

**Bali Process on People Smuggling, Trafficking in Persons and Related  
Transnational Crime workshop on**

**“Victim Protection”**

**12-13 January 2012, Kuala Lumpur, Malaysia**

**Co-Hosts' Summary**

1. The Government of Malaysia and the International Organization for Migration (IOM) co-hosted a Bali Process Workshop on “Victim Protection” in Kuala Lumpur, Malaysia, from 12-13 January 2012. The workshop was opened by the Honourable YB Dato’ Lee Chee Leong, Deputy Minister of Home Affairs. Over 100 participants attended representing Afghanistan, Australia, Bangladesh, Brunei Darussalam, Cambodia, China, China (Macau SAR), India, Indonesia, Iran, Japan, Malaysia, Maldives, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, the Philippines, Sri Lanka, the Solomon Islands, Thailand, Timor-Leste, Tonga, Turkey, the United States of America, Vanuatu and Vietnam, and from IOM and UNHCR. The United Arab Emirates participated as observers.

2. The Bali Process Co-Chair representatives, Australia and Indonesia, reminded participants that the workshop objective was to build upon efforts undertaken by the Bali Process membership to strengthen and improve law enforcement responses and capacities to combat trafficking in persons and deliver support to victims of trafficking, referencing the Co-Chairs’ Statement of the 4<sup>th</sup> Bali Process Regional Ministerial Conference held in March 2011 where Ministers “*agreed that while border control and law enforcement initiatives are important and effective measures to combat people smuggling and trafficking in persons, these measures alone are not sufficient and that practical cooperative solutions that also address humanitarian and protection needs are required*”.

3. The workshop proceedings included a very important introductory reminder of the key conceptual differences between People Smuggling and Trafficking in Persons (TiP); where the crime of trafficking is a crime of exploitation against an individual and smuggling is a crime against the State. This set the scene for thematic presentations, country presentations and plenary discussions that addressed the key elements of an effective Trafficking in Persons “victim protection framework” that is rights based and centred on the needs of the victim, beginning with: victim identification (determination of indicators of exploitation and abuse), provision of specialized support services including meeting immediate needs, referral to safe and secure accommodation and access to counselling, medical, psycho-social, legal and other support, provisions for safe and voluntary repatriation (where possible), or possible local integration, and follow-up reintegration support. The thematic presentations were supported by an expert presentation by the US Immigration Customs Enforcement (ICE) Homeland Security Investigations on “Investigating and Prosecuting Crimes of Human Trafficking”, which highlighted the critical

importance of victim protection in the criminal justice process; and, that provided several case studies of successful prosecutions.

4. The workshop highlighted that trafficking thrives on the vulnerability of migrants and participants recognized that trafficking occurs both within and across national borders; and that victims include men, women and children. Victims of trafficking often suffer from physical and psychological abuse that requires specialized care and support; and law enforcement, as well as other agency interventions (interviews, investigations, etc.) must take careful consideration of the emotional and physical well-being of the victims. It was recognized that asylum seekers and stateless persons were also vulnerable to trafficking and that victims of trafficking may also be in need of international protection, including third-country resettlement. It was noted that while recovery of the individual victim was of paramount concern, providing protection and enabling support to victims contributed to rebuilding trust and willingness to cooperate on the part of the victim; which, in turn, empowered victims to seek redress and cooperate with law enforcement efforts to bring criminal perpetrators to justice. However, voluntary participation in the criminal justice process should be encouraged.

5. Participants acknowledged that delivery of such specialized services and protection for victims of trafficking, required a coordinated multi-agency “whole of government” approach that included law enforcement, justice, social welfare, labour, foreign affairs and other relevant agencies; and, that partnered with recognized NGOs and civil society groups to complement the delivery of individualized victim support services and address capacity gaps. Such coordination is facilitated and institutionalized by National Action Plans, Standard Operating Procedures and other coordination frameworks. The important role of International Organizations in providing technical and capacity building support to facilitate this was also recognized.

6. Labour exploitation in the Asia-Pacific region was recognized as a being closely aligned with trafficking in persons and that improved regulation of recruitment agencies and practices, enforcement of labour laws and labour inspection of worksites were important measures to reduce vulnerability to exploitation and trafficking in persons.

7. While members of the Bali Process have made considerable progress over the past decade to amend, enact and strengthen anti-trafficking legislation, supported by national coordination bodies and task forces, participants acknowledged that challenges still remain:

- Distinguishing between trafficking and smuggling was often difficult and further training was needed to improve conceptual understanding victim screening and the identification processes.
- The voluntary participation of victims of trafficking in the criminal justice process could be enhanced with continued awareness training among law enforcement officers, prosecutors and judges on trafficking crimes and the special assistance

often needed/required for victims who have suffered severe exploitation and physical and psychological abuse. It was recognized by participants that Standard Operating Procedures (SOPs) for the Identification and Protection of victims are necessary to institutionalise the roles and responsibilities of all agencies (including civil society) within the protection framework.

- Continued efforts to harmonize trafficking legislation consistent with the UN Convention on Transnational Organized Crime and its Trafficking Protocol would contribute to greater consistency of approach in the region and improved bilateral cooperation in both providing a continuum of victim protection and prosecuting trafficking cases.
- It was recognised that a lack of cooperation and the implementation of standardized procedures between law enforcement agencies remains a significant constraint in investigating transnational trafficking crimes and protecting victims.

8. In the context of protecting victims of trafficking, it is important to consider procedures to identify those in need of international protection and to provide them protection according to international refugee law as applicable.

9. Stateless people or people without identity documents are at particular risk of becoming victims of trafficking. Measures are needed to assist in establishing nationality of victims who cannot document their nationality, or to protect victims who are stateless.

10. Participants recognized that trafficking in persons across borders was fuelled largely by irregular migration and that the Bali Process Regional Cooperation Framework (RCF), designed to enhance cooperation among states to reduce irregular movement in the region, also provided a platform for addressing these challenges and promoting improved victim of trafficking protection standards across the region.

11. The co-chairs thanked participants for their active and constructive involvement in workshop discussions. These were consistent with the Bali Process approach of open debate and exchange focusing on practical outcomes and solutions. The participants expressed appreciation to the Government of Malaysia for hosting the workshop and for the warm hospitality accorded to all.