

SIREN event report

STRATEGIC INFORMATION RESPONSE NETWORK

United Nations Inter-Agency Project on Human Trafficking (UNIAP): Phase III

BANGKOK, THAILAND

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GMS-06

RAIDS, RESCUES, RESOLUTION

REMOVING VICTIMS FROM SEX AND LABOR EXPLOITATION

Event overview: On 6-7 August 2008, UNIAP, ILO and the Australian Government initiative, the Asia Regional Trafficking in Persons (ARTIP) Project hosted a technical consultation in Bangkok with a group of 30 experts – primarily law enforcement, prosecutors, and Asia counter-trafficking specialists – to talk practically about raids and rescues and how they should fit into the bigger picture of combatting sex and labor trafficking and exploitation; when the risks of raids/rescues outweigh the benefits; how to execute better raids with more successful resolutions; and alternatives to raid operations. Experts were from the three sponsoring organizations as well as International Justice Mission, PeunPa Foundation, UK Police/Operation Pentameter II, U.S. Department of Justice, IOM, and UNODC.

The first day included intensive technical briefs on brothel and factory raid operations in Asia, Europe, and Latin America; analysis of raid operation footage; examination of relevant laws and procedures; and discussion on risk assessment and downstream impacts in the short- and long-term, for those who are extracted and those (if any) who are not. The second day began with technical briefs on country-specific priorities and challenges in Asia, including criminal justice and labor ministry capacity and corruption. These final briefs led up to the final Strategic Planning Wars¹, for which the experts were divided into four teams competing to design the most effective two-year, US \$5 million plan to improve the rescue of Southeast Asian victims from exploitation. This report is the first in a series of SIREN reports that will present key consensus points from the consultation, with follow-on reports to detail the results of the Strategic Planning Wars, and case studies from participating agencies.

WHY WAS THIS EVENT IMPORTANT?

The conduct of raid/rescue operations is contentious. On the one hand, it is a government's responsibility to prosecute trafficking crimes and assist victims: some perceive direct action through raid/rescue operations as the most appropriate course of action to protect victims and to prevent future harms by traffickers. Others argue that the harm caused by raid/rescue operations outweighs the benefits, and so 'softer' and safer interventions should be pursued whenever possible, such as workplace monitoring and community protection or watchdog groups. We must analyze the costs, benefits, help, and harm caused by raids and rescues in the sex trafficking and labor trafficking contexts; manage the risks and be honest about them; and create frameworks for determining whether these invasive operations are the most appropriate course of action in a given situation.

¹ Established workshop technique that uses team competition among technically skilled participants to develop project designs that are presented and judged by peers.

Five key themes from discussions throughout the technical consultation:

1. Argument and a lack of clarity related to the definition of *human trafficking* is sometimes a distraction from our **urgent concern with addressing human exploitation and slavery**, using any and all criminal and civil remedies available in a given country.
2. **Raid/rescue operations should be conducted** only when absolutely necessary, after systematic risk assessment and planning. Such operations carry high risks. However, beyond removing victims from harm, they may additionally result in arrest of criminals and securing non-testimonial evidence that might not have been possible to gather otherwise.
3. **Alternatives to raid/rescue operations should be strengthened**, and these differ for sex versus labor exploitation – for example, proactive workplace monitoring by labor officials, an alternative for labor but not sex trafficking.
4. **Intelligence-driven, proactive investigations** are key to addressing human trafficking and exploitation, and anticipating risks during possible rescue operations. They are also key to a stronger criminal justice response to transnational crimes in general. Intelligence-driven investigations can determine when there is a need for raid/rescue operations, and when less intrusive interventions might be more successful, while collecting non-testimonial evidence that lessens the burden on victims to build strong cases.
5. If a raid is carried out and victims are identified, it is essential that the process **resolve all issues related to victim protection and prosecution** from the point at which the person is taken out of the harm environment to the point at which they continue with their life back in society.



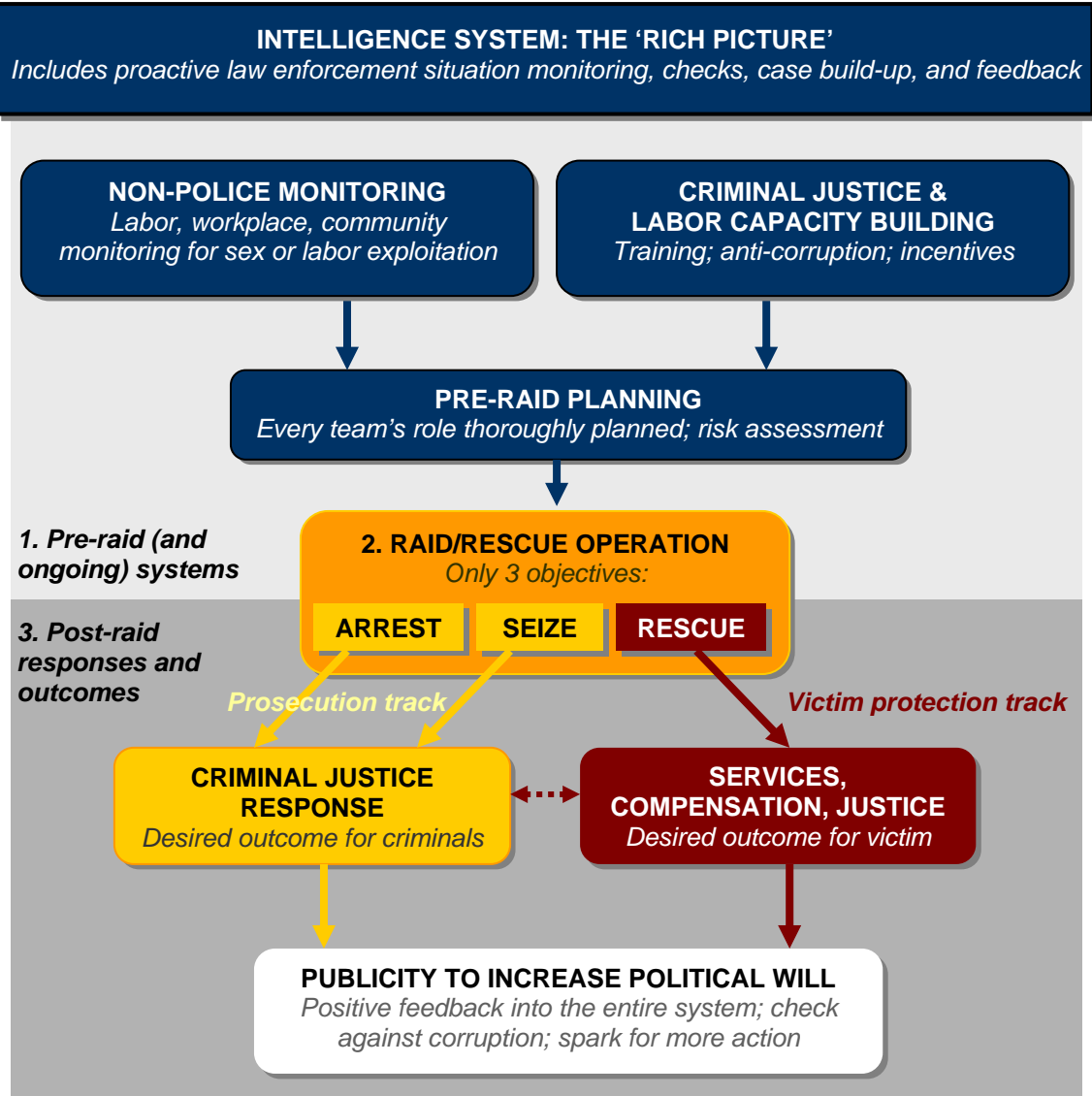
Red Team members (from ARTIP, IJM, PeunPa Foundation, UK Police/Operation Pentameter II, UNIAP, and USDOJ) prepare for Strategic Planning Wars (left), in anticipation of a tough crowd (right).

The success of raid/rescue operations can be significantly improved through proper pre-raid and post-raid preparation

In the spectrum of counter-trafficking interventions, raid/rescue operations can be among the most effective but also the most contentious due to factors such as inadequate risk assessment and planning, corruption, victim mistreatment, and low capacity or political will of police. Entering the exploitation site with the authority to end the exploitation can bring an end to the criminal practices taking place, and bring those who are exploited to safety. Yet the effects can be positive and negative, with substantial risks for all involved: those conducting the raid, those being exploited, those whose employment is disrupted by disruptions to the business, and those who oversee and profit from the exploitation.

Raid/rescue operations fit into a larger set of interventions aimed at direct action against exploitation, some of which should occur pre-raid and on an ongoing basis, and some which should occur post-raid. These interventions link as depicted in the figure below, and as discussed component-by-component following the diagram.

A proactive system to target and suppress sex and labor trafficking:



1. PRE-RAID (AND ONGOING) SYSTEMS
 Direct action against human trafficking cannot be effective in the long run without a robust intelligence system, with police and non-police monitoring

Intelligence systems

Organized crime groups engaging in human trafficking make huge profits from those that are exploited, and a comprehensive intelligence system is the key to mapping opportunities for disrupting their lucrative business. It also allows for a shift from reactive investigations, based heavily on reports and complaints from victims, to proactive investigations where law enforcement personnel have their sights squarely set on their criminal targets, systematically building cases to pursue arrests and prosecutions based on numerous streams of data. The UK police from Operation

Pentameter 2 described their intelligence system as providing a ‘rich picture’ of the human trafficking situation, including surveillance, telephony and banking data of suspects; organized crime group mapping; images of suspects and suspected victims at immigration and other checkpoints; and a community-based sociocultural context of suspected populations at risk. These streams of data were analyzed by police teams. Data contributed from NGOs at source, transit, and destination, was also used alongside the police data.

NGOs should ideally share information with the appropriate law enforcement authorities to promote intelligence-driven counter-trafficking, while respecting victim confidentiality and security. Those involved in victim identification and protection often hold key information regarding brokers and transit routes. If information sharing is challenged by breakdowns in trust between NGOs and police, it should be addressed. Where multiple agencies have overlapping jurisdiction, it is imperative that intelligence gets routed to the appropriate agency. Law enforcement agencies may be better positioned to investigate human rights abuses related to labor and sexual exploitation if they have a mandate to suppress organized crime and corruption.

Intelligence-led and incentive-driven policing.

Reactive investigations use outdated techniques to investigate organized crime. Only intelligence-driven policing can strategically determine which exploitation sites require rescue operations, and which can be addressed in less intrusive and less resource intensive ways.

Specialist police units at national and more local levels should be trained to build intelligence on trafficking networks and exploitation sites. These are being developed in some countries, such as the UK, but are urgently needed in other exploitative destinations. It is critical that these units have relatively stable, longer-term rotation policies, with incentive structures in place to encourage proactive policing.

Non-police monitoring

For both sex trafficking and labor trafficking, NGOs and community watchdogs often receive the initial reports of exploitation and exploitative workplaces, often with detailed background of the brokers and exploiters. As an alternative channel for cases of exploitation to be reported and investigated, the information gathered by these community monitors and their sources could provide valuable information to law enforcement, ideally into a comprehensive intelligence system. Some NGOs may also be able to play a capacity building role for police, while assisting with investigations and acting in advocacy and awareness-raising roles. While this is not the ideal, in some countries it is often a necessary step in hotspot exploitation areas before the capacity, confidence, and political will of law enforcement is at a sufficient level. However, it is normally only through alliances with enforcement and/or labor authorities that NGO actors can ultimately seek action against exploitation.

For labor trafficking and exploitation, the primary agency for inspecting workplaces (normally a department in the Ministry of Labor) should prevent formal workplaces from violating labor laws and using forced labor. Proper conduct of workplace monitoring by these labor departments can be an effective deterrent and enforcement mechanism to prevent exploitation. However, it is often the case that they are ineffective and, without power, reluctant to take a proactive role. A sophisticated model of mobile labor inspection teams in Brazil was studied as an alternative way to prevent and adjudicate labor exploitation. Labor monitoring has the benefit of not requiring a search warrant and often leading to the closure of exploitative establishments, on grounds other than human trafficking.

Where labor inspections have been effective, there is often:

- A clear link to strong law enforcement authorities, or
- The labor inspection units are highly trained central or mobile units, without corrupt links to local businesses.

Criminal justice and labor capacity building

In Southeast Asia, capacity building for law enforcement and labor responders lacks resources and sometimes even basic training. Some specialist police units have received specialist trainings in criminal investigations, and these do not necessarily require expensive technology. However, there is a high turnover of police involved in counter-trafficking work, leading to frequent relocation and promotion of those with expertise, and impeding sustained impact.

Another challenge is the lack of real incentives for police to effectively respond to human trafficking. Additionally, some police are corrupt, relying on bribes as part of their earnings, and sometimes forming protection relationships with traffickers. In comparison, other police specializations such as narcotics suppression are held in higher regard, due to the rewards and status they receive by achieving successful, sometimes high-profile convictions. **The relatively low prestige in anti-human trafficking policing, and lack of anti-corruption accountability, may contribute to the difficulty in achieving successful convictions of human traffickers.**

Pre-raid planning

Preparation for rescue operations is the key to their success, and should rely heavily on detailed operation manuals and plans outlining the exact role and responsibility of each individual and team, and strong coordination at the outset between police teams, prosecutors, interpreters, and victim service providers. The outlook should begin not only with the intent of rescuing victims, but gathering enough evidence to proceed with a prosecution against the brokers, traffickers, and exploiters. Immediate risk to life to victims of trafficking clearly demands an urgent response. However, when and if time allows, **the more intelligence gathering prior to a raid, the higher likelihood of its success.** The pre-gathering of intelligence, and admissible evidence where available, has the strategic effect of often encouraging confessions and cooperation from traffickers and exploiters from the beginning, when they realize the strength of the case being built against them.

Only key individuals should be present at a raid/rescue operation. The crime scene should be cleared of anyone without a direct law enforcement mandate. Others, such as media, NGOs, immigration officers, and other observers, may endanger the confidentiality of the operation, confuse victims, obfuscate operational mandates, and compromise evidence integrity.

Since **victims should be removed for screening at a pre-determined, safe site away from the crime scene/exploitation site**, pre-raid planning is critical for coordinating the teams securing the crime scene; collecting and documenting evidence; arresting and removing the suspected criminals; and moving, screening, and appropriately handling possible victims of trafficking. Victim service providers and social workers who will be involved in providing post-rescue care do not need to know the full details of the raid/rescue operation (location, business, suspects) in order to prepare appropriately.

2. THE 3 OBJECTIVES OF A TRAFFICKING RAID / RESCUE OPERATION

When these 3 objectives are not met, the utility of such invasive operations comes into question. Note that seeking and arresting illegal labor migrants among possible trafficked persons should never be one of the key objectives of a raid / rescue operation.

Objective 1: To arrest those suspected of committing crimes related to human trafficking.

- ▶ Key targets are those suspected of committing crimes of human trafficking, forced labor, abuse, rape, kidnapping, or other violations. These may be employers, guards, brokers, supervisors, or pimps.
- ▶ Once the crime scene has been secured, the suspects should immediately be separated from the potential victims and other witnesses.

Objective 2: To seize evidence of the crimes.

- ▶ The site must be treated as a crime scene, and may be littered with delicate evidence, including CCTV footage, weapons, receipts from financial transactions, and evidence of abuse and confinement. Evidence gathering at a raid has often been bungled due to the fact that key pieces of evidence were bypassed as irrelevant. Only those with the expertise to gather and record evidence should be allowed to collect evidence at the crime scene.
- ▶ Prior to a raid operation, surveillance and other intelligence gathering including background checks and obtaining of phone and financial records of suspects can be analyzed to predict what other evidence might be seized at the crime scene.
- ▶ In some countries, prosecutors can be present to support evidence collection at the crime scene. Not only will this ensure that all the important evidence is collected to build a strong case, but it will bring them to the heart of the case from the start.

Objective 3: To rescue victims of trafficking and exploitation.

- ▶ Rescue operations should always be conducted if the potential victims are in significant and immediate danger or harm. Other options may be appropriate if the victims are not at serious risk of harm. Often, rescue operations can have negative consequences for those removed from the workplace, whether they are ultimately identified as trafficked persons or not. Risk assessments should be employed to determine overall risk.
- ▶ Rescue operations can induce significant fear and anxiety in victims. Victims should be immediately removed from crime scene and screened outside of the harm environment to reduce fear, anxiety, confusion, and exposure to intimidation by criminals.
- ▶ Information and options should immediately be presented to possible victims of trafficking, as their individual needs and concerns will depend on their own personal situation, their own nature, their experiences, and the level of harm they have endured.
- ▶ Trafficked persons have the right to choose what services they wish to accept and which services they wish to decline, with no services forced upon them (though children have special protection needs). Having experienced slave-like situations, trafficked persons should be assisted by being empowered with the ability to choose from a full range of options, exercise agency, and begin to regain control of their own lives.

3. POST-RAID RESPONSES AND RESOLUTIONS

The raid/rescue operation should be followed by complete follow-through on two tracks: criminal justice and victim protection

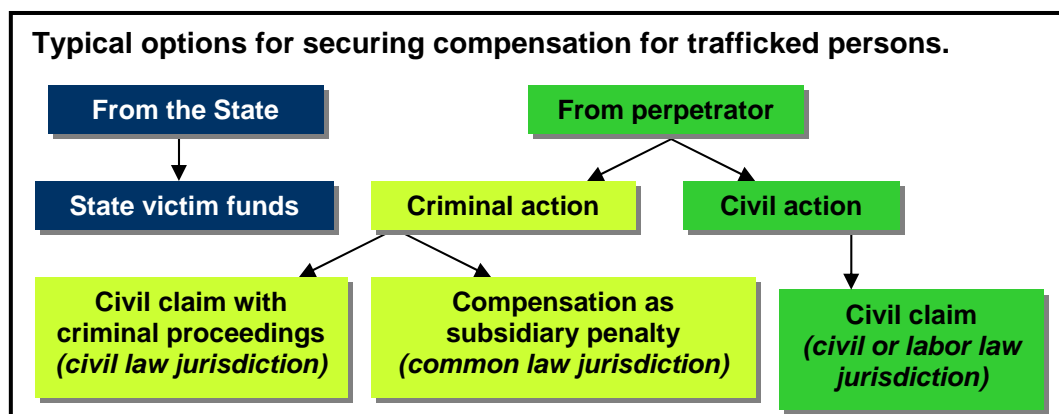
Criminal justice response

The counter-trafficking community should balance a victim-centered approach with a criminal justice response. Much of the emphasis thus far has been placed on rescuing individuals from exploitative situations. While important, this victim-centered approach should be harmonized with a broader understanding of how criminal justice functions as a long-term and broader deterrent, within which traffickers must be prosecuted and brought to justice. Strengthening a **proactive criminal justice response may also have the positive effect of placing fewer burdens on the victims themselves**. It may involve, among other things, focusing on identifying brokers and exploiters as much as identifying victims; forging alternative routes to undermine criminal networks such as taxation and crackdowns on money laundering; and funding more sophisticated and technological assistance for law enforcement officers.

In some cases in Southeast Asia, it might be that enforcement action against the one exploitative site – factory, brothel, karaoke bar, or farm – will bring all of the criminals to justice and end the exploitation. In other instances, the brokers who put the victim in a particular workplace could also be linked to other exploitation sites and they may themselves be the main exploiters and profiteers, exercising control and gaining profit through debt bondage. In this case, taking down one workplace without thoroughly investigating the broker linkages would have little impact on the overall trafficking situation.

Services, compensation, and justice for the victim

At the heart of most raids is rescuing the victim(s). However, being labeled a ‘trafficking victim’ can have significant implications on a person’s future – some positive, some possibly negative, and some possibly not desirable to those exploited. **Trafficked persons should be given the right to choose what services they wish to accept, and which services they wish to decline**. Having experienced controlled, slave-like situations, they should be offered the fullest range of possible options to empower them to begin regaining control of their lives from the start. At the same time, however, children do require special protections. Regardless of whether they cooperate with a prosecution, all victims should have the right to freely choose or decline services; pursuit of compensation; and pursuit of justice against perpetrators of abuses committed against them. In gaining compensation, utilizing proceeds of crime opportunities, including cash seizure and confiscation of assets (where allowed by law), provides quick compensation for victims while sending a very



clear message that law enforcement are taking the issue of human trafficking seriously, and will use financial attack to seriously disrupt business.

Victims in Southeast Asia are sometimes forced to stay in shelters and compelled to give testimony in court. Clearly, this violates the victims' rights, forcing them to languish in shelters for months or years waiting for the legal proceedings to be finalized, and possibly placing them at risk of reprisals by criminal networks at home. It may also re-traumatize victims on the witness stand in court. Many victims avoid being screened as 'trafficking victims' due to the painful process that trafficking victims are sometimes forced to endure. Thus, **incentives should be secured for trafficking victims** to participate in legal proceedings, at the very least, temporary leave to remain with a work permit (following the European model); basic witness protection; support measures when they provide their evidence; and alternatives to shelter 'detention' that allow for more mobility, work, and for families to stay intact.

Publicity to increase political will and action

The resolution of raids and rescues should result in justice being served to the criminals, and services and justice provided to those exploited. Where are we now? Prosecutions and protection of victims are weak in most countries of this region. Protection and prosecution are inter-dependent; if victim protection is weak, there will be little incentive for victims to pursue cases. If prosecutions are weak, justice and security for victims will not be achieved. There are few (some would say no) adequate witness protection programs for trafficked persons in the region. **Publicity and positive media coverage of successful counter-trafficking operations could provide critical positive incentives** to increase political will, transparency, and monitoring of national counter-trafficking action on the part of the government, and can increase awareness and engagement of the public, which could lead to even more positive pressure for improved counter-trafficking action as well as more reports of possible human trafficking cases.

Conclusion

What is the benefit of shifting from a reactive, victim-based counter-trafficking response to a proactive, intelligence-driven counter-trafficking response? Comprehensive case build-up including intelligence gathering, surveillance, and all possible electronic data is essential in comprehending and combating criminal networks, whether or not victim rescue operations are mounted. Exploited persons or their relatives may be put at risk if they provide testimony in court but the complete chain of exploitation has not been thoroughly validated. Victims who are, understandably, unwilling to cooperate due to security and other personal concerns do not make strong witnesses, and if the case is heavily based on their testimony it is vulnerable to failure. Clearly, it is ethically questionable to put a victim in such an insecure situation, where their best interest is considered secondary to pursuit of a conviction. If the criminal justice and labor sectors in Southeast Asia are technically and financially supported to advance their counter-trafficking efforts to a more proactive, intelligence-driven model, we can expect greater respect for victim's rights, increased victim security, improvement of workplace and labor conditions for lower baseline levels of exploitation, and justice served to more traffickers and exploiters, including higher up the chains of organized crime.



For information about UNIAP's SIREN project, contact SIREN@undp.org.
www.no-trafficking.org

