantage to an agent (s9, Prevention of Bribery Ordinance)  
*For the officer*  
- Soliciting or accepting advantage (s4, Prevention of Bribery Ordinance) |
|  | Loans were taken to pay for the sewing equipment, running costs (e.g. water and electricity) and the raw textiles used in the business. | *For the perpetrator*  
- Money Laundering (s25, Organised and Serious Crimes Ordinance) |
<p>|  | Purchases are made from local wholesale shops. |  |
| Source Country: The Return Home | The woman is told she can go and visit her family. The arrangements are made. |  |
|  | She is told she will get a payment on that day. |  |</p>
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Source Country: The Return home</strong></td>
<td>She is dropped off at the border site, given her papers, but the van drives away without paying her</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance)&lt;br&gt;- Failure to pay wages on completion (s24, Employment Ordinance)&lt;br&gt;- Failure to pay on termination (s25, Employment Ordinance)&lt;br&gt;- Illegal deductions from wages (s32, Employment Ordinance)&lt;br&gt;- Failure to pay interests on late payment on wages (s25A, Employment Ordinance)&lt;br&gt;- Failure to pay end of year payment ($50,000)&lt;br&gt;- Obtaining services by deception (s18A(1), Theft Ordinance)&lt;br&gt;- Evasion of liability by deception (s18B, Theft Ordinance)</td>
</tr>
</tbody>
</table>
### Scenario 4: Marriage Trafficking

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Source Country</td>
<td>A Cambodian woman hears about a marriage brokering service</td>
<td>For the trafficker</td>
</tr>
<tr>
<td></td>
<td>She reads an ad in a local paper and applies to help get into a situation where she might be able to support her extended family financially</td>
<td>• Conspiracy to defraud (s159C(6), Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She is asked to provide a profile</td>
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<tr>
<td></td>
<td>A video is taken of her in a short dress</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Once a perspective husband is located (a photo of a young, handsome, successful man is provided), the agency helps her to get a passport and a visa in exchange for a fee (US$2,600)</td>
<td>• Aiding, abetting, counseling or procuring another’s landing without permission (s38(1)(a), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She borrows money from her parents to cover the expenses</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Money is paid by the broker to bribe government officials to secure the proper papers</td>
<td></td>
</tr>
<tr>
<td></td>
<td>She flies to Hong Kong</td>
<td></td>
</tr>
<tr>
<td>Destination Country: Hong Kong (Initiation)</td>
<td>She arrives in Hong Kong</td>
<td>For the trafficker</td>
</tr>
<tr>
<td></td>
<td>A man and a woman are waiting for her at the airport</td>
<td>• Aiding, abetting, counseling or procuring another’s remaining without permission (s38(1)(b), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For the victim</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Landing without permission (s38(1)(a), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Remaining without permission (s38(1)(b), Immigration Ordinance)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Making false statement to immigration officer (s42(1), Immigration Ordinance)</td>
</tr>
</tbody>
</table>
### Situation: Hong Kong (Initiation)

<table>
<thead>
<tr>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Her travel documents are taken immediately</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Possession of another’s identity cards (s7A(1A), Registration of Persons Ordinance)&lt;br&gt;- Possession of another’s identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)&lt;br&gt;- Aiding, abetting, counseling or procuring another’s failure to produce identity cards (s17C, Immigration Ordinance &amp; s89, Criminal Procedure Ordinance)&lt;br&gt;- Obtaining property by deception (s17, Theft Ordinance)&lt;br&gt;- Theft (s9, Theft Ordinance)&lt;br&gt;- Robbery (s10, Theft Ordinance)&lt;br&gt;- Handling stolen goods (s24, Theft Ordinance)&lt;br&gt;<strong>For the victim</strong>&lt;br&gt;- Failure to produce identity cards (s17C, Immigration Ordinance)&lt;br&gt;</td>
</tr>
<tr>
<td>She is driven to another agency office where she is presented with a set of papers to sign in a foreign language</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;- Conspiracy to defraud (s159C(6), Crimes Ordinance)&lt;br&gt;- Fraud (s16A, Theft Ordinance)&lt;br&gt;- Making false statement to immigration officer (s42(1), Immigration Ordinance)&lt;br&gt;<strong>For the victim</strong>&lt;br&gt;-</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
</tr>
<tr>
<td>-----------</td>
<td>--------</td>
</tr>
<tr>
<td>Each day she is forced to wake up at 6am and work till 11pm</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Failure to grant rest days (s17, Employment Ordinance)&lt;br&gt;• Compelling employees to work on rest days (s19, Employment Ordinance)&lt;br&gt;• Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance)&lt;br&gt;• Failure to grant annual leave (s41AA, Employment Ordinance)&lt;br&gt;• Failure to pay annual leave pay (s41D, Employment Ordinance)&lt;br&gt;• Failure to pay sickness allowance (s33, Employment Ordinance)</td>
</tr>
<tr>
<td>She services the needs of a large extended family</td>
<td>--</td>
</tr>
<tr>
<td>If she does something wrong, she is hit repeatedly</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)&lt;br&gt;• Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)&lt;br&gt;• Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)&lt;br&gt;• Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)</td>
</tr>
<tr>
<td>She is not allowed to leave the house unless a family member accompanies her</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• False imprisonment (common law offence)</td>
</tr>
<tr>
<td>While the man is physically handicapped, he still demands that she sleep with him</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Rape (s118, Crimes Ordinance – life imprisonment)&lt;br&gt;• Unlawful sexual intercourse with girls under 13 (s123, Crimes Ordinance)&lt;br&gt;• Unlawful sexual intercourse with girls under 16 (s124, Crimes Ordinance)&lt;br&gt;• Non-consensual buggery (s118A, Crimes Ordinance)&lt;br&gt;• Assault with intent to commit buggery (s118B, Crimes Ordinance)&lt;br&gt;• Indecent assault (s122, Crimes Ordinance)&lt;br&gt;• Indecent conduct towards child under 16 (s146, Crimes Ordinance)</td>
</tr>
<tr>
<td>Situation</td>
<td>Events</td>
</tr>
<tr>
<td>-----------</td>
<td>--------</td>
</tr>
<tr>
<td>Destination Country: Exploitation Period</td>
<td>She is forced to do whatever any of the family member demands of her, no matter what that might be</td>
</tr>
</tbody>
</table>
| Destination Country: Exploitation Period | She is given no money or freedom of movement | For the perpetrator  
- Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance)  
- Failure to pay wages on completion (s24, Employment Ordinance)  
- Failure to pay on termination (s25, Employment Ordinance)  
- Illegal deductions from wages (s32, Employment Ordinance)  
- Failure to pay interests on late payment on wages (s25A, Employment Ordinance)  
- Failure to pay end of year payment ($50,000)  
- False imprisonment (common law offence) |
| When she gets very sick, no medical care is offered – even when she was near death | For the perpetrator  
- Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)  
- Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance) |
| Source Country: The Return home | She feels she was cheated | --- |
| Source Country: The Return home | She is not allowed to return to her home country | For the perpetrator  
- False imprisonment (common law offence) |
| Source Country: The Return home | She is not allowed to communicate with her family in any way | --- |
## Scenario 5: Domestic Trafficking

<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Source Country</strong></td>
<td>An Indonesian woman hears about a domestic job in Hong Kong</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She reads an ad in a local paper and applies</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She is given a contract in her own language that she reads and signs</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>The agency helps her to get a passport and a visa in exchange for a fee (US$3,200)</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She borrows money from her husband's family to cover the expenses</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>The process is legal</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>She flies to Hong Kong</td>
<td></td>
</tr>
</tbody>
</table>
| **Destination Country: Hong Kong (Initiation)** | She arrives in Hong Kong | For the trafficker  
- Aiding, abetting, counseling or procuring another's landing without permission (s38(1)(a), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another's remaining without permission (s38(1)(b), Immigration Ordinance)  
- Arranging passage to Hong Kong of unauthorised entrants (s37D, Immigration Ordinance)  
- Assisting unauthorised entrant to remain (s37DA, Immigration Ordinance)  

For the victim  
- Landing without permission (s38(1)(a), Immigration Ordinance)  
- Remaining without permission (s38(1)(b), Immigration Ordinance)  
- Making false statement to immigration officer (s42(1), Immigration Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| Destination Country: Hong Kong (Initiation) | Her travel documents are taken immediately | **For the perpetrator**  
- Possession of another's identity cards (s7A(1A), Registration of Persons Ordinance)  
- Possession of another's identity documents that are unlawfully obtained (s42(2), Immigration Ordinance)  
- Aiding, abetting, counseling or procuring another's failure to produce identity cards (s17C, Immigration Ordinance & s89, Criminal Procedure Ordinance)  
- Obtaining property by deception (s17, Theft Ordinance)  
- Theft (s9, Theft Ordinance)  
- Robbery (s10, Theft Ordinance)  
- Handling stolen goods (s24, Theft Ordinance)  
**For the victim**  
- Failure to produce identity cards (s17C, Immigration Ordinance) |
| | She is driven to another agency office where she is presented with a second contract that is in a foreign language | **For the perpetrator**  
- Conspiracy to defraud (s159C(6), Crimes Ordinance)  
**For the perpetrator**  
- Conspiracy to defraud (s159C(6), Crimes Ordinance) |
| | She is told to sign | **For the perpetrator**  
- Conspiracy to defraud (s159C(6), Crimes Ordinance)  
**For the perpetrator**  
- Criminal intimidation (s24, Crimes Ordinance) |
| | When she resists, she is shouted at | **For the perpetrator**  
- Criminal intimidation (s24, Crimes Ordinance)  
She signs | -- |
| Destination Country: Hong Kong (Initiation) | A middle-aged couple come to the office | -- |
| | The couple and the agent take her to an apartment | -- |
| | The agent explains she is not to talk to anyone and to leave or she will get punished | **For the perpetrator**  
- Criminal intimidation (s24, Crimes Ordinance) |
## Situation

<table>
<thead>
<tr>
<th>Destination Country:Exploitation Period</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
</table>
| Each day she is forced to wake up at 6am and work till 11pm | • For the perpetrator  
  - Prohibition of taking employment (s38AA, Immigration Ordinance)  
  - Breaching a condition of stay (s41, Immigration Ordinance)  
  - Failure to grant rest days (s17, Employment Ordinance)  
  - Compelling employees to work on rest days (s19, Employment Ordinance)  
  - Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance)  
  - Failure to grant annual leave (s41AA, Employment Ordinance)  
  - Failure to pay annual leave pay (s41D, Employment Ordinance)  
  - Failure to pay sickness allowance (s33, Employment Ordinance) | |
| She services the needs of a large extended family | -- | |
| She gets Sunday afternoon off but she is not allowed to leave | • For the perpetrator  
  - Failure to grant rest days (s17, Employment Ordinance)  
  - Compelling employees to work on rest days (s19, Employment Ordinance)  
  - Failure to grant holidays or failure to pay holiday pay (s39 Employment Ordinance)  
  - Failure to grant annual leave (s41AA, Employment Ordinance)  
  - Failure to pay annual leave pay (s41D, Employment Ordinance)  
  - Failure to pay sickness allowance (s33, Employment Ordinance) | |
| If she does something wrong (which is often because she doesn’t understand the language), she is hit repeatedly | • For the perpetrator  
  - Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)  
  - Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)  
  - Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)  
  - Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance) |
<table>
<thead>
<tr>
<th>Situation</th>
<th>Events</th>
<th>Possible Criminal Offence(s) &amp; Maximum Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Destination Country: Exploitation Period</strong></td>
<td>She is only paid HK$60 a month because room, food, agency fees, and any other expenses are deducted</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Failure to pay wages on expiry of last day of wage period (s23, Employment Ordinance)&lt;br&gt;• Failure to pay wages on completion (s24, Employment Ordinance)&lt;br&gt;• Failure to pay on termination (s25, Employment Ordinance)&lt;br&gt;• Illegal deductions from wages (s32, Employment Ordinance)&lt;br&gt;• Failure to pay interests on late payment on wages (s25A, Employment Ordinance)&lt;br&gt;• Failure to pay end of year payment</td>
</tr>
<tr>
<td></td>
<td>When she tries to ask any questions she is hit</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)&lt;br&gt;• Wounding or inflicting grievous bodily harm (s19, Offences against the Person Ordinance)&lt;br&gt;• Wounding with intent to do grievous bodily harm (s17, Offences against the Person Ordinance)&lt;br&gt;• Assaults with intent to cause certain acts to be done (s25, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She is allowed to cook two meals a day for herself</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)&lt;br&gt;• Assault occasioning actual bodily harm (s39, Offences against the Person Ordinance)</td>
</tr>
<tr>
<td></td>
<td>Now and then, one of the uncles who visits the house, fondles her – if she resists she is scolded and slapped</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Indecent assault (s122, Crimes Ordinance)&lt;br&gt;• Indecent conduct towards child under 16 (s146, Crimes Ordinance)</td>
</tr>
<tr>
<td></td>
<td>She is forced to sleep in a tiny room that is no more than a broom closet</td>
<td><strong>For the perpetrator</strong>&lt;br&gt;• Failure to provide food, etc for apprentices or servants (s25, Offences Against the Persons Ordinance)</td>
</tr>
</tbody>
</table>
Annex 2: Training Kit
Annex 2: Training Kit

This section contains a training kit complete with a trainer’s script and training evaluation forms. The training provides a basic overview of human trafficking concepts and definitions, the Hong Kong context, the victim identification process and support services. The training kit also includes activities aimed at engaging those receiving training.

Training participants should anonymously complete Evaluation Form No. 1 (Evaluation of Training).

Activity 1
Describe:
- a child trafficking victim
- a forced labour victim
- a sexual exploitation victim

In particular:
- How does s/he look like?
- How old is s/he?
- What does s/he wear?
- How does s/he talk?
Definitions

Trafficking definition
The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) defines trafficking as follows: “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.

Smuggling and trafficking
Under the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime (Migrant Smuggling Protocol) migrant smuggling is the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.

What sets human smuggling apart from human trafficking is that:
Smuggling is transportation-based - Having paid the smuggling fee on arrival at his/her destination, the migrant is free to make his/her own way and usually does not see the smuggler again.
Trafficking is exploitation-based - For trafficked people, it is often only once they arrive that their real problems begin. They have often been promised a job that does not exist, and instead they are forced to work in jobs or conditions that they did not agree to.

Government response to human trafficking
The Palermo Protocol is currently not applicable to Hong Kong. Trafficking offences are set out in different sections of the Crimes Ordinance, the Employment Ordinance, the Immigration Ordinance and the Offences Against the Person Ordinance. Hong Kong laws do not fully comply with the minimum standards for the elimination of trafficking. The definition of trafficking as set out in Section 129 (Trafficking in persons to or from Hong Kong) of the Crimes Ordinance focuses on movement to and from Hong Kong and only states one form of exploitation, prostitution. This definition is limited and not in line with international standards and the current international thinking on this subject. The existing definition not only detracts from exploitation which is the essence of the Protocol definition but also excludes other forms of exploitation e.g. forced labour, slavery or similar practices. The definition presents a very narrow and skewed view of a very complex issue. There is currently no criminal prohibition against forced labour in Hong Kong.

Trafficking cases are rare because by its nature trafficking is a hidden crime and its victims are silent. In Hong Kong this is compounded by issues such as poor victim identification, lack of relevant legislation and by the fact that counter-trafficking is not core police business.
The following are the main features of trafficking in Hong Kong:

- Hong Kong is a destination, transit, and source territory
- Men, women, and teenage girls are trafficked to Hong Kong
- Source countries are mainland China, the Philippines, Thailand, other Southeast Asian countries, Nepal, Colombia, Chad and Uganda.

There is significant evidence to suggest that trafficking for forced labour is prevalent in Hong Kong. In fact, a significant part of the trafficking landscape in Hong Kong relates to Indonesian and Filipino foreign domestic helpers (“FDH”), often trapped in situations of forced labour, debt bondage and servitude. In particular, the FDH face notable indebtedness assumed in their home countries to fund overseas job placement and fees. This often turns into a debt bondage situation where FDH work under exploitative conditions to repay an extortionate debt. Some domestic worker employment agencies in Hong Kong charge fees in excess of the maximum allowed under Hong Kong law. The accumulated debts sometimes amount to up to 80 percent of workers’ salaries for the first seven to eight months of employment. During that period, some workers may be unwilling to report abusive employers for fear of losing their jobs. Several of Hong Kong’s domestic worker employment agencies charge fees in excess of Hong Kong law and illegally withhold passports, employment contracts, and bank debit cards of FDH until their debt is paid. Recruitment agencies and the brokers that act for them, routinely deceive women about salaries and fees, confiscate identification documents and other property as collateral, and charge fees in excess of those permitted by law. Full fees are imposed from the outset of training, trapping the women with crippling debt should they withdraw.\(^1\)

Commercial sex trafficking takes place in Hong Kong and all trafficking prosecutions to-date relate to this form of trafficking. Victims are deceived about the nature of prospective work. Upon arrival in Hong Kong, some of these migrants are forced into prostitution to repay money owed for their travel to Hong Kong. In many cases sex workers willingly travel to Hong Kong for sex work but upon arrival find that they are indebted to the middle man who arranged the travel and the job opportunity. They then end up being exploited and controlled by the individual they are indebted to.

**Victim identification**

It is a common misconception that poverty and lack of knowledge are the main causes of trafficking. Reality shows otherwise:\(^2\)

- Many victims are partially/fully aware of being involved in commercial sex acts. Nevertheless, they are not prepared for the exploitation that ensues.
- Victims come from all age groups.
- A significant proportion of victims are coming from urban areas.
- University graduates may also fall prey to traffickers.

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Activity 2
True or false
T/F 1. Victims often make a conscious decision in the belief that they will lead a better life.
T/F 2. Victims expect to be held captive for a while and also assume that they cannot choose their working conditions.
T/F 3. Victims receive good payments for their work.
T/F 4. Victims receive medical care on an emergency basis only.
T/F 5. Victims may accept abusive, harsh conditions hoping that their situation will improve.

Recruitment
- A third party arranged the necessary documents.
- Information on the nature of the work is vague, not coherent.

Personal documents and belongings
- The person’s identification documents and/or personal belongings were confiscated.
- The person cannot receive his/her earnings or merely receives a fraction of the expected earnings.

Violence or threat of violence
- Signs of physical abuse and/or fear, signs of PTSD.
- The person has experienced abuse of vulnerability, i.e. difficult family situation, illegal immigration status, language barrier, lack of information, psychological or emotional dependency.
- The person faces threats of violence or abuse, including threats to others, for example family at home.

Working conditions
- The terms of the employment contract or verbal agreement are not respected by the employer or the person is forced to sign a new contract upon arrival in the destination country.
- The person is forced to perform tasks for which he/she was not recruited and/or which are not stipulated in the employment contract.
- The person is working excessive or irregular hours.

Living conditions
- The person pays an excessive amount of money for substandard accommodation.
- The person has been deprived of food, water, sleep or medical care.
- The person is denied the right to freedom of thought, conscience and religion/ expression.

Freedom of movement
- The person is not allowed to move freely without permission and/or control.
- The person is physically isolated, confined to his/her place of work or his/her location, or under surveillance. 3

3 Liberty Asia, Victim Identification Toolkit, Part 5, Identification Protocols and Questionnaires, 2016, Checklist 1: Ascertaining trafficking scenario – Indicators
Activity 3
True or false
T/F 1. Victims may easily control their recruiting possibilities, working and living conditions.
T/F 2. In most cases victims experience mental abuse.
T/F 3. Victims are forced to live in unhygienic/shared accommodation.
T/F 4. Victims are almost never physically abused.
T/F 5. Victims’ personal belongings, documents and money are taken away.

Activity 4
Roleplay
A FDH is interviewed by a police officer or an NGO’s social worker. She ran away from her employers’ home having sought help at the police station/NGOs office. There are wounds on her face but she will not tell how they occurred. The police officer’s/NGO’s social worker’s role is to find out if she could be a victim of trafficking.

After the interview:
Feedback from the victim. How did she feel about the officer’s/social worker’s behaviour?
Feedback from the officer/social worker. How did he/she feel? What helped him/her to comfort the person and get the necessary information?
**Child trafficking**

The Palermo Protocol defines child trafficking as the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation. In the case of children the trafficking act may be penalized even if the act does not involve any threat, coercion, fraud or deception. According to the Palermo Protocol children are persons under eighteen years of age.

Most people are aware that children and adults are trafficked into the world’s commercial sex trade. However, children are also frequently trafficked into labour exploitation in agriculture, manufacturing industries, mining or fisheries. Girls in particular are trafficked into child domestic labour situations.

All children should enjoy rights pursuant to the UN Convention on the Rights of the Child. (The Convention is legally binding in Hong Kong). Trafficking is a serious violation of rights, including but not limited to children’s rights to be protected from exploitation, to remain with their family, to go to school, to be protected from sexual violence and to have time to play. Trafficked children end up in work that is dangerous to their health, safety and morals.

**Risk factors in case of children**

Poverty seems to be the most common reason for children falling prey to traffickers. However, poverty can mean many things and it is not by itself the sole risk factor. There are many factors that may come into play in determining the level of vulnerability.

- Family disruption: the men in the family going off to war or being killed in conflict, or one or both parents dying of AIDS.
- Social/economic factors: drought, floods or man-made conflict that might drive a family from their home into a refugee camp.
- Domestic violence: children who witness or suffer violence in the home may run away and live on the streets.
- Community factors: street or gang violence may lead children who feel threatened to seek to leave the community. Violence suffered at school may also trigger the urge to escape.
- Specific factors: discrimination, disability, involvement in criminal activity or drugs, or belonging to an ostracised caste or ethnic minority.
- Institutional factors: lack of access to education, discriminatory policies that marginalize some ethnic groups within a country, poor or unused systems of birth registration that make it impossible to keep track of children’s welfare. 4

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Activity 5
Discuss a case

A 15 year-old girl dreams of becoming a model. One day, a man tells her about a modelling job in another city. The girl leaves school and travels alone to the city. When she arrives at the destination, she finds that the model agency does not exist instead a night club owner meets her and she is expected to entertain customers in pornographic performances.

Questions:
1. Is the girl a trafficking victim?
2. Is the man a trafficker?

Support services

Trafficking is first of all a violation of the human rights of persons who have been trafficked.

Key points:  
- Traffickers’ acts violate the human rights of trafficking victims. Therefore, victims’ rights should not be further violated by authorities. Secondary victimization can occur if institutions and individuals do not respond to the victim with appropriate sensitivity.
- Initial identification of presumed victims is crucial. The lack of proper identification may result in inadequate protection of victims and the violation of their rights.
- The needs and rights of victims should be considered throughout the course of criminal proceedings.
- Victims should be informed of their rights. Some may not even realize that their rights may have been violated given that they blame themselves for their predicament.
- All authorities and agencies dealing with trafficking victims should protect the privacy and identity of victims.

Trafficking victims have multiple needs. Therefore, support services should cover comprehensive forms of help such as
- Physical, psychological and emotional support;
- Referral to medical care;
- Shelter;
- Guidance through the process of decision making;
- Legal representation;
- Interpretation and translation;
- Financial support, compensation;
- Assistance to return home if victim wishes.

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Training participants should anonymously complete Evaluation Form No. 1 (Evaluation of Training).

In order to assess the trafficking training's effectiveness monitoring is vital. Evaluation may highlight gaps in knowledge so that training can be more targeted but it is also a good way of assessing how effective the training offered has been.

An evaluation mechanism should consist of a two-step evaluation that can measure the short-term as well as the long-term effectiveness of the training.

**Step 1 – Monitoring**
Training participants shall fill anonymously the following evaluation form. The form seeks to determine the participants’ general knowledge on human trafficking, on trafficking in Hong Kong and on the available services and service providers.

Monitoring shall take place prior to and immediately following the training in order to assess the short-term effectiveness thereof. The comparison of the two forms may indicate the changes of the participants' awareness on the above mentioned topics that can lead to better victim identification.

**Step 2 – Post-training Monitoring**
The second step of monitoring may take place 6 months after the training. The participants shall fill the following form, anonymously. This part of monitoring is designed to assess the effectiveness of the training in practice, any changes in collaboration, any new contacts etc.
Evaluation Form 1

☐ I am a law enforcement official
☐ I work for an NGO
☐ Other (please specify): ________________

<table>
<thead>
<tr>
<th>Statements</th>
<th>Aware</th>
<th>Partially Aware</th>
<th>Unaware</th>
</tr>
</thead>
<tbody>
<tr>
<td>I am aware of the Palermo Protocol.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I am aware of the reasons men, women and children are trafficked to Hong Kong.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I am aware of the trafficking victims’ regional Victim Crisis Centre.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I am confident identifying a trafficking victim.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I am aware of the support services available for trafficking victims.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I am aware of when to defer to other agencies/organizations when dealing with trafficking victims.</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>I can name and I am familiar with other agencies/organizations dealing with trafficking victims in Hong Kong. Please provide names of organizations you are familiar with.</td>
<td>1. ________________ 2. ________________ 3. ________________</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Evaluation Form 2

I am a law enforcement official □  I work for an NGO □  Other (please specify): ________________

I have interacted with trafficking victims.

<table>
<thead>
<tr>
<th>Months</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td></td>
</tr>
</tbody>
</table>

I collaborate with other agencies/organizations providing support for trafficking victims.

<table>
<thead>
<tr>
<th>Name of partner</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
</tbody>
</table>

I interact with other agencies/organizations in order to exchange information and best practices about trafficking.

<table>
<thead>
<tr>
<th>Name of partner</th>
<th>Frequency of communication</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(weekly, monthly, rarely)</td>
</tr>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
</tbody>
</table>

I think that trafficking victim services have been improved in the following areas:  

- Hotline/Victim Crisis Centre:  
- Referral services:  
- Standard of care provided by the support services:  

Strongly agree  Agree  Do not agree

I think that accessibility to services for trafficking victims: has improved.

Strongly agree  Agree  Do not agree

Any other observations:
Answer sheet

Activity 2
1. True. Unemployment, poverty, natural disasters may cause potential victims to try to find new working possibilities.
2. False. No one expects to be held as slave.
3. False. No one receives good payment. Very often victims have to pay their debt (i.e. costs of replacement fees, travelling expenses, accommodation)
4. True. Trafficking victims may only get medical care if their symptoms could affect their work.
5. True. Mostly due to their shame victims may blame themselves having made a bad decision.

Activity 3
1. False. Traffickers aim to control every aspect of the lives of their victims.
2. True. Victims are often intimidated by the possibility of their families’ physical abuse.
3. True.
4. False. They are commonly physically abused, male victims as well as females.
5. True. It is the most common and easiest way to control the victim's movement.

Activity 5
1. Yes, the girl is a trafficking victim. She was deceived about the nature of the job. She is considered to be in sexual exploitation, the worst form of child labour.
2. Yes, the man is a trafficker, and a part of the chain of people involved in leading the girl into a situation of sexual exploitation.

Sources
Amnesty International, Exploited for Profit, Failed by Governments, Indonesian Migrant Domestic Workers Trafficked to Hong Kong, November 2013.


