

**ASEAN Regional Conference of Senior Officials on Strengthening the Protection and
Empowerment of Women Migrant Workers
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MANILA, PHILIPPINES**

MALAYSIA

**PROTECTION & HANDLING WOMEN VICTIMS OF
TRAFFICKING: MANAGEMENT OF SHELTER HOMES IN MALAYSIA**

I. MALAYSIA AND TIP PROTOCOL

1. Malaysia passed the Anti-Trafficking in Persons Act 2007 on 24 May 2007. The Act was enforced fully by 28 February 2008. In 2010, the Act was amended **The TIP Protocol forms the basis of this Act** where it provides for **enforcement, prosecution, protection and rehabilitation and repatriation** of victims to the country of origin. Malaysia acceded the TIP Protocol in 26 February 2009 which is a sign of its commitment in battling against human trafficking.

II. NATIONAL MACHINERY

2. As the implementation of the act involves several ministries and agencies, the Government has established the Council for Anti-Trafficking in Persons for the purpose of co-ordination. The membership of this Council consists of several governmental agencies, enforcement agencies and representative from non-governmental organisations (NGO). The council is chaired by the secretary general **Five committees were formed under the Council to lead the various tasks outlined by the act. For an instance, the Royal Malaysian Police headed the committee in charge of enforcement, the Attorney General Chambers - prosecution, Ministry of Information, Communication and Culture – publicity, Ministry of Human Resource – labour trafficking and Ministry of Women, Family and Community Development (MWFCD) – protection and rehabilitation of victims.**
3. The MWFCD as the head of the Committee on Protection and Rehabilitation of Victims complied with Article 6 of the TIP Protocol.

III. PROTECTION & REHABILITATION PROGRAMMES

Care and Protection

4. The government has established several places of refuge to place victims of TIP and SOM. The victims will be protected at the places of refuge until the process of recording evidence is completed. This is in line with the provisions under Sections 44 and 51 of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007.
5. Under Section 44 of ATIPSOM 2007:
 - (1) an enforcement officer may, on reasonable suspicion that any person who is found or rescued is a trafficked person, take that person into temporary custody and produce him before a Magistrate within twenty-four hours, exclusive of the time necessary for the journey to the Magistrate's Court, for the purpose of obtaining an **interim protection order (IPO)**.
 - (2) the Magistrate may issue an IPO for the person to be placed at a **place of refuge** for a period of fourteen days for the purpose of carrying out an investigation and enquiry.
 - (3) the enforcement officer shall, upon obtaining the order issued under subsection (2), surrender the trafficked person to a Protection Officer to place that trafficked person at the place of refuge specified in the order.

6. Under Section 51 of ATIPSOM 2007:

(4) Where the Magistrate, having read the report produced under subsection (2), is satisfied that the person brought before him—

(a) is a trafficked person and in need of care and protection, the Magistrate may make a **Protection Order (PO)**—

- (i) in the case of a trafficked person who is a citizen or permanent resident of Malaysia, ordering that such trafficked person be placed in a place of refuge for a period not exceeding two years from the date of the order; or
- (ii) in the case of a trafficked person who is a foreign national, ordering that such trafficked person be placed in a place of refuge for a period not exceeding three months from the date of the order, and thereafter to release him to an immigration officer for necessary action in accordance with the provisions of the Immigration Act 1959/63,

(b) is not a trafficked person, the Magistrate may—

- (i) in the case of a person who is a citizen or permanent resident of Malaysia, order that person to be released; or
- (iii) in the case of a person who is a foreign national, order that person to be released to an immigration officer for necessary action in accordance with the provisions of the Immigration Act 1959/63.

7. Prosecuting the offenders of human trafficking is an arduous task as it involves a chain of events and many people across the border. Hence, the prosecutors have to rely solely on the victims of trafficking to provide the necessary information to track the offenders and to testify against them in the court. At the same time, there are a lot of cases where rescued victims of TIP are found to be severely traumatised and require help in order to recover from the ordeal. Thus, placing victims of in the place of refuge and providing them assistance for recovery becomes an important task in the process of prosecution.

Place Of Refuge

8. Section 42 of the Act provides that the Minister (Minister of Ministry of Home Affairs) may, by notification in the *Gazette*, declare any house, building or place, or any part thereof, to be a place of refuge for the care and protection of trafficked persons and may, in like manner, declare that such place of refuge ceases to be a place of refuge.

9. The place of refuge based on the National Action Plan Against Trafficking in Persons (2010 – 2015) document, functions as a place for the care and protection of victims of trafficking in persons and has the following characteristics:

- a. provide secrecy and security;
- b. provide basic needs; and
- c. not a detention center.

10. A shelter home declared as a place of refuge functions also assist the recovery of victims physically and psychologically. Basic facilities and necessities are available for the victims' comfort.

11. Victims of trafficking in persons' recovery in the shelter homes for becomes the primary task in the process of prosecution. This is because, in a lot of cases, victims of trafficking in persons are found to be severely traumatised and require help in order to recover from the ordeal.

12. Under Section 42(2) of the Act, the Minister of Home Affairs may from time to time direct the separation of different categories of trafficked persons, among others, according to age and gender either at the same place of refuge or at different places of refuge. To date, five shelter homes has been established by the Ministry of Women, Family and Community Development according to age and gender.
 - a. 5 women's shelter (one has closed down for renovation);
 - b. 2 children's shelter; and
 - c. 1 men's shelter.
13. MWFCDC collaborates with NGO and relevant agencies to ensure the shelter home provides the following:
 - a. essential facilities and recreational facilities which includes reading materials;
 - b. counseling, vocational skills training and medical treatment;
 - c. psycho-therapy sessions conducted once a week; and
 - d. several programs such as cooking classes, English classes and dance classes.

Initiatives To Improve Management Of The Victims Of Trafficking

14. Standard Operating Procedures and Client Management System
 - a. Standard Operating Procedures (SOP) as a guideline for shelter staffs' to perform their work.
 - b. The MWFCDC also initiated collaboration with the International Organisation for Migration (IOM) on psycho-social assessment at all government shelters and some recommendation for improvement. IOM went on to assist the Ministry in conducting several training programmes for protection officers which focuses on direct assistance of victims and psycho-social and reproductive health of the victims. IOM also shared its expertise to value add the existing Client Management System (CMS) document for victims so that it will be in line with international standards.
15. Repatriation of victims:
 - a. Section 54 (1) (b) provides that upon revocation of a PO or expiry of the period specified in a PO, the Protection Officer shall in the case of a trafficked person who is a foreign national, release that person to an immigration officer for necessary action in accordance with the provisions of the Immigration Act 1959/63.
 - b. Section 54 (2) provides that the immigration officer shall take all necessary steps to facilitate the return of that trafficked person to his country of origin without unnecessary delay, with due regard for his safety.
 - c. However, the Immigration Department does not have a specific shelter to place them while they wait for the completion of the repatriation process, hence they are sent to the detention centres.
 - d. To improve the living conditions of the victims of TIP, administrative arrangement has been approved by the council to allow them to continue their stay in shelter homes, even upon revocation of a PO or expiry of the period specified in a PO, while waiting for the Immigration Department to complete the process for their repatriation.
16. Women victims with children:
 - a. Child victims will be placed in the children's shelter homes. However, for women victims with children, placing the children in the children's shelter homes will result in the separation of mother and child. This will worsen their already traumatised condition. Therefore, the Council decided that any victims rescued with children under 2 years old will be allowed to stay together with their children in the same shelter homes.
17. Victims' Case Management
 - a. As an improvement of the legal aid session, beginning in May 2013, the Coalition to Abolish Modern-Day Slavery in Asia (CAMSA) were permitted to perform pilot project for case

management in Women's Shelter Home which focuses on legal advice services to victims. This help victims obtain and understand information relating to their rights through legislation and will be extended to other shelters.

18. Income Generating Activities:

- a. Section 44 provides that with the order issued from the court, victims must be in the shelter at all times. Hence, the government has taken the initiative to provide the victims with the opportunities to generate income activities such as making bags and knitting shirts.

IV. CHALLENGES

19. Influx of victims at shelter homes:

- a. Heavy influx of victims creates uncomfortable environment at the shelter homes. Therefore, the government is increasing the number of shelter homes. For year 2014, 3 new shelter homes will be established.

20. Lengthy court processes:

- a. ATIPSOM 2007 accords victims with 3 months protection under PO so that they can assist in the court processes. However lengthy court processes may result in the extension of PO for foreign victims of trafficking in persons. The extensions of the victims vary from one case to another (1 to 3 times extension).

21. Language barriers:

- a. There are not enough interpreters for foreign victims of TIP to help protection officers in getting information about the perpetrators. The Ministry of Women, Family and Community Development is working with NGO and foreign missions to source for interpreters.

22. Lack of skills in dealing with victims:

- a. Inexperienced shelter's staff who lacks skills especially in psychological and mental knowledge and experience will results in improper treatment to the victims of TIP.
- b. The government is working with NGO and other relevant international bodies such as International Organisation for Migration (IOM) and Health Equity Initiatives (HEI) to conduct more training sessions.

V. CONCLUSION

23. Malaysia is continuously improving the standards of its shelter homes in giving protection and care for victims of human trafficking.

**Ministry of Women, Family and Community Development
Malaysia
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