

BALI PROCESS ON PEOPLE SMUGGLING, TRAFFICKING IN PERSONS AND RELATED TRANSNATIONAL CRIME

TECHNICAL EXPERT WORKSHOP ON COMBATING TRAFFICKING IN PERSONS – A COORDINATED RESPONSE

**BALI, INDONESIA
28 – 30 MAY 2012**

Co-Chairs' Summary

1. The Governments of Indonesia and Australia co-hosted the Bali Process Technical Experts' Workshop on Combating Trafficking in Persons in Bali, Indonesia, from 28 to 30 May 2012. The workshop was co-hosted by the Indonesian Ministry of Foreign Affairs and the Australian Government Attorney-General's Department.

2. The workshop was opened by H.E. Hasan Kleib, Director General for Multilateral Affairs, Ministry of Foreign Affairs of Indonesia, and Ms Margaret Close, International Legal Assistance Branch, Australian Attorney-General's Department. They noted that this workshop delivered on a commitment made at the Bali Process Co-Chairs Statement of the 4th Bali Process Regional Ministerial Conference held on 30 March 2011, where Ministers "agreed to reinvigorate cooperation on practical measures and activities aimed at increasing the capacity of States to address trafficking in persons, including giving consideration to issues of victim assistance and protection". The co-chairs highlighted that the workshop objective was to examine a coordinated approach to developing and implementing practical measures to protect and assist victims of trafficking, prosecute perpetrators and prevent trafficking in persons.

3. H.E. Linda Amalia Sari, Minister for Women Empowerment and Children Protection of Indonesia, delivered a keynote address. The Minister emphasized the importance of intraregional cooperation in addressing trafficking in persons, including those arranged under ASEAN, Bali Process, and UN mechanisms. The Minister also underlined the importance of prevention, treatment, and empowerment as the main pillars of Indonesia's trafficking in persons' eradication strategy.

4. The workshop was co-chaired by Mr Febrina A. Ruddyard, Director for International Security and Disarmament of the Ministry of Foreign Affairs, and Ms Margaret Close. Eighty officials and experts attended the workshop, representing the governments of Afghanistan, Australia, Bangladesh, Brunei Darussalam, China, Indonesia, Iran, Iraq, Lao PDR, Malaysia, Maldives, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Philippines, Republic of Korea, Samoa, Sri Lanka, Thailand, Vanuatu, Vietnam, the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR). The International Committee of the Red Cross (ICRC) also participated as an observer. The list of participants is attached hereto as Annex I.

5. Dr. Chatchom Akapin, Executive Director, Department of International Affairs from the Office of the Attorney General of Thailand, delivered a statement in his capacity as the Coordinator of the Bali Process Ad Hoc Expert Working Group for Law Enforcement. Dr Akapin provided an update on recent Bali Process technical experts' activities.

6. The first theme of the workshop was prevention: a coordinated approach to establishing frameworks to combat trafficking in persons. Australia and Malaysia spoke about the challenges they have faced in effectively criminalizing trafficking in persons, and the recent legislative reforms underway to strengthen their legal frameworks. Australia highlighted the difference between people smuggling and trafficking in persons, and how this distinction can be enacted in domestic legislation. Malaysia noted the challenges in providing an environment conducive for victims to participate in investigations, and the measures in place to address this. Both countries discussed the benefits of establishing a coordinating council on anti-trafficking, which brings together a range of agencies to collaborate on operational as well as strategic issues around trafficking in persons.

7. The second workshop theme was a coordinated approach to detecting, investigating and prosecuting trafficking in persons. Participants considered the importance of detecting trafficking victims and ventures through robust immigration policies and practices, particularly through compliance monitoring operations. In sharing its experience, Australia highlighted that strong coordination between its immigration and law enforcement agencies has been essential to implementing timely victim identification, response and investigation of suspected trafficking cases. Participants also considered the challenges in investigating trafficking in persons operations. Indonesia highlighted the main challenges in investigating trafficking in persons: due to its nature as a transnational crime, it is particularly difficult to obtain evidence; victims are often afraid and insecure about their safety; there is a lack of or limited knowledge of law and regulations on trafficking in persons; and there are long waiting periods prior to trial.

8. Thailand shared its experience of the challenges in prosecuting trafficking in persons related activities, and discussed innovative practices introduced into Thai legislation to protect victims during prosecution, such as through pre-trial hearings. This was acknowledged as a difficult area for all countries, with the shared challenge of ensuring that victims are supported and feel safe to cooperate in investigations and in the prosecution process. Improving the capacity of prosecutors and judges, providing welfare support to victims, and instituting victim-centered, timely trial processes are important steps to address this challenge.

9. Formal and informal international cooperation are essential to collaborating across borders to combat trafficking. The Asia Regional Trafficking in Persons Project (ARTIP) highlighted the value of informal police-to-police cooperation and formal mutual legal assistance mechanisms, noting specific tools for practitioners, which have been developed through ASEAN. Participants examined international cooperation in the context of a case study by the Philippines, where law enforcement agencies utilized their strong networks of cooperation with Malaysia to launch a successful operation, which rescued four victims of trafficking.

10. An effective way to deter and prosecute criminals is to target the profit potential of trafficking in persons. Australia and Indonesia spoke about the importance of strong anti-money laundering and criminal asset confiscation regimes to 'follow the money' of organized crime operations. Due to the complexities of investigating and building evidence for such cases, neither country has yet secured a conviction for an anti-money laundering or proceeds of crime offence in relation to a trafficking in persons venture. While this is a challenging area for all countries to develop and operationalise legislation, participants acknowledged the compelling reasons to remove the incentive for traffickers by targeting their motive – profits. Cooperation between financial intelligence units (FIUs) is also encouraged in this regard.

11. A third theme of the program was a coordinated response to assisting and protecting victims of trafficking. Victim-centered and rights-based approaches have been used by Sri Lanka in their development of Standard Operating Procedures (SOPs) on victim identification and protection. Sri Lanka is finalising SOPs to strengthen coordination between different government agencies to effectively address individual cases of trafficking in persons. Participants acknowledged that these types of guidelines for practitioners were very useful to clarify responsibilities and to promote more efficient, uniform responses by agencies. Bangladesh provided an overview on its initiatives to sensitise communities and law enforcement officers about trafficking in persons, and how government officials have worked with community leaders and NGOs to adopt a coordinated approach to these initiatives.

12. Participants also examined the importance of intra-agency coordination at the national level through a case study of the work of the Philippines' Interagency Council Against Trafficking (IACAT). Through the IACAT, agencies in the Philippines have collaborated successfully on a range of issues, including prevention initiatives, victim identification and protection programs, investigations, and notable prosecutions of trafficking cases resulting in convictions.

13. Member countries had the opportunity to hear views of international organisations and non-government organisations on their work on combating trafficking in persons, and how to improve collaboration with government on anti-trafficking initiatives. The International Organization of Migration (IOM) spoke about its role as an inter-governmental organisation and its work in the region to strengthen the capacity of front-line officials. A local Indonesian NGO, the Muslimat Nahdlatul Ulama spoke about its work with trafficking victims in Indonesia, and this was complemented by an overview by the international NGO Sacred Childhoods Foundation about its work in Bali on awareness raising and preventative programs for persons vulnerable to trafficking. These organisations exchanged views with participants about how collaboration between civil society, international organisations and governments could be improved to promote victim-centered approaches in the response to trafficking.

14. Bali Process members agreed that trafficking in persons is an abhorrent violation of human rights, and that countries must ensure a comprehensive, coordinated approach to combating this crime. Members spoke about their national experiences in developing laws to effectively implement international obligations into domestic law. Many countries have put in place trafficking offences in domestic law and developed national anti-trafficking action plans, encompassing the elements of prevention, prosecution and protection. A number of countries have also established dedicated specialist anti-trafficking investigative units at the local and national levels, though capacity building of law enforcement officials remains a priority. Countries shared information about their programs to support victims through provision of health, accommodation and welfare services, and visas tailored for trafficking victims. Countries have also applied awareness-raising initiatives as a preventative measure to target persons vulnerable to trafficking, often in collaboration with civil society organisations. Complex challenges remain in implementing legal and policy frameworks, particularly in identifying victims, investigating trafficking cases and securing convictions. Ensuring a victim-centered approach during investigations and prosecutions, and ensuring that victims have sufficient support, remains an ongoing priority for members. Participants highlighted the increasing problem of syndicates that exploit victims for forced labour, in the context of an increasing number of nationals who seek foreign employment. Member countries emphasized that given the often transnational nature of trafficking in persons, no one country can combat trafficking ventures alone. Therefore international and regional cooperation is

critical in the criminal justice response to trafficking, and the Bali Process is an important forum to strengthen this cooperation.

15. The workshop successfully achieved its objectives. Participants shared experiences of practical measures to prevent and prosecute trafficking in persons, and to protect victims of trafficking. They considered the role of policy in implementing international standards, including the differences between trafficking in persons and people smuggling. Member countries explored ways to strengthen a coordinated approach to prevent and address trafficking in persons, and considered how the Bali Process could assist them to address challenges in efforts to combat trafficking in persons.

16. Looking ahead, some participants considered that training for law enforcement officials including judges on how to work in the specific context of trafficking cases, would be useful in promoting a coordinated criminal justice response to trafficking. Given the transnational nature of trafficking in persons ventures, participants recognised the importance of informal and formal cooperation, and that the Bali Process is a useful platform to strengthen that cooperation, to improve victim identification processes and criminal justice responses. Members acknowledged the important role of the Bali Process in enhancing relations amongst officials, and that a formal networking mechanism could be established as a means of information sharing amongst officials.

17. The co-chairs thanked participants for their open and constructive engagement in workshop discussions, which were held in an atmosphere of cooperation and collaboration. The participants expressed appreciation to the Governments of Indonesia and Australia for co-hosting the workshop and the warm hospitality accorded to all, as well as to the IOM for providing logistical and administrative arrangements to facilitate participants' attendance.

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