

COMMIT

COORDINATED MEKONG MINISTERIAL INITIATIVE AGAINST TRAFFICKING



VICTIM IDENTIFICATION AND REFERRAL MECHANISMS: COMMON GUIDELINES FOR THE GREATER MEKONG SUB-REGION

These Guidelines are developed to guide victim identification and support services through referral mechanisms in the Greater Mekong Sub-region through the Coordinated Mekong Ministerial Initiative against Trafficking in Persons (COMMIT). The Guidelines have been developed at a regional level and to guide implementation at national levels in the COMMIT countries. They are founded upon the development of COMMIT policies and experiences, as well as international agreements, policies and good practices, in particular the:

- COMMIT Memorandum of Understanding on Cooperation against Trafficking in the Greater Mekong Sub-Region, 2004;
- COMMIT Sub-regional Plan of Action IV, 2015-2018;
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979;
- Convention on the Rights of the Child, 1989;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000;
- Guidelines on the Protection of Child Victims of Trafficking, 2006.

OVERARCHING GUIDELINES

Recognising the importance of identifying and assisting victims of trafficking, the following overarching guidelines should be adhered to in implementing victim identification frameworks and coordinating referral services:

1. The primacy of a human-rights based response to trafficking in persons, ensuring that the rights of trafficked persons are at the center of all counter-trafficking responses.
2. Presumed victims of trafficking should be considered victims of trafficking and provided assistance until formal identification has taken place.
3. The privacy of victims and confidentiality of their personal information should be respected in all support provided, on the basis of non-disclosure of case information, except to service providers on a 'need to know' basis.
4. Victim identification procedures and referral services must be gender-sensitive and responsive, recognizing the particular vulnerabilities associated with gender.
5. Special attention should be given to child victims of trafficking; their best interests should be the primary consideration in all policies and procedures related to them. There should be a presumption that a victim who may be a child is treated as a child unless or until another determination is made.
6. All victims of trafficking should have access to comprehensive, high quality support services that are age, gender, language and culturally appropriate; that are responsive to the victim's needs and respect their right of choice; that are provided by adequately trained individuals; and that aim to reinforce the victim's dignity and restore their decision-making power.
7. Presumed trafficked persons and trafficked persons should be provided with full access to information and informed of all of their rights and options, as well as obligations, at all steps of the victim identification, referral and support process, in a language they fully understand.

INTERPRETATION

8. Provide access to a trained translator where needed, recognizing ethnic and dialect requirements.
9. Request embassies and missions to provide translation assistance in presumed cases, after risk assessments, where possible and appropriate.
10. Train interpreters and key service providers in the issues around relevant ethical and security concerns, support for victims of trafficking, and child-friendly interviewing techniques.
11. Ensure specific consideration of gender in the selection and training of interpreters in responding to cases.

INITIAL SCREENING AND REFERRAL

12. Adopt the common ASEAN-COMMIT indicators of human trafficking and, where applicable, add additional indicators based on particular country contexts.
13. Develop a standardized, national screening checklist for first responders that includes the common ASEAN-COMMIT indicators.
14. Train relevant first responders on the indicators of human trafficking, particularly in hotspot areas, including related agencies who may encounter potential victims.
15. Ensure law enforcement officials implement a gender-sensitive response in responding to reported cases of trafficking in persons.
16. Agree and implement standard operating procedures for the removal of presumed victims from possible harm environments, and ensuring separation from potential exploiters and controllers.
17. Ensure procedures are established for the removal of presumed victims of trafficking from detention facilities to appropriate care and services.
18. Initial screening should take place in an environment where the presumed victim can be assured of their safety, security and privacy, by officials trained in the procedures.
19. Identify the focal agency responsible for victim identification and notify other relevant agencies.
20. Establish reliable steps for transferring presumed cases to the focal agency responsible for coordinating support services, updating as appropriate, and publicize among relevant agencies and countries.
21. Ensure the focal agency responsible for victim identification has sufficient technical, financial, and human capacity to coordinate response to cases.
22. Ensure no use of ad hoc translators present at the exploitation environment.
23. Record cases of presumed victims of trafficking received by the focal agency in internal database.

INTERIM ASSISTANCE

24. Ensure that trafficked persons are not, in any circumstances, prosecuted for violations of immigration laws or for activities they are involved in as a direct consequence of their situation as trafficked persons; or held in detention.

25. Map referral network for interim support with clear roles and responsibilities between government and non-government service providers in providing basic needs and referral of presumed victims.

26. Train service providers in specialized areas of care under their responsibility, including but not limited to: gender, age and culturally sensitive assistance; services for persons who have suffered severe abuse, those with physical or psychological ailments, or otherwise harmed by their experience.

27. Implement a standardized intake process to ensure the presumed victim has information on their rights and any duties accorded to them.

28. Provide sufficient resources to meet basic needs of presumed victims of trafficking.

29. Assess potential risks to the presumed victim in consultation with them, including health, safety and security concerns; categorize levels of risks present, and undertake appropriate responses.

RECOVERY AND REFLECTION PERIOD

30. Promote and provide a recovery and reflection period of 30 days for presumed victims of trafficking implemented in all cases prior to formal identification, where appropriate.

31. Provide a clear timeline to presumed victims on the support they may receive as well as repatriation if that is desired.

32. Consult with presumed victims on the services available, and ensure independent advice is available on the most appropriate services for them.

33. Ensure procedures are in place for presumed victims to access services that they may have initially declined, and to decline services that they may have initially consented to.

34. Ensure that trust is developed with presumed victims during the reflection period, through rights-based support and service provision.

FORMAL IDENTIFICATION

35. Align policies for formal identification to comply with the UN Trafficking Protocol definition.

36. Ensure interview procedures and the process for identification are sensitive to the needs and concerns of victims, and child-sensitive in the case of those suspected of being minors.

37. Develop and implement a standardised process and form for formal identification, to be used by trained specialists, including interpreters and victim service providers.

38. Implement operational procedures for the exchange of information on cases with source and transit countries through national focal points, to support accurate and rapid identification and support.

39. Coordinate with focal persons at relevant diplomatic missions to provide assistance in victim identification, communications and family tracing.

40. Provide an alternative mechanism for support to persons who show signs of exploitation but are not formally identified as victims of trafficking.

41. Conduct family tracing and assessment as appropriate when formal identification is concluded.

REFERRAL, INFORMATION AND SUPPORT SERVICES

42. Develop a standardized information package provided to victims of trafficking, with information on their legal and other rights, obligations and all services available to them, updated as necessary.

43. Conduct a needs assessment to ensure all fundamental needs are met, as informed by the trafficked person.

44. Provide information on steps and procedures that will be implemented after the formal identification, including on choices therein.

45. Provide referral services through an effective coordination mechanism involving all relevant government and non-government service providers, as identified through the COMMIT regional (re)integration research, to meet the following needs:

- Accommodation and housing;
- Medical assistance;
- Psychological support and counselling;
- Education and life skills;
- Economic empowerment programmes, including skills and livelihood training;
- Administrative support;
- Legal assistance and support;
- Implementing safety and security measures as needed;
- Translation and interpretation services;
- Assistance to families of victims of trafficking through needs assessment, including possible livelihood and income generation support, mediation and counselling;
- Case management.

46. Develop, implement and monitor minimum standards for services provided to victims, including shelter and other community-based alternatives.

47. Document and scale up best practices and proven models for victim support including through research and other data collected by service providers, especially at the community level.

48. Provide specialized services for special cases, such as persons with trauma, and physical or psychological ailments.

49. Specialised services and assistance should be made available for child victims of trafficking, including monitoring of referral services.