

TRAFFICKING VICTIM IDENTIFICATION

A Regional Support Office of the Bali Process and NEXUS Institute Practitioner Guide



REGIONAL SUPPORT OFFICE
THE BALI PROCESS



This Practitioner Guide was prepared by NEXUS Institute in the framework of the project: Improving the Identification, Protection and Reintegration of Trafficking Victims in Asia: Practitioner Guide Series, implemented jointly by NEXUS Institute and the Regional Support Office of the Bali Process. The Practitioner Guide Series supports the work of practitioners in ASEAN and Bali Process Member States by identifying, distilling and presenting existing evidence in a succinct and accessible format and offering guidance on how to address issues and challenges to improve the identification, protection and reintegration of trafficking victims in the region.

Authors: Rebecca Surtees and Laura S. Johnson
Technical review: Stephen Warnath, Marika McAdam and Jake Sharman
Design and layout: Laura S. Johnson
Copy editing: Millie Soo

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1440 G Street NW
Washington, D.C., United States 20005

Regional Support Office of the Bali Process (RSO)
27th floor, Rajanakarn Building
3 South Sathorn Road, Sathorn 10120
Bangkok, Thailand

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The NEXUS Institute® is an independent international human rights research and policy center. NEXUS is dedicated to ending contemporary forms of slavery and human trafficking, as well as other abuses and offenses that intersect human rights and international criminal law and policy. NEXUS is a leader in research, analysis, evaluation and technical assistance and in developing innovative approaches to combating human trafficking and related issues.



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The Regional Support Office of the Bali Process (RSO) was established in 2012 to support ongoing practical cooperation among Bali Process members. The RSO brings together policy knowledge, technical expertise and operational experience for Bali Process members and other key stakeholders to develop practical initiatives in alignment with Bali Process priorities. The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) established in 2002 and Co-Chaired by Australia and Indonesia, is a voluntary and non-binding process with 45 Member States and 4 international organizations, including the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration (IOM) and the International Labour Organization (ILO), as well as several observer countries and international agencies.



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Nearly every sought-after improvement for meaningful advances in protection, prosecution and prevention in human trafficking responses depends on first understanding and applying new insights and skills to effectively identify victims reflecting the full range of manifestations of human trafficking cases. This Practitioner Guide contains an important collection of these practical insights that reveals a path for increasing proactive discovery of human trafficking cases in communities and countries.



Stephen Warnath
Founder, President and CEO
NEXUS Institute
Washington, D.C.

Unless victims are identified they cannot be assisted and protected, nor can their traffickers be brought to justice. Regardless of the country or context in which trafficked victims are exploited, their effective identification requires that a range of skills from a range of counter-trafficking stakeholders be brought to bear. The RSO is proud to make this Practitioner Guide available to practitioners across Bali Process Member States, to support them in their efforts to learn from each other's experiences in improving victim identification. This guide supports efforts called for in the 2018 Bali Process Ministerial Declaration to strengthen Member State collaboration with civil society to identify victims of trafficking and prevent serious forms of exploitation.



Jake Sharman
RSO Co-Manager
(Australia)
Regional Support Office of the Bali Process (RSO)
Bangkok, Thailand



Dicky Komar
RSO Co-Manager
(Indonesia)
Regional Support Office of the Bali Process (RSO)
Bangkok, Thailand

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About the Practitioner Guide: Trafficking Victim Identification



What it is

This Practitioner Guide distills and presents existing research and evidence on the identification (and non-identification) of trafficking victims, including challenges and barriers that may impede victim identification and practices that may enhance it. It is part of the NEXUS/RSO Practitioner Guide series: *Improving the Identification, Protection and Reintegration of Trafficking Victims in Asia*, which shares knowledge and guidance on different aspects of trafficking victim protection, including:

- Trafficking victim identification
- Trafficking victim protection and support
- Recovery and reintegration of trafficking victims
- Special and additional measures for child trafficking victims

This series is drafted by NEXUS Institute and published jointly by NEXUS Institute and the Regional Support Office of the Bali Process (RSO). Practitioners from Bali Process Member Governments of Australia, Indonesia, Malaysia, Philippines, Thailand and Vietnam contributed to the development of these guides in a virtual roundtable discussion convened by the RSO in April 2021. The project is generously funded by the Australian Department of Home Affairs, through the RSO. The series is available on the NEXUS Institute website and the RSO website.



Who it is for

This guide is for **practitioners** in Bali Process Member States, as well as further afield, seeking to better understand and conduct the identification of adult and child trafficking victims. This includes a range of practitioners engaged in victim identification and referral (for example, police, prosecutors, healthcare practitioners, immigration and border authorities, labor inspectors, social workers and child protection staff as well as staff of multi-disciplinary teams (MDTs), task forces and victim identification agencies). This Practitioner Guide will also be useful for **policymakers** tasked with improving victim identification practice and procedures.



How to use it

This Practitioner Guide offers a comprehensive overview of victims' experiences of identification as well as key issues and challenges in conducting trafficking victim identification. Practitioners can use this guide to improve their knowledge of victim identification as well as use the concrete, actionable guidance to address issues and barriers in their day-to-day work on victim identification.



Key



Guidance



Notes



Tips



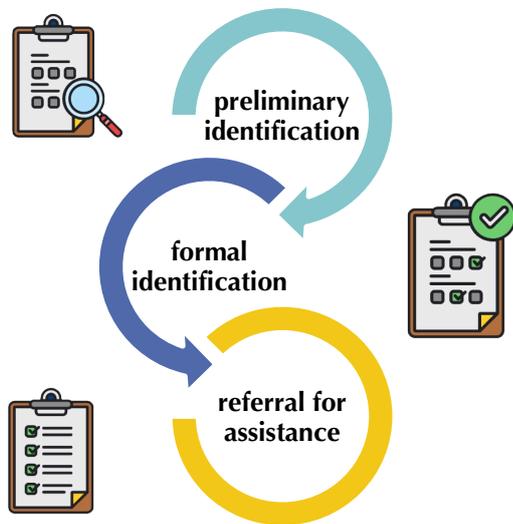
Victim experiences



Structural and institutional challenges

What is victim identification?

Victim identification is the process, generally a series of interactions, through which an individual is identified as a trafficking victim by relevant practitioners. Identification may be **reactive** (when an individual **self-identifies** as a trafficking victim and seeks assistance) or **proactive** (when practitioners identify trafficking victims in the course of their work).



An individual is **preliminarily assessed or identified** as a presumed trafficking victim, based on signals and indicators that arise through observing, interacting and speaking with the individual. Those who consent are then referred for further assessment, as well as assistance and protection. **Formal identification** is the official determination that a person is a victim of trafficking, leading to voluntary referral for assistance, reintegration and/or legal remedy. The threshold for formal victim identification varies substantially from country to country, as do the rights and protections afforded to trafficking victims.

Interactions at all stages of the identification process should be **trauma-informed, victim-sensitive, child-friendly, gender-sensitive** and **culturally appropriate**.

Some individuals will **not be formally identified** as victims of trafficking after they have been preliminarily identified as presumed victims. Victims should have **the right to appeal** a negative determination, although this does not exist in all countries. Individuals determined not to be trafficking victims may nonetheless have protection and assistance needs and should therefore be referred to relevant authorities for protection and support.

-  **trauma-informed:** recognize the impact of trauma and promote environments of healing and recovery
-  **victim-sensitive:** prioritize the victim's wishes, safety and well-being in all matters and procedures
-  **child-friendly:** design and implement measures with the needs, interests, safety and best interests of the child in mind
-  **gender-sensitive:** treat all victims with equal respect regardless of their gender identity, refraining from stereotypes or assumptions on the basis of gender
-  **culturally appropriate:** take into account and respect the victim's cultural and religious beliefs, values, norms, practices and language



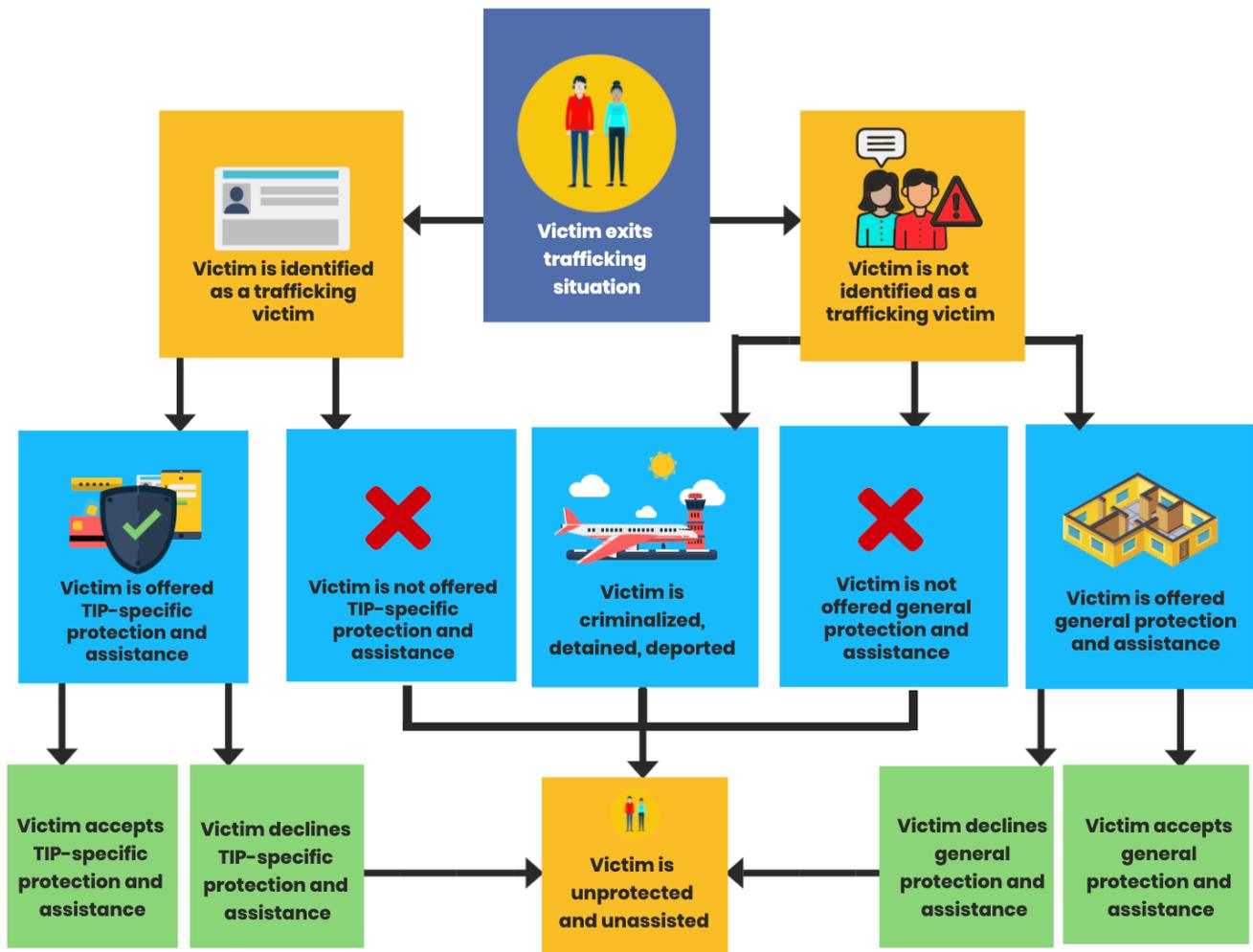
Which institutions are responsible for identification is determined by the legal and administrative framework in place and may include **various practitioners** (police, prosecutors, social workers, healthcare practitioners, child protection staff, immigration and border officers and labor inspectors as well as staff of multi-disciplinary teams (MDTs), task forces and victim identification agencies).

Large numbers of trafficking victims are **unidentified** in the destination country and also when they return home. Many victims come into contact with authorities at various stages of trafficking but experience **missed identification** (being unidentified by practitioners) or **mis-identification** (being mis-categorized as an irregular or smuggled migrant or involved in illegal activities). As a consequence, they may not know that they are entitled to assistance as a trafficking victim.

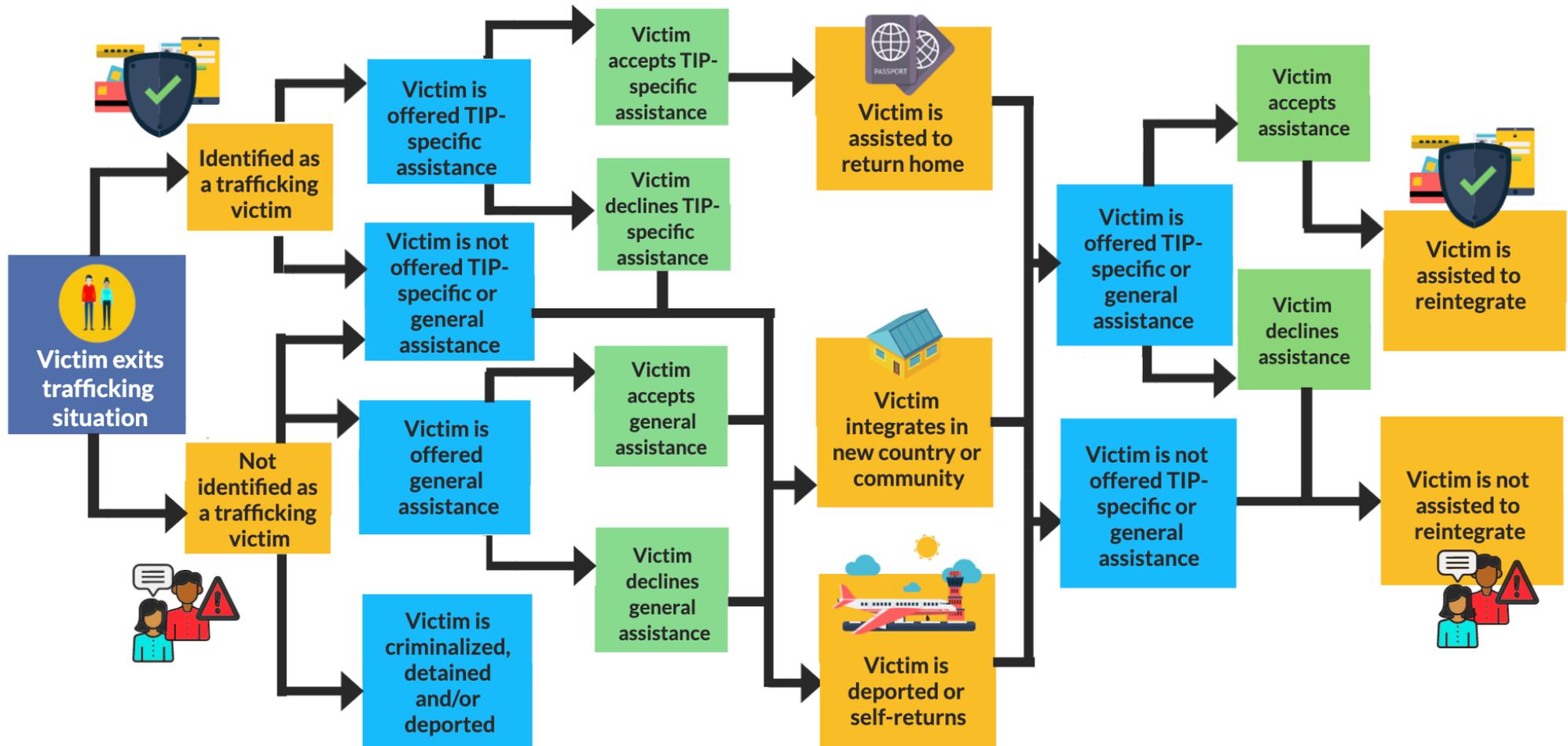
Some trafficking victims may **avoid identification** or **decline to be identified** for different reasons. Those who initially decline identification and assistance may change their minds at a later stage and should have the option to be identified and assisted. Whether this is possible differs by country.

Identification may differ in the case of **trafficked children**, for whom additional protection obligations apply. Those who appear to be children should be **presumed to be children** until determined otherwise. Identification processes for children require contacting and involving relevant child protection authorities (usually state social workers) and applying a set of protective measures and specific approaches. If a child is not assessed to be a trafficking victim, they should nonetheless be referred to child protection agencies for protection and to address their needs and vulnerabilities.

Different pathways of identification experienced by trafficking victims



Different pathways of identification, protection and reintegration experienced by trafficking victims



Legal obligations in trafficking victim identification

Trafficking victim identification is assured in some international and regional instruments, which may be relevant for domestic laws and policies.

International law and guidance

 **UN Trafficking Protocol** (2000) offers the first agreed definition of trafficking in persons and calls on states parties to implement measures to criminalize trafficking (Article 5) and assist and protect trafficking victims (Article 6).

 **UNOHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking** (2002) emphasize the importance of written identification tools and call on states to consider developing such tools to permit the rapid and accurate identification of trafficked persons and to train authorities in the application of these tools (Guideline 2), giving special consideration to the identification of trafficked children (Guideline 8).

 **UNICEF Guidelines on the Protection of Child Victims of Trafficking** (2006) call on states to develop and adopt effective procedures for the rapid identification of trafficked children (Guideline 3.1).

 **UN Convention on the Rights of the Child** (1989) calls for protection of children from economic, sexual and all other forms of exploitation (Articles 32, 34, 36) including measures for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment (Article 19).

Regional law and guidance

 **ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)** (2015) requires states parties to establish national guidelines or procedures for the proper identification of victims of trafficking and to ensure that countries mutually recognize identification decisions (Article 14).

 **ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children** (2012) calls for member states to utilize existing regional guidelines and develop or strengthen national guidelines for the identification of trafficking victims, including applying appropriate and non-discriminatory measures that help to identify trafficking victims among groups who are more susceptible to trafficking.

 **ACWC Gender-Sensitive Guidelines** (2016) state that presumed victims should be treated as victims unless another determination is made; that a presumed child should be considered a child until determined otherwise; and stress the importance of victim-centered and gender sensitive interventions.

 **ACWC Regional Guidelines and Procedures to Address the Needs of Victims of TIP, especially women and children** (2018) call on ASEAN member states to adopt clear definitions of human trafficking; conduct rapid and accurate victim identification; mutually recognize identification decisions; refer identified victims; and offer special measures in the identification and referral of children.

 **COMMIT-ASEAN Common Indicators of Trafficking and Associated Forms of Exploitation and COMMIT Victim Identification and Referral Mechanisms: Common Guidelines for the Greater Mekong Sub-Region** (2016) offer guidance on identification including agreed indicators.

 **Council of Europe (CoE) Convention on Action Against Trafficking in Human Beings** (2005) provides detailed measures on victim identification, including special measures for the identification of child trafficking victims.

 **European Union Directive 2011/36/EU** (2011) calls specifically for the development of general common indicators for the identification of victims of trafficking in the European Union.

Issues and challenges in the identification of trafficking victims

Issues and challenges faced in trafficking victim identification center around two main themes:

- Trafficking victim experiences of identification
- Structural and institutional challenges of identification



Trafficking victim experiences of identification

- Fear of traffickers and authorities
- Physical and psychological impacts of trafficking
- Identification does not offer what victims want and need
- Cultural norms and language barriers



Structural and institutional challenges of identification

- Hidden nature of trafficking
- Biases, assumptions and misconceptions of practitioners
- Insufficient knowledge, skills and sensitivity of practitioners
- Access to information about identification and referral
- Insufficient screening tools and procedures for victim identification
- Geographical and practical barriers to identification

These issues and challenges are not mutually exclusive and practitioners must often tackle multiple challenges in their efforts to identify trafficking victims. Issues are also context-specific and change over time (for example, over the course of a trafficking victims' life, as traffickers change their strategies and tactics and as capacity of institutions and practitioners engaged in victim identification improves).



Trafficking victim experiences of identification



Fear of traffickers and authorities

Victims are generally fearful at identification, both of traffickers and authorities. Fear leads many victims to avoid identification or refuse it once identified. Children may be especially fearful of and controlled by traffickers, informing also their perceptions of authorities and the identification process.

Intimidation, threats, control and violence by traffickers.

Traffickers use different strategies to stop victims from seeking help including controlling victims, threatening and abusing them, withholding payments and documents and using debt. Traffickers commonly control or limit victims' contact with others at all stages of trafficking. Victims may be required to stay in pre-departure migrant worker training centers with restricted freedom of movement. They are often strictly monitored during their journey and upon arrival at their destination. While trafficked, many employers/exploiters isolate and control trafficking victims, keeping them largely out of sight and limiting their contact with others. Traffickers often accompany victims when in public and are strategic in whom they permit them to interact with.

Many victims refuse or avoid identification out of fear of their traffickers. Trafficking victims may be intimidated, threatened, coerced and abused by individuals or agencies while trafficked as well as once home. Some trafficking victims fear retaliation against their co-workers if they escape or report to the police.

Traffickers also foster fear of authorities, warning victims that they will be arrested, imprisoned and deported if they cooperate with the authorities, which, in some cases, may be true. Once out of trafficking, some victims fear that their decision to be identified or assisted will be understood by traffickers as collaboration with authorities.

Traffickers withhold payments and documents to deter victims from seeking or accepting identification. Many victims go unpaid for months and years but feel unable to escape because of promises that they will be paid in future. Some victims receive small



I was imprisoned, not allowed to go outside. If I was going out with the employer, I was not allowed to talk...How can I ask for help? Every day I was locked in my room. [I had] no opportunity to make a call as well. If the employer went outside, the telephone was hidden. (Trafficking victim)ⁱ



Just before I was about to leave, I was hit with a rock...by the agent. He told my employer that he wanted to beat me up because I asked to go home. This was despite the fact that I was complying with the rules...(Trafficking victim)ⁱⁱ



I was raped by my male boss... and in the [job] agency too... I was alone with the security guard in the agency and it happened again [...] It was awful. (Trafficking victim)ⁱⁱⁱ



If the trafficker knows she is assisted, he might fear that she might pursue legal proceedings. Some victims even say, "I did it myself" because they're afraid of traffickers. (Practitioner)^{iv}



No, we did not think about reporting to the police...we wanted to go home but we did not have anything. [No money] from six or seven months of work. We did not have any money... We did not hold our passport and our passports actually had already expired. (Trafficking victim)^v

amounts of money, which they may assess as better than not earning anything. Traffickers often confiscate victims' identity documents and professional certifications to prevent escape. They also threaten workers with blacklisting, to bar them from future employment options.

Traffickers also create and manipulate debt to prevent victims from seeking or accepting help. Many victims go into debt to a recruitment agency or trafficker and this debt is then used to prevent victims from withdrawing from migration before departure or to prevent them from escaping while exploited. Often times debt increases as traffickers force victims to pay inflated food and living costs and "fines" for alleged violations.

Arrest, detention, deportation, criminalization by authorities. Many trafficking victims have had negative experiences of authorities before trafficking as well as while trafficked, including not being believed to be a victim, being criminalized and even being brutalized. Some have had especially negative experiences and may be particularly fearful of authorities. As a result, they often do not trust the officials screening them as trafficking victims or believe that they will be protected if identified. Many also doubt assistance offers made to them. Many trafficking victims avoid detection by authorities, fearing arrest, detention and/or deportation.

Being arrested and imprisoned is frightening, stressful and traumatizing. In some cases, trafficking victims are abused in detention. Being detained or criminalized also impacts how victims' families view and receive them as they are often misunderstood as criminals rather than victims. Victims also worry about detection once they return home, fearing fines or arrest for having migrated irregularly or required to participate in legal proceedings.



[Many victims are] scared to accept [assistance], maybe because of bad stories they've heard. They are afraid of the bosses, that they will find them and kill them. (Trafficking victim)^{vi}



My employer said, "It's okay if you want to escape, but there's police out there. They will arrest you and you will be a prisoner". I didn't have the courage to escape. (Trafficking victim)^{vii}



I actually wanted to call the police. But some police are good, some are not. (Trafficking victim)^{viii}



I was in prison...[My] parents were shocked. [They] had the perception that if I was in prison, maybe I was a thief or doing criminal things. (Trafficking victim)^{ix}



To conduct proactive identification, practitioners require up-to-date information about how traffickers control victims and interfere with identification. It is also important in understanding victims' decision-making about identification and assistance and in developing strategies to assuage victims' fears. Practitioners also require information, tools and training to be able to effectively and sensitively screen trafficking victims and avoid mis-identifying victims as irregular migrants or involved in illegal acts. An understanding of victims' negative experiences of authorities can aid practitioners in their work. Using trauma-informed techniques, including providing reassurances to victims that they are safe, can help to overcome victims' fear and distrust.



Physical and psychological impacts of trafficking

Exploitation has a severe and negative impact on trafficking victims' physical and psychological well-being. This, in turn, influences their feelings and decisions at identification. Trafficked children are especially harmed by the physical, psychological and emotional impacts of trafficking, although this differs according to their age and stage of development as well as the nature and length of their trafficking.

Physical impacts. Many victims are seriously ill and badly injured as a result of trafficking (for example, due to hazardous and unhealthy living and working conditions, lack of food and medical care, use of alcohol and/or narcotics, physical and sexual violence, exposure to sexually transmitted infections). Being physically unwell may mean victims avoid identification for fear of arrest and in the hopes that they can find treatment or ways to recover.

Psychological impacts. Victims also suffer from many psychological and emotional impacts of trafficking including symptoms of post-traumatic stress disorder (PTSD), depression, anxiety, low self-esteem, lack of confidence, eating disorders, self-harm, suicidal ideations, substance misuse and anger and combativeness. Many victims suffer memory problems and may not be able to remember events that practitioners need to understand to identify them. They may be afraid, confused, disoriented and unable to understand identification and what it offers them. They may then be unable to make informed decisions about accepting identification and assistance. Many victims suffer complex trauma that impedes their ability or willingness to disclose trafficking experiences.



[My employer] often tortured me...She often beat me...One time I made a mistake because I was so tired...She was so angry and tortured me...told me to crawl on the floor and my back was beaten so hard with a big white cable... My tooth [was] also broken... (Trafficking victim)^x



[My mental condition after trafficking] was in a bad shape. I was sick for a long time. That was why I didn't do any work. That was my lowest point. [...] I was unstable and shaken. (Trafficking victim)^{xi}



They are scared, tired, exhausted, hungry, don't know what they want. They have no idea what they can get and we inform them but they don't perceive it. It is a period where they need to rest, to recover from the trauma. (Practitioner)^{xii}



It was a feeling of longing and being a bit ashamed. Because after working abroad for so long we came home with nothing. (Trafficking victim)^{xiii}



Many men don't tell about what happened to them. They are ashamed of the fact that they were tricked and lied to. (Practitioner)^{xiv}

Victims feel uncomfortable, ashamed and embarrassed about having been deceived and victimized by traffickers. Some feel ashamed of what they have been forced to do while trafficked (for example, migrate irregularly, use false documents, engage in sexual acts or criminal activities). Many victims are ashamed because they failed to earn money and have substantial migration debt. Victims' anxieties may be exacerbated when others in their community migrate successfully and remit money.

Some trafficked persons avoid and refuse identification (and, by extension, assistance) because they do not want to be stigmatized and discriminated against as trafficking victims in their family or community. Many victims do not tell anyone about the fact that they were trafficked.



I simply did not want to be tormented with questions...I was in a state of depression...I didn't want to talk about what had happened to me...(Trafficking victim)^{xv}

Some trafficking victims do not want to talk about their trafficking experience and so refuse to be engaged in an identification procedure. Some may seek out identification and assistance once they recover from the initial shock and begin to make decisions about their lives, including the need for assistance. Disclosure often takes place over time, once the victim is able to understand and trust practitioners and also stabilizes psychologically and emotionally.



[The practitioners] wanted to communicate with me but I didn't want to. I was still feeling afraid. What I had been through. I didn't want to share it with anyone. It was my life...(Trafficking victim)^{xvi}



It is important that practitioners understand the physical and psychological impact of trafficking on victims, including how it interferes with memory, comprehension and identification decisions. Understanding victims' concerns and reactions (for example, confusion, lack of trust, shame, fear) will aid practitioners in the identification and referral process. Approaches that are trauma-informed, victim-sensitive, child-friendly, gender-sensitive and culturally appropriate improve victims' experiences of identification and lead to better identification outcomes. Victims are better able to trust and feel comfortable with practitioners who are sensitive to their feelings and concerns.



Identification does not offer what victims want and need

Identification as a trafficking victim does not always offer what trafficking victims want and need in their lives after trafficking. This leads, in some cases, to victims avoiding or refusing identification.

Does not lead to assistance or better options.

When a formal identification determination does not trigger referral and assistance, it offers victims no benefit and exposes them to, at best, unnecessary discomfort and stressful screening procedures and, at worst, harm to their physical and mental well-being. When identification does not lead to assistance, it is not an advantage for the victim to be identified.



All of this time we never reported this to anyone... I got some advice to report [my case] to the nearest [community] police department [to be identified], but I never did. [I didn't want to report because] I feared that this matter will drag on. (Trafficking victim)^{xvii}

Identification also does not always offer victims a better situation. Some victims opt to stay in exploitative situations because they are able to earn money and being identified as a trafficking victim interferes with this. Some victims negotiate their exit from trafficking and identification impedes these plans. Some trafficking victims are also asylum seekers and may avoid identification as a trafficking victim as their asylum claim may offer a more durable solution than trafficking victim protection.



Why did everything end up like this? [being identified] disturbed me... it spoiled my plans. I planned to stay little bit longer... But the police found me first. (Trafficking victim)^{xviii}

Leads to compulsory assistance and criminal justice cooperation. Identification may lead to compulsory assistance, for long periods of time, living in closed shelters away from family and without the option to work. Some victims opt for deportation as irregular migrants rather than being forcibly assisted in this way. Identification also often requires being a victim-witness in the criminal justice process, leading many victims to decline identification, even when this also means declining assistance.

Authorities may “encourage” or even strongly pressure victims to be witnesses, without explaining what this entails and their right to decline. In some countries, victims’ rights (including temporary residence permits) may be conditional upon cooperation in trafficking investigations and prosecutions, which victims often do not wish to be involved in. Often this assistance is also only temporary and does not offer a long-term solution.

Assistance is not what victims need or want. Some trafficking victims are able to cope on their own and do not need assistance. Others are able to rely on other types of support in their recovery and reintegration (for example, from family, friends, community, religious organization and other services). In such cases, there may be no advantages (and many disadvantages) to being identified as a trafficking victim. There is also no incentive to being identified as a trafficking victim when available assistance is not what one needs (for example, it does not meet one’s specific and individual assistance needs) or is offered in a format that does not align with one’s personal and family situation (for example, in a shelter, for a long period of time, away from family, unable to work).

Do not see themselves as victims. Some individuals do not see themselves as victims. For some, this is because they come from environments where exploitation is normal and labor protections are lacking. Trafficking is not always dramatically different from their previous migration or work experiences.

Others recognize their exploitation but see themselves as “unlucky” rather than as victims. Some do not see themselves as trafficking victims because they actively migrated and do not identify with vulnerability or victimhood. Many experience their situation, however difficult, as part of a strategy to improve their economic situation. For some victims, being called or seen as a victim is jarring and uncomfortable.



[I stayed in the shelter for six months and was not permitted to return home until I testified]... I was not happy and I always cried because I wanted to go back home. (Child trafficking victim)^{xix}



If it gets complicated and there’s a law involved, I don’t want to [be identified]. I don’t like complicated things like that. I don’t want to involve with the law. (Trafficking victim)^{xx}



I said, “I will not go to that shelter; I can’t be in a closed space. I’ve had enough of closed spaces. I’ve had enough of mistreatment”. (Trafficking victim)^{xxi}



...all of my family and relatives were supporting me. There was also a religious leader who gave me a motivation and advice so that I could manage myself. (Trafficking victim)^{xxii}



I felt insulted by the meaning. We were sold but we were not victims. I don’t want to be called “victim” and I feel so angry. I don’t like it. (Trafficking victim)^{xxiii}

Even when they may see their situation as exploitative, identification does not always, on balance, offer a better alternative. Perceptions of exploitation depend on what one compares one's situation to.

Identification may not be seen as a positive for those whose material conditions while trafficked are better than at home or whose situation will not improve as a result of identification.



...I was working in [my country] before and then... it's the same, you know? The boss is terrible, so I feel like it's normal... I've been working, like, five years in the same situation – I don't know what is legal, what is illegal. (Trafficking victim)^{xxiv}



Practitioners' knowledge of victims' various concerns and considerations about identification will help them to offer options and opportunities that meet their needs. Practitioners require an understanding of how trafficked persons perceive their experiences and needs including why it may lead them to decline identification.

**What other concerns might trafficking victims have about being identified?
How can you address these concerns?**





Cultural norms and language barriers

It is important to consider how culture and language inform victims' perceptions of the identification process and their willingness to be identified and assisted. Culture informs a victim's perception of their situation during and after trafficking as well as their decisions about identification. For example, cultural and social norms influence perception of what constitutes exploitation and abuse and what constitutes a "normal" work environment. In some cases, cultural norms (feelings of responsibility to family and community) may mean that exploitation is accepted as it allows them to fulfil obligations to children or parents. Culture also informs behavioral norms (for males and females, adults and children), feelings about discussing



Guidance for Practitioners



Learn how traffickers block identification and develop proactive strategies to reach victims. Assess how traffickers control victims and take steps to mitigate these controls, including discussing concerns and fears directly with victims. Understand how traffickers' threats and violence lead victims to avoid or refuse identification and speak to victims about what can be done to protect them.



Learn about the impact of trafficking and trauma on victims including how it interferes with memory, comprehension and decision-making. Understand how fear and trauma influence what victims are able and willing to share with you at identification. Be conscious of trafficking victims' fears and concerns and the threats and violence they have suffered at the hands of traffickers and, in some cases, authorities. Be sensitive to victims' negative past experiences of authorities and reassure them that they are safe, protected and supported.



Be aware of victims' feelings of shame and embarrassment at having been trafficked and reassure them that they are not at fault. Be conscious of victims' fear of discrimination and stigmatization by their family and community. Recognize that disclosure often takes time and victims may only disclose their trafficking experiences to you after some time and once trust has been built.



Understand that the identification of trafficked children involves specific vulnerabilities and requires additional measures and protections, including child-friendly interviewing and the presumption of minority age until proven otherwise.



Take steps to avoid revictimizing and retraumatizing victims including controlling who comes into contact with trafficking victims at identification and avoiding multiple and repeat interviewing. Implement additional safeguards and protections in the case of trafficked children.



Provide victims with clear and comprehensible information in a language and format they can understand and that will allow them to make informed decisions. Tailor information about identification and assistance to be accessible to different trafficking victims, including children.



Recognize that identification and assistance do not always meet victims' needs and not all victims will accept identification. Build an understanding of different victims' assistance needs and work with service providers to meet these needs so that they have an incentive to be identified.



Be sensitive in your interactions with trafficking victims, including their discomfort in talking about their exploitation. Learn about approaches that are trauma-informed, victim-sensitive, child-friendly, gender-sensitive and culturally appropriate and apply these principles in your work to identify and refer trafficking victims. Provide trafficking victims with the time and space needed to disclose their trafficking experiences including at a later stage if needed.



Identify qualified and sensitive interpreters and ensure that they are trained in trauma-informed interviewing with trafficking victims. Identify cultural barriers to identification and address these in identification tools, practice and procedures. Engage cultural mediators to improve identification.



Ensure that victims' personal information is treated confidentially and their privacy respected during identification and referral. Interviews should be conducted in a safe and private location.



Ensure that trafficking victims are not penalized for crimes committed as a direct consequence of being trafficked. Anticipate the potential for mis-identification; carefully screen persons who may not immediately or at first glance appear to be trafficking victims.



Structural and institutional challenges of victim identification



Hidden nature of trafficking

Many trafficking victims are forced to work and live in hidden or isolated locations, sometimes even locked in and with no freedom of movement. They are often kept “out of sight” and their contact with others is generally limited and strictly surveilled. This is the case for victims of labor trafficking (for example, factory work, fishing, on plantations, domestic work) as well as trafficking for sexual exploitation, forced marriage, begging, delinquency and criminal activities.



[The plantation was] in the middle of rain forest with the access to the city but very far away, around forty kilometers... to the market, to the city was around forty kilometers... but we were never there. (Trafficking victim)^{xxvi}



That being said, the extent to which victims are “invisible” to authorities differs substantially from victim to victim and is influenced by the form of trafficking and location where they are exploited.



I think the key thing is that [trafficking for fishing is] happening at sea... You just have such limited capacity to find out what’s going on. (Practitioner)^{xxvii}

And while being hidden can block identification, being visible to authorities is not a guarantee that victims will be identified. Some victims work in plain sight of authorities and move around freely but nonetheless go unidentified.



[The worksite] was a house that was still under construction. We were taken there directly. That's where we slept. We were surprised because the agreement was that we would sleep at a hotel. (Trafficking victim)^{xxviii}



Practitioners require in-depth understanding of how different forms of trafficking take place and where victims are exploited. It is important that practitioners identify the different locations where trafficking victims may be exploited and coordinate with the agencies that have the mandate and access to these locations to conduct or support identification.



Biases, assumptions and misconceptions of practitioners

Some practitioners may have biases, assumptions and misconceptions about trafficking victims which impede and undermine victim identification.

Focus on some forms of trafficking and some types of victims. In many countries, identification efforts focus on victims of trafficking for sexual exploitation, with limited identification of victims trafficked for other forms of exploitation.



Some [law enforcement officers], they'll identify something and they won't deal with it, saying, "It's not worth my time". If this is male-related, a lot of guys wouldn't touch it. (Practitioner)^{xxix}

In some cases, stereotypical and gendered images of trafficking victims influence whom practitioners identify as victims (for example, women and girls are more recognizable as trafficking victims than men and boys). Some males are even mocked and criminalized by practitioners who do not take seriously what has happened to them. In other cases, practitioners consciously decide to focus on specific forms of trafficking (for example, considering trafficking for sexual exploitation to be "more serious" than other forms of trafficking and assuming that only females are trafficked for this form of exploitation). Males trafficked for sexual exploitation are especially likely to be overlooked as a result. Trafficking victims who identify as LGBTQI+ (lesbian, gay, bisexual, transgender, queer or questioning, intersex and self-identified sexual orientations and gender identities) are also overlooked. For example, in countries where same sex relationships are illegal, LGBTQI+ victims may be criminalized for same sex sexual relations rather than recognized as having been sexually exploited.



A lot of it has to do with the country's stance on immigration. People look at these people [potential victims] and say, "Well, they're not victims. They just need to get them out of the country. They're illegals". (Practitioner)^{xxx}



Some of the policemen were laughing at us, saying that we were idiots, that only fools could end up in a situation of exploitation like that... They didn't understand that we were forced to work, that we were threatened with death... They didn't believe that our passports were taken by the exploiters. (Trafficking victim)^{xxxi}



She was very clearly at point of entry defining herself as being trafficked, she was telling everybody that she had been trafficked and nobody was listening to her. (Practitioner)^{xxxii}

Biases and misunderstandings about victims trafficked for sexual exploitation.

Some practitioners don't recognize persons as trafficking victims when they seem to be willingly engaged in prostitution. Even child victims of trafficking for sexual exploitation have been labeled as prostitutes, despite force, coercion or other means not being required in the trafficking of a child. On the other hand, some practitioners wrongly assume that all sex workers are trafficking victims leading to mis-identification and sometimes forced identification and assistance.

Misconceptions about victims' "worthiness".

Some trafficked persons are not seen as "real victims" because of their behaviors and attitudes (including hostility to being identified); because they do not "look like a victim"; or because they have migrated or been trafficked previously. Some practitioners focus on whether the victim was "really" forced, rendering trafficking victims more or less worthy, depending on the degree to which they entered exploitation knowingly. Some practitioners focus on acts committed while a person was trafficked, including irregular migration or prostitution, rather than on the experiences that cumulatively constitute trafficking in persons. This means only the most "worthy" or "innocent" victims will be identified and assisted.



We asked [the authorities] to assist the [victims] and they said that they are not trafficking victims because they had work contracts. But [having] work contracts is not an excuse and we don't even know that they are legal or not... But the officials said that they can't be trafficking victims if they have contracts. (Practitioner)^{xxxiii}



The majority of those that claim they are victims of trafficking went of their own free will and the reason they denounce the traffickers is that [the trafficker] broke their agreement... We can't say that they are victims in the pure definition of the word... They have not been grabbed and forced. (Practitioner)^{xxxiv}



Identification efforts should recognize all forms of trafficking and all characteristics of victims. It is important that practitioners consider and overcome any biases, assumptions and misconceptions that they may have about trafficking victims which can undermine victim identification.



Insufficient knowledge, skills and sensitivity of practitioners

Knowledge and skills of practitioners.

Practitioners who are likely to encounter trafficking victims (including law enforcement officers, social workers, health care practitioners, child protection staff, immigration and border authorities) often receive little or no training in how to identify victims or, once trained, do not receive further training, mentoring or skills enhancement. Early anti-trafficking legislation often narrowly defined trafficking as trafficking for sexual exploitation or trafficking of women and children, impacting the victims who practitioners were trained to identify. Many countries have since revised their trafficking laws and policies to include all forms of trafficking



I do not think that those involved in working with trafficking are probably aware of a wide enough number of different profiles of signs and symptoms and behaviour. (Practitioner)^{xxxv}



I don't think [the authorities] look at these as trafficking cases or forced labor cases as much as labor disputes between an employer and the employees... And the challenge is to get them to start looking at these cases as human trafficking cases. (Practitioner)^{xxxvi}

but have not always trained practitioners in these changes.

Many practitioners lack awareness of the crime including its magnitude in their communities and the skills to distinguish between exploitative labor practices and trafficking in persons. Lack of training and capacity may be a consequence of the low priority given to trafficking in persons, or a disconnect between who is trained and who does victim identification in practice. Lack of capacity may be particularly pronounced when there is a high rotation of staff, leading to challenges in building and retaining capacity. It can also be difficult to apply the legal definition of trafficking in persons in practice, to a person's real-life experiences.

Victim identification involves complicated and discretionary assessments of each case and practitioners are often left without guidance to operationalize central concepts (for example, coercion, exploitation, abuse of a position of vulnerability and how the definition of trafficking differs between adult and child victims). Some victims actively seek to avoid identification and some are coached by traffickers to evade detection, further complicating identification efforts. Victim identification may be one of many tasks practitioners are responsible for and is often not prioritized or allocated sufficient resources. Identification, therefore, tends to be reactive, rather than proactive (particularly for labor trafficking), contributing to low levels of identification.

Sensitivity of practitioners. Identification is not only about practitioners being able to recognize signals of trafficking but, equally, about being able to screen and interact with victims in ways that translate into trust and disclosure. And yet, many victims are not

treated sensitively and appropriately. Often victims experience screening more as interrogations than interviews. Harsh and unprofessional treatment upsets and frightens victims and may mean that they don't disclose what has happened to them or accept to be identified. Settings in which many trafficking victims are identified do not generally foster trust or comfort and are not conducive to disclosure (for example, during



...at the border points, police have been rotated. I'm completely certain these police are unable to identify victims of trafficking. They are unqualified, with non-police qualifications and are not able to identify them. (Practitioner)^{xxxvii}



I suppose it's maybe because we are sometimes working to different definitions [of trafficking] and that people don't really know what definitions we are working to. (Practitioner)^{xxxviii}



When I was exploited...I once fainted and the owner took me to the hospital. There the doctor asked me [some questions]... He seemed to have understood [I was trafficked]... I felt safe at that moment... [but] when I went out of the hospital, I saw my owner waiting for me. (Trafficking victim)^{xxxix}



...the boss told us not to take any [information] from police, to burn that immediately. [The boss said], "They lie, they would give you a deportation [order]". (Trafficking victim)^{xl}



[The policeman was] screaming... He pulled me from my blouse, and I almost fell down from the chair. [He screamed], "Tell me who sent you [abroad] or I will hit you with this radio in the head". He had in his hand the radio that the police talk with to each other. (Trafficking victim)^{xli}



We felt fear when we saw guns, when they approached us. [There were policemen], a lot... We were in our rooms, with clients. They came, knocked on the doors. We didn't want to open. But, suddenly, they broke the door, they caught us in act. They took pictures. (Trafficking victim)^{xlii}

labor inspections or police operations, at borders or upon arrival home).

Negligence, maltreatment and abuse of power. Some practitioners do not identify victims and may even extort them, making them pay “fines” to avoid being arrested. Victims trafficked for prostitution may be abused and pressured to pay money and provide sexual services to avoid arrest. In some cases, authorities cooperate with traffickers and even return victims to them when they seek help. Victims have also reported being physically and sexually abused and violated while in detention as irregular migrants. Depending on the circumstance, such acts may constitute negligence, collusion, abuse of power, corruption or, in some cases, even the crime of trafficking in persons.



The law enforcement officer...said that if we paid him 100 dollars each, he would allow us to go...but we didn't have any money...and neither did our parents... Because we were not able to pay this money, we were forced to spend three months in detention. (Trafficking victim)^{xiii}



I worked in the street and there were girls that they would go with the police officers. And there are police officers that were pimps and sold girls. (Child trafficking victim)^{xiv}



Increasing and standardizing knowledge, skills and capacity of practitioners (including understanding and applying complex legal concepts) is key to enhanced identification. Practitioners need to be trained in victim identification and kept abreast of any changes in the legislative and institutional frameworks. Practitioners also benefit from training in trauma-informed interviewing to improve victims' identification experiences and their openness to accepting assistance. Enhanced sensitivity and care, including creating a safe and comfortable interviewing environment, contributes to building trust and better protecting victims. Practitioners should be held to account for failure to identify trafficking victims. Reports of wrong-doing should be carefully investigated.

**What forms of trafficking in persons are criminalized in your country's law?
What parts of the trafficking in person definition in your country are difficult to understand and apply?**





Access to information about identification and referral

Many victims do not fully understand what identification means and offers them. They do not understand their status as a trafficking victim and their right to protection and support. Some practitioners do not clearly inform victims about what identification means and the protections that it affords.

Often victims do not receive clear and comprehensive information about their rights and options. Practitioners also do not always sufficiently take into account factors that impact victims' comprehension, including literacy, educational background, analytical and decision-making skills, language and culture, and knowledge of assistance.



After staying [at a shelter] for one week, I started to talk with other [women] who were here before me and I found out that I will have to be here longer than what the police told me. They said they were told that they would be here only a few days but in fact they had already been here for six or seven months. (Trafficking victim)^{xiv}

Often information is provided verbally and not repeated at a later stage. It is also seldom provided in a written form that victims can read and also refer to when they are in a calmer and more receptive state of mind. Child trafficking victims also require but do not always receive both written and verbal information about identification as a trafficking victim and options for support. When information is provided to trafficked children, it is not always tailored to children's age and stage of development.



[First and foremost, trafficked children want to understand their rights]... some of them don't want to see a doctor or a [general practitioner]... they aren't concerned about this, they want to know what their right to stay here is. (Practitioner)^{xlvi}



Practitioners play an important role in informing victims about the help they can get as a result of being identified as a trafficking victim. It is important to provide trafficking victims with clear and comprehensive information in a language and format they can understand to allow them to make informed decisions about identification. Information should be both verbal and written and tailored to victims with different education and literacy as well as children of different ages and stages of development.

What can you do to help victims better understand identification and what it offers them? What information can you provide them with?





Insufficient screening tools and procedures for victim identification

Robust tools and procedures are needed for victim identification. Yet these are not always in place and, where they are, practitioners may not be aware of them or trained in their use. Many tools and procedures are not publicly available or shared among practitioners engaged in victim identification. Different agencies within a country often use different (and sometimes conflicting) identification tools and procedures.



...we don't have [a protocol] as far as I know...I suppose it's a gap. It is one of those things where it is on a never-ending list of things that you have got to do There is only one of me and the number of children and the changes of policies are never-ending. (Practitioner)^{xlvii}

Tools that are available have not always been tested and revised accordingly. They are also not always updated to keep pace with traffickers' methods, forms of trafficking or characteristics of trafficking victims. As a result, some identification tools and resources may be out of date or reflect biases and assumptions about trafficking (for example, a focus on female over male victims, trafficking for sexual exploitation over other forms, transnational over internal trafficking, trafficking of foreign over country nationals, or not including less considered victims such as individuals who identify as LGBTQI+).



We are seeing people who are not being identified and we are thinking, "how can alarm bells not have been ringing that something is wrong?"...There has to be proactive steps, especially with victims of human trafficking who are likely to disclose things late and have often been told not to tell anything. (Practitioner)^{xlviii}

Tools and procedures vary in their capacity to be practically implemented. Some detail the steps of preliminary and formal identification and referral while others lack even basic guidance to identify and refer victims. Most assume a positive identification outcome (that the person is a trafficking victim) and lack guidance on how to proceed when a person is not a trafficking victim but may still have protection needs.

Identification tools and procedures are not always child-specific or sensitive to children's unique needs and sensitivities. Even those that include generalized statements about ensuring the best interests of the child often do not specifically consider the unique needs and risks associated with trafficked children or provide clear guidance on their identification and referral (for example, specific indicators or questions with which to identify child trafficking victims). This places great responsibility on practitioners to develop and ask questions in a child-friendly manner, which assumes a high level of capacity and sensitivity.



Improving screening procedures means engaging all relevant practitioners in identification, looking beyond traditional frontline responders (for example, police and social workers) to include less considered practitioners in a position to identify victims (for example, healthcare providers (as victims require medical care), firefighters (as fire stations are designated a safe place in some communities), psychiatrists (as some victims access psychiatric units), seafarers' missions (given their work with fishers in ports), embassies (given their mandate to assist country nationals), and village or community institutions (given that so many victims self-return to their communities), among others.



Geographical and practical barriers to identification

Practitioners in some locations (for example, metropolitan areas) often have more resources and professional capacity to conduct victim identification. These locations are also more likely to have a dedicated unit or center tasked with identification. However, many victims do not live in metropolitan areas and don't have money to travel or even to telephone agencies or hotlines to seek help.



We had to go to where [the victims] live and speak with them and try to convince them that it was important [to travel to the city to receive assistance]. It wasn't until three or four months later that they realized that they had some issues so that they were willing to come. (Practitioner)

Practitioners also often do not have resources to travel to conduct interviews in rural communities where victims return to live after trafficking, particularly in lower resourced and geographically vast countries. Local community institutions that could provide entry points for identification (for example, health clinics, village administration, schools, youth organizations, religious leaders) are generally not trained or mandated to conduct victim identification and referral. Lack of community-based identification opportunities leaves many trafficking victims unidentified and unassisted.



Increasing reach into victims' home communities including engaging local institutions in identification will aid practitioners in their work. It is important to explore ways to overcome geographical and practical barriers to victim identification, including through the use of technology. How this is done will differ from context to context but is an important step in identifying more victims of trafficking in a country.

What institutions could assist with victim identification in different locations, including at the local/village level?



What are the practical barriers you face in reaching victims in different locations, including at the local/village level?

Guidance for Practitioners



Identify different locations where trafficking victims may be exploited, including for different forms of exploitation and in remote or difficult to access locations. Identify which other practitioners may have access to these locations to conduct or support identification and cooperate with them in increasing proactive identification efforts.



Challenge your assumptions and biases about who trafficking victims are and how they behave. Understand how the effects of trafficking and trauma impact victims' reactions and behaviors as well as their willingness to disclose their exploitation and accept identification. Be sensitive in your interactions with trafficking victims and, when needed, give them time before interviewing.



Increase your knowledge, skills, capacity and confidence to identify and refer trafficking victims, both adults and children. This includes implementing special measures in identification and referral such as the presumption of minority age until proven otherwise. Work with colleagues to strengthen your capacity to understand and apply trafficking definitions to real life situations.



Find out what tools and procedures exist in your region/country to help you identify and refer trafficking victims. Ensure that you have access to the most current identification and referral materials to support your work. Be aware of any changes in the legislative and institutional frameworks that impact who may be identified as a trafficking victim.



Regularly review and revise screening procedures and protocols for victim identification so that they keep pace with how trafficking takes place in the country. Adjust tools and procedures for victim identification in less usual contexts such as crisis or conflict settings.



Increase your skills and knowledge in how to sensitively engage with trafficking victims, including understanding and applying trauma-informed principles. Ensure that you are sensitive and caring in interacting with trafficking victims, including by creating an environment where victims feel comfortable to be interviewed. Develop strategies to offset uncondusive identification environments. Learn from trafficking victims about how they experienced victim identification and referral and identify ways that the process can be improved such as avoiding multiple interviews.



Engage all relevant practitioners from different fields and sectors in the identification process (preliminary screening, formal identification and referral for assistance and protection). For children this must include child protection agencies tasked with ensuring the best interests of the child.



Ensure that identified trafficking victims are referred for protection and support. Ensure that referrals meet the needs of different victims (all genders, ages and characteristics). If you determine someone is not a trafficking victim but has protection needs, refer them for support. Coordinate with child protection agencies in all cases of children, whether trafficking victims or otherwise, in need of protection.



Ensure that practitioners are held to account for failure to identify trafficking victims or to refer them (or other types of victims) for assistance. Investigate reports of wrong-doing, including by supervisors, subordinates and colleagues.



Prioritize the proactive identification of victims by making use of existing guidance relevant to specific contexts and fields of work. Allocate sufficient time and resources to fulfill this task.

Other Bali Process and NEXUS Institute resources on trafficking victim identification

Bali Process (2015) *Policy Guide on Identifying Victims of Trafficking*. Bangkok: Regional Support Office of the Bali Process (RSO). Available at: <https://bit.ly/3m6kxT0>

Bali Process (n.d.) *Assisting and Interviewing Child Victims of Trafficking: A Guide for Law Enforcement, Immigration and Border Officials*. Bangkok: Regional Support Office of the Bali Process (RSO). Available at: <https://bit.ly/3h6FTeZ>

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UNIAP and NEXUS Institute (2013) *After Trafficking. Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region*. Bangkok: United Nations Inter-agency Project on Human Trafficking (UNIAP) and Washington, D.C.: NEXUS Institute. Available at: <https://bit.ly/37KMDwC>

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- ⁱⁱ Surtees, R. (2017) *Our Lives*, p. 99.
- ⁱⁱⁱ Surtees, R. (2017) *Our Lives*. p. 94.
- ^{iv} Surtees, R. (2007) *Listening to victims: Experiences of identification, return and assistance in South-Eastern Europe*. Vienna: ICMPD and Washington, D.C.: NEXUS Institute, p. 58.
- ^v Surtees, R. and T. Zulfahary (2018) *Seeing the unseen. Barriers and opportunities in the identification of trafficking victims in Indonesia*. Washington, D.C.: NEXUS Institute. p. 56.
- ^{vi} Brunovskis, A. and R. Surtees (2012) *Out of sight? Approaches and challenges in the identification of trafficked persons*. Oslo: Fafo and Washington, D.C.: NEXUS Institute, p. 49.
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REGIONAL SUPPORT OFFICE
THE BALI PROCESS

Regional Support Office of the Bali Process (RSO)
27th Floor Rajanakarn Building
3 South Sathorn Road, Sathorn, Bangkok 10120, Thailand
Tel. +66 2 343 9477 Fax. +66 2 676 7337
info@rso.baliprocess.net

For further information on the Bali Process and the RSO please visit
www.baliprocess.net



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www.twitter.com/baliprocessrso



NEXUS Institute
5335 Wisconsin Ave. NW
Suite 440 Washington, D.C. 20015
Office@NEXUSInstitute.net

For further information on NEXUS Institute please visit
www.nexusinstitute.net



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