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# Challenges in identifying victims of trafficking who are encountered as offenders

## THEMATIC DIALOGUE BRIEF

This thematic dialogue brief is based on the CTIP Thematic Dialogue: **Challenges in identifying victims of trafficking who are encountered as offenders**, jointly hosted by ASEAN-USAID Partnership for Regional Optimization with the Political-Security and Socio-Cultural Communities (PROSPECT), NEXUS Institute and ASEAN-Australia Counter Trafficking (ASEAN-ACT) Program on August 9, 2022. It also draws extensively from the Discussion Brief drafted as background to this thematic dialogue as well as the original research study conducted by ASEAN-ACT Program on the implementation of the non-punishment principle in ASEAN Member States.<sup>1</sup>

The CTIP Thematic Dialogue was facilitated by Dr Marika McAdam, author of this ASEAN-ACT funded research, and attended by 22 practitioners from government institutions and civil society organizations from eight ASEAN Member States. The dialogue offered an opportunity to discuss the importance of the non-punishment principle in identifying victims of trafficking who are first encountered by authorities as offenders as well as challenges faced in their day-to-day work and recommendations to overcome these challenges.

## Setting the scene: How victim identification relates to protecting trafficking victims from punishment

Victims of trafficking may be involved in a range of unlawful activities, from immigration and document-related offences, through to prostitution-related offences (in countries where sex work is illegal), or illegal fishing or other labour-related offences. They may be involved in human trafficking, (by recruiting or managing people in exploitative situations) or engaged in drug-related or terrorism-related offences which they have been trafficked to commit. As a consequence of their involvement in these crimes, many victims of trafficking are not preliminarily screened for trafficking but rather are misidentified as offenders and go unidentified and unassisted as a result. As a result, they are arrested, deported and/or prosecuted, rather than protected.

Even child victims of trafficking have been treated as offenders rather than protected as victims, as a result being misidentified as adults, or misclassified as children in conflict with the law rather than preliminarily screened as possible victims of trafficking and referred to child protection agencies. Such situations have emerged where children have recruited others into the sex industry, or been found involved in illegal activity such as drug cultivation or trafficking. Indeed only a third of practitioners attending the dialogue, said that victims of trafficking involved in unlawful activities in their countries would be identified as victims of trafficking.



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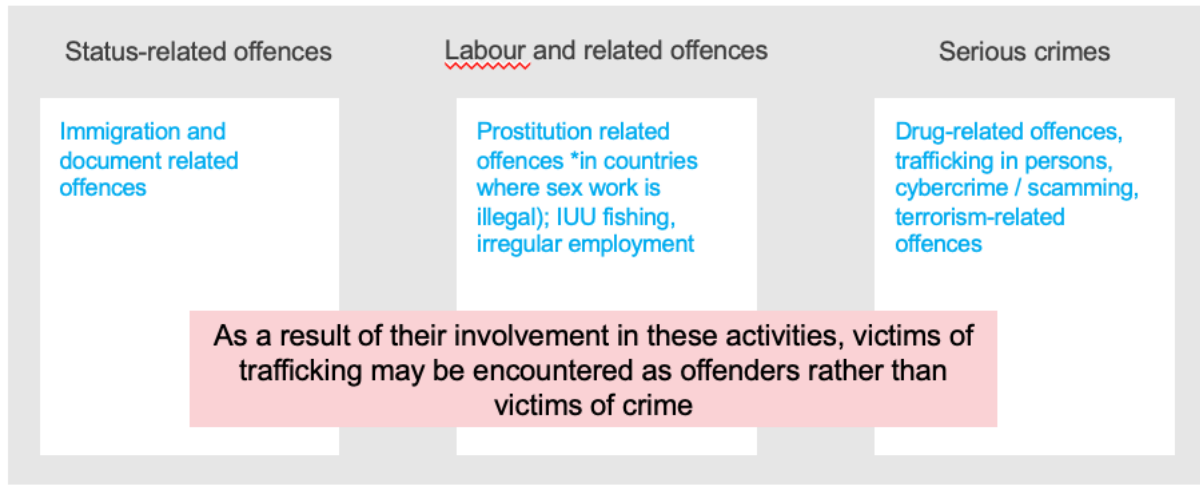


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Figure 1. Victims of trafficking may be involved in a range of unlawful activities



The primary purpose of the non-punishment principle is to protect the rights of victims of trafficking and to prevent their re-victimisation. It sets out that victims should not be prosecuted or otherwise punished for unlawful acts they commit as a direct consequence of being trafficked. It is well established in international law as well as at the regional level where the *ASEAN Convention against Trafficking in Persons, especially Women and Children* sets out that States parties shall consider not holding victims criminally or administratively liable for unlawful acts directly related to the acts of trafficking (Article 14(7)).<sup>1</sup> The principle is given further effect in other ASEAN instruments, bilateral MOUs and legislation of ASEAN member States.<sup>2</sup> The non-punishment principle, however, does not offer blanket immunity and, in practice, different approaches are taken to its application.

For example:

- How is the link established between unlawful activity and trafficking in persons?
- When should a victim be punished and when does non-punishment apply?
- When a person is and is not considered a victim of trafficking for the purpose of benefitting from the non-punishment principle?

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*The problem is when a trafficked woman recruits another woman, if this woman is still in the process, it is hard to know if she is still a victim or an offender, this is a challenge. If a trafficked woman is arrested to sell drugs, will she be recognised as a victim of trafficking but still prosecuted for selling drugs? (Civil society practitioner from one ASEAN Member State)*

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A non-punishment principle is a critical tool for victim protection and a human rights-based criminal justice response to trafficking. However, the application of the non-punishment principle requires that practitioners first recognise an individual as a victim of trafficking which poses several challenges for victims who are initially encountered as offenders.

<sup>1</sup> The *ASEAN Convention against Trafficking in Persons, especially Women and Children* can be accessed here: <https://www.asean.org/wp-content/uploads/2015/12/ACTIP.pdf>

<sup>2</sup> The principle is also captured in the *Recommended Principles and Guidelines on Human Rights and Human Trafficking* of the Office of the United Nations High Commissioner for Human Rights and in the 2014 *Protocol to the Forced Labour Convention No. 29* that entitles authorities to not prosecute victims for unlawful activities they have been compelled to commit as a direct consequence of being subject to forced or compulsory labour. For further details of the legal background, please see: Marika McAdam (2022) *Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States* Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT), pp. 20-33.



## Part I: The Challenge

Early and effective identification of victims among offenders is critical to their protection.

Unless a trafficking victim is formally identified, they cannot benefit from the non-punishment principle. And victims are more likely to come forward to be identified if they are protected from punishment for unlawful acts committed as a direct consequence of being trafficked.

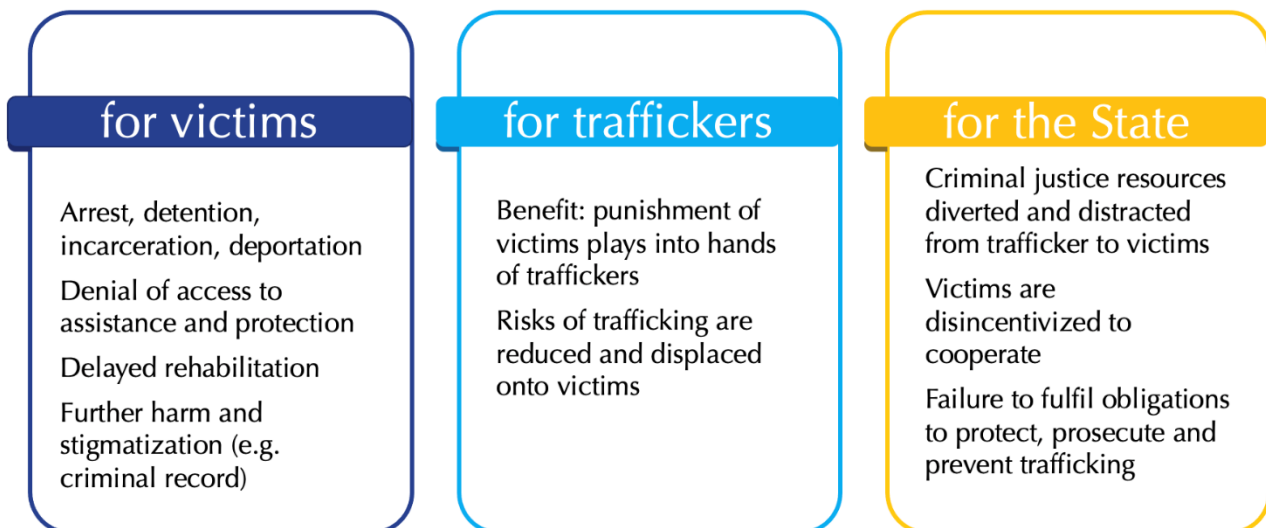
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*Punishment is not just about criminalisation but there are **other forms of punishment** like denial of access to assistance and [compensation] funds (Facilitator of the Thematic Dialogue)*

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Non-identification or misidentification has serious consequences for victims of trafficking who may be revictimised and traumatized in raids, arrest, detention, trials and incarceration. There are also consequences for the state when authorities miss opportunities to identify and protect victims, and uncover information that can be used against perpetrators. Traffickers benefit when authorities treat victims of trafficking as offenders as victims bear risks of punishment.

Figure 2. Consequences of punishing victims of trafficking



There is a range of reasons why victims of trafficking are often not identified among offenders. Challenges may also differ depending on the type of trafficking, the unlawful activity they are involved in, the profile of the trafficking victims, which stakeholders are involved and the context in which identification took place.

### DISCUSSION QUESTIONS

- How do the challenges of identifying victims of human trafficking among offenders differ, depending on the type of trafficking, the type of unlawful activity they are involved in, and/or the profile of the person concerned?
- How do the challenges of identifying victims among potential offenders differ depending on the context in which the potential victim is encountered as an offender?
- Which key stakeholders may be involved in identifying victims of trafficking and what specific challenges may they face?



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Experiences and reflections from practitioners reinforced challenges that were identified in the original research. Key challenges discussed included:

- **Stakeholder capacity, mandates, motivations and incentives**
- **Misconceptions and assumptions about victims of trafficking**
- **Context of victim encounters**
- **Victims do not wish to be identified**
- **Non-identification owing to corruption or convenience**
- **Non-identification throughout criminal justice process**

### **Stakeholder capacity, mandates, motivations and incentives**

In some countries in ASEAN, there are no formal procedures for identifying victims of trafficking, meaning that even those who may be identified are not effectively referred. Even in countries where there are formal identification procedures in place, some authorities who come into contact with trafficking victims may not be mandated to identify them, or effectively trained to conduct identification or have the skills to screen for trafficking or what to do in possible cases of trafficking. This might include police investigating non-trafficking related offences, labour inspectors working to identify undocumented workers and social workers and healthcare providers providing services.

Some authorities may be specifically tasked to look for offenders rather than victims and may even be incentivised to arrest, detain and deport rather than to screen and refer for protection needs. For instance, those responsible for investigating drug-related offences may be motivated to arrest people involved in the drug industry, rather than to screen potential offenders for possible victimisation.

In addition, some practitioners may not be aware of their potential role in the preliminary identification and referral of possible trafficking victims who they encounter in their work – for example, in detention facilities, amongst children in conflict with the law, during raids on worksites, in health clinics and so on.

### **Misconceptions and assumptions about victims of trafficking**

Practitioners may make assumptions about who is a ‘real’, ‘innocent’ or ‘deserving’ victim based on attitudes towards those who have migrated irregularly or undertaken particular activities or work. For example, victims of trafficking who have knowingly or willingly entered into exploitative situations in the sex industry may not be considered ‘real’ victims even when the elements of trafficking are present. This is often owing to practitioners not understanding that the victim’s consent to exploitation is irrelevant where the trafficker has used ‘means’ such as threat or use of force, coercion, deception, abduction or other means.

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*There are many different departments, roles of the officials so when they intervene not many of them understand that it is a victim of trafficking... **How to get different entities to work together?** Everyone has their own priority and we cannot pretend that everyone is a victim of trafficking right away (Government practitioner at the Thematic Dialogue)*

*We found both scenarios – drugs mules prosecuted as drug mules and drugs mules identified as victims of trafficking. So **it comes down to the capacity of the country** to pick through the facts and circumstances. (Facilitator of the Thematic Dialogue)*

*Usually the state agents such as police has been trained to investigate **based on criminal procedure** which is aim to seeking for a guilty or intention to commit a crime. (Civil society practitioner at the Thematic Dialogue)*

*Police move every two years so we have to do this training again, same for social workers. There is so much burn out, people come and go. [There is a] **constant need to educate people** just on what victim identification is. (Civil society practitioner at the Thematic Dialogue)*

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Assumptions also impact particular categories of victims. There may be gender dimensions at play including assumptions that all females in the sex industry are victims, that females are trafficked only for sexual exploitation or that males cannot be victims of trafficking. Biases and assumptions about sexual identity may lead gay and transgender individuals trafficked for sexual exploitation to be overlooked as victims and instead criminalized as offenders under anti-prostitution laws. Assumptions may also lead practitioners to overlook other possible victims including persons with disabilities as well as adolescents and young people (for example, youth in foster care or juvenile justice systems, those experiencing abuse, youth who run away, and those who are unstably housed or homeless). These misconceptions and biases impede practitioners' capacity to effectively identify victims of trafficking, leading to under-identification or mis-identification.

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*[One issue] is when you see **children cross into the 18 years old threshold** and often it is not considered by authorities when they entered trafficking. The issue of boys - boys treated as juvenile delinquents and rarely classified as victims of trafficking. (Civil society practitioner at the Thematic Dialogue)*

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### **Context of victim encounters**

The context in which victims are encountered may undermine or be detrimental to preliminary identification and referral of possible victims. For instance, police, labour and immigration operations may be unsuccessful as victims of trafficking often fear the authorities and have been coached on how to reply to inquiries about their conditions. They may also be too frightened and confused to communicate in a way that would enable them to be meaningfully screened, or may have language barriers or disabilities that impede effective communication. Identification during raids is particularly unlikely where authorities are relying on victims to self-identify. Similarly, victims are unlikely to be identified in immigration management processes where authorities are seeking out irregular migrants, and may charge them for immigration and document-related offences without screening them as possible trafficking victims. These challenges may be exacerbated in contexts where sex work is conflated with sex trafficking, and counter-trafficking is conflated with migration regulation.

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*Where countries are hostile to things, like a war on drugs or hostile policies for irregular migration, this can challenge identification. So it is important to **understand how the wider context relates to identification** and non-punishment. (Facilitator of the Thematic Dialogue)*

*A child who is a victim of trafficking from [another AMS] and came to [my country] illegally and without documents so **she could not get the money** from the [trafficking victim assistance fund **because no documents**. She should not be accused of illegal immigration. (Civil society practitioner at the Thematic Dialogue)*

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### **Victims do not wish to be identified**

Many individuals do not wish to be identified as victims of trafficking because there is no incentive in being identified. They do not want to cooperate with authorities in bringing alleged traffickers to justice nor to receive assistance on offer particularly when it involves staying in closed shelters in the destination country and without the opportunity to work or return to their families. In some cases, individuals may prefer to be treated as offenders and opt to be deported as an irregular migrant rather than assisted as a victim of trafficking. There can be gender dimensions at play in victims not wanting to be seen as victims, such as gender-based stigmatisation or discrimination of victims of particular types of trafficking (for instance, sexual exploitation), and cultural and societal conceptions of masculinity may mean that male victims do not want to see themselves, or wish to be seen – and identified - as victims of trafficking.





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### Non-identification owing to corruption or convenience

Non-identification may be the result of corruption, whereby victims are threatened with punishment to extort bribes, labour or sexual services from victims of trafficking. Victims may also be threatened with punishment for crimes committed as a consequence of being trafficked, to pressure them to cooperate with authorities including to testify against traffickers.

### Non-identification throughout criminal justice process

When possible victims of trafficking are not preliminarily identified and referred for formal identification but instead enter the criminal justice system as offenders, it is difficult to subsequently identify them and divert them from prosecution processes into protection channels. Law enforcement officers, prosecutors, defenders and trial judges may lack skills to recognise that the alleged offender in front of them may have been trafficked. And practitioners such as social workers, health care workers and service providers who may be able to identify victims of trafficking are less likely to have access to them once they are treated as offenders. This is further complicated in transnational trafficking cases – for example, when someone is identified as an offender in one jurisdiction but there is evidence in another jurisdiction that that they have been trafficked to commit this crime.<sup>3</sup>

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*Among stakeholders involved in identification, we see the **major role of the social workers to work hand in hand with law enforcement** especially in the arrest of trafficked women. The challenges is when social workers are more skilled in identifying victims of trafficking, law enforcers are not that skilled. (Civil society practitioner at the Thematic Dialogue)*

*All practitioners of law like judges, prosecutors and police, can identify victims of trafficking and offender. But in implementation I think **there should be more clear knowledge of trafficking especially related to drugs and prostitution** because it is more difficult to identify whether that victim is a victim or a perpetrator. (Civil society practitioner at the Thematic Dialogue)*

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## Part 2: The Response

Dialogue participants recognized the urgent need to overcome the above challenges, with discussion centering around how to strengthen identification of potential victims of trafficking amongst alleged offenders as well as potential barriers to implementing these recommendations. Differences between countries were discussed, and some good practice examples were shared, although the scarcity of good practice examples highlights the need for greater attention to this issue.

### DISCUSSION QUESTIONS

- What are some potential opportunities to implement the recommendations presented above in the context of your work?
- What are some potential barriers to implementing the recommendations above and how can those barriers be overcome?
- What additional recommendations (including any best practices) do you have for government and nongovernment actors, to strengthen identification of potential victims of trafficking among the alleged offenders they encounter?

<sup>3</sup> Please see: Marika McAdam (2022) [Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States](#) Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT), pp. 60.



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Recommendations discussed included:

- **Build capacity of practitioners to identify potential human trafficking victims among people they encounter as offenders**
  - **Strengthen practitioners' understanding of control methods used by traffickers**
  - **Challenge assumptions and misconceptions about victims of trafficking**
- Mobilise strategies and partnerships to support identification once a victim is treated as an offender**<sup>4</sup>

### **Build capacity of practitioners to identify potential trafficking victims among presumed offenders**

Practitioners including police, immigration and labour officials, health care and social workers, and others need opportunities to strengthen their capacity to preliminarily identify and refer victims of trafficking among those they encounter in the course of their work. Practitioners also need capacity in age, disability, gender sensitive and trauma-informed approaches to help victims disclose what has happened and lead to identification and protection.

Capacity building should be offered to different professional groups, at all levels of government and broadly across central and remote geographies. It should be provided to those who work specifically on human trafficking, and those who may encounter victims in the context of other unlawful activity so that skills and capacity are mainstreamed across agencies and institutions that may encounter victims of trafficking among offenders.

Practitioners should also receive materials and resources to support preliminary identification and referral of trafficking victims, including regularly-updated and context-specific indicators of trafficking as well as non-exhaustive lists of offences that victims may commit while trafficked or in attempting to escape a trafficking situation. They also require information about how to refer a possible victim of trafficking for formal identification and protection and immediate support.

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*Very often we know that practitioners may have heard of trafficking of persons for sexual exploitation or for fishing but are unaware of trafficking in persons as drug mules, for cyber scamming, terrorism, drug cultivation. So [we need to be] making sure that the people who come across those offences are given **lists of those crimes where [trafficking] victims have been encountered.** (Facilitator of the Thematic Dialogue)*

*How to get them [practitioners] all to identify victims of trafficking versus drug trafficker? When they are doing their job in their role they have to combine drug traffickers and trafficking in persons but drugs is their first priority. **Solving human trafficking and drugs is a different entity so how can they identify victims of trafficking?** (Government practitioner at the Thematic Dialogue)*

*We are often trying to equip and specialise anti-trafficking practitioners to go out and look for traffickers and victims. We are not capacitating those who work in drug-related crimes to identify victims of trafficking. So the question becomes **how to get drug and anti-trafficking actors to work together.** Or how to capacitate in a more generalised way so that those who are looking for offenders can identify victims among them. (Facilitator of the Thematic Dialogue)*

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<sup>4</sup> These recommendations originate from the original study: Recommendations 1, 2, 3 and 4 (Marika McAdam (2022) [Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States](#) Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT)), pp.110-113.



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## **GOOD PRACTICE EXAMPLES: FOR ENHANCED CAPACITY IN IDENTIFYING TRAFFICKING VICTIMS AMONG OFFENDERS**

- Engage social workers and other service providers with expertise in working with victims to work with police in screening for trafficking in persons in victim sensitive and trauma informed ways
- Employ a multi-disciplinary model to enhance victim identification in day to day work, including engaging child protection specialists when working with children and adolescents
- Cooperate multi-sectorally (NGO and state institutions) on victim identification

### **Strengthen practitioners' understanding of control methods used by traffickers**

Practitioners should be aware of and sensitized to the coercive tactics and *modus operandi* of traffickers to be able to identify more subtle means used to control victims, including cultivation and manipulation of romantic or sexual relationships, grooming, or control through familial, ethnic or societal connections. They also need to understand the dynamics of trauma and stigma that may result in victims not telling the truth of what has happened to them at the first opportunity.

Notably, the irrelevance of victim consent where the traffickers use 'means',<sup>5</sup> and the use of subtle means such as abuse of a position of vulnerability, may prove challenging for practitioners to understand and to prove. Accordingly, practitioners should be educated about the definition of trafficking in persons in international, regional and domestic law; the interplay between the constituent elements of both adult and child trafficking; and the irrelevance of consent where means are used in the case of adult trafficking and always in the case of children.

### **Challenge assumptions and misconceptions about victims of trafficking**

Practitioners should challenge their assumptions about who is a victim deserving of protection and who is not.

Training should include addressing biases and assumptions that may be at play in ways that undermine preliminary and formal identification of trafficking victims. It should also reinforce that the non-punishment principle applies to all victims of trafficking and for all offences, where there is a nexus between the offending and the trafficking.

Capacitating practitioners to understand that the non-punishment principle applies to all victims of trafficking on a non-discriminatory basis is an important component.<sup>6</sup> This includes ensuring that a victim's psychosocial, intellectual or physical disability does not impede their access to identification and protection procedures.

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*The legal definition [of trafficking in persons] sets out acts and intentions of traffickers. It does not explain the status, experience, ... of a victim as much as we try to force it to do so. So **police are trained to identify the bad guys, not the good guys**, and how do we overcome this. (Facilitator of the Thematic Dialogue)*

*What we found is prosecutors have different views of how to identify victims. ... **different actors, law enforcers, have different understanding of how to identify victims especially when it involves sex exploitation or drug traffickers.** (Government practitioner at the Thematic Dialogue)*

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<sup>5</sup> Force and other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, and the giving or receiving of payments or benefits to achieve the consent of a person having control over another person are the 'means' specified in Article 3(a) of the Trafficking Protocol and article 2(a) of ACTIP.

<sup>6</sup> Non-discrimination must be regardless of race, colour, sex, gender, gender-identity, language, disability, religion, political or other opinion, national or social origin, property, birth or other status. See article 26 of the *International Covenant on Civil and Political Rights*, and article 2 of the *ASEAN Human Rights Declaration*. Also see the *Convention on the Elimination of Discrimination against Women* and the *Convention on the Rights of Persons with Disabilities*.





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## **Mobilise strategies and partnerships to support identification once a victim is treated as an offender**

Different practitioners have varying levels of access to victims who are misidentified as offenders. Accurate and timely identification requires that a range of practitioners are able to preliminarily identify and refer the victims of trafficking who they encounter as ‘offenders’, including in detention facilities and in the criminal justice process. This also requires that anti-trafficking practitioners tasked with identifying victims of trafficking expand their work to screen individuals who may initially present as offenders.

Practitioners who are not looking for victims of trafficking *per se*, but may encounter them in their work (for example, those working on drugs and other crimes) must also be engaged in preliminary identification and referral of possible victims. Supporting partnerships and collaboration amongst these different stakeholders will leverage the skills and capacities of both groups and help to overcome challenges related to victims not wanting to be identified and un conducive identification contexts (e.g. during raids, when arrested, in immigration detention). Collaboration is also needed between countries in the handling of transnational trafficking cases including in victim identification – for example, when someone is identified as a criminal in one country but there is evidence in another country that they were trafficked for the purpose of committing this crime.<sup>7</sup>

Partnerships and collaboration also requires taking into account the existing and evolving roles of technology vis-à-vis trafficking in persons. Technology is both a facilitator of trafficking in persons as well as a tool to combat it. Tackling trafficking in persons requires urgently engaging with this contradictory dynamic and partnering with technology experts.

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*...the dual challenge of being both a male and person in trouble with the law and a child can compound and confound identification.*  
(Facilitator of the Thematic Dialogue)

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*...when working in the context of a coalition you get this institutional knowledge like you would in a large organisation, where things are just known. **My recommendation is partnership in the context of actionable coalition**, where there is ongoing dialogue, participation, real and active coalition, trainings and actionable relationships not just between NGOs but also between NGOs and government and local police, social services.* (Civil society practitioner at the Thematic Dialogue)

*The challenge of identification among offenders is that someone who engages with an offender will potentially find information of relevance in an interrogation of an offender. But best practice for identification is a victim-based interview so how do we navigate that when we have a practitioner who is starting out as an interrogation of a potential offender suddenly expected now to carry out a victim-centered interview and juggle those two things. **We need different perspectives of all practitioners involved to refine our capacity here.*** (Facilitator of the Thematic Dialogue)

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***We need to have cyber and tech experts as part of our coalitions** so we are not blind to what takes place on the internet. We also need to be mindful of the inequity of access when it comes to technology – shortages, how can people access the internet, gender discrimination plays a role, disability discrimination that reduces access to technology.* (Facilitator of the Thematic Dialogue)

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<sup>7</sup> This issue is highlighted by the case of Mary Jane Veloso, a Filipina Overseas Foreign Worker (OFW), who was arrested in Indonesia and convicted and sentenced to death for drug smuggling. Ms. Veloso was not identified as a victim of trafficking when she was encountered by law enforcers but her situation as a victim of trafficking emerged only after she was convicted and sentenced, owing to the advocacy of civil society groups and on the basis of facts that emerged in the Philippines trial against Cristina Sergio and Julius Lacanilao, for illegal recruitment and qualified trafficking. Further details of this case are presented in the full study. Please see: Marika McAdam (2022) *Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States* Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT), pp. 60.



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## **GOOD PRACTICE EXAMPLES: MOBILISING STRATEGIES AND PARTNERSHIPS TO ENHANCE IDENTIFICATION AMONGST PRESUMED OFFENDERS**

- An inter-agency coordination council on trafficking in persons which serves as a coordinating body at various administrative levels and offers a platform to share experiences, challenges and approaches including dissemination to frontline practitioners at the ground level, as well as a mechanism to rethink and revisit victim identification process and practice.
- Coalitions that include both government institutions and civil society organization and involve communication on research, resources and training opportunities as well as up to date information about work and practice.
- Bilateral agreements between AMS countries that recognise that a person who is recognised as a victim in one State should be recognised as a victim by the other.<sup>8</sup>

### **Research and resources<sup>9</sup>**

Marika McAdam (2022) [\*Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States\*](#) Bangkok: ASEAN-Australia Counter Trafficking.

Marika McAdam (2022) [\*Executive Summary: Implementation of the Non-Punishment Principle for Victims of Human Trafficking in ASEAN Member States\*](#) Bangkok: ASEAN-Australia Counter Trafficking.

Inter-Agency Coordination Group Against Trafficking in Persons (2020) [\*Non-punishment of victims of trafficking\*](#), Issue Brief 8. Vienna: (United Nations).

Mullaly, Siobhán (2021) [\*Implementation of the non-punishment principle: Report of the Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullaly\*](#), UN Doc. A/HRC/47/34 (17 May 2021), Submitted to the 47th Session of the Human Rights Council, 21 June to 9 July 2021.

Organisation for Security and Cooperation in Europe (2013) [\*Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking\*](#). Vienna: OSCE.

<sup>8</sup> A good practice from another region is the recent ruling from the European Court of Human Rights against the United Kingdom in relation to the prosecution, conviction and punishment of two Vietnamese minors for involvement in drug production in spite of the minors having been identified a trafficking victims for the purpose of exploitation in criminal activities. The Court noted that given the importance of identification in the non-punishment of trafficking victims where circumstances give rise to a credible suspicion that a person suspected of having commit a criminal offence may have been trafficked, he or she should be promptly assessed by trained and qualified individuals to determine whether the person. European Court of Human Rights (ECtHR) judgment of V.C.L and A.N. v The United Kingdom, 2021 [Application nos. 77587/12 and 74603/12]. The ruling and its findings are detailed in: Marika McAdam (2022) *Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States*. Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT), pp. 31-32.

<sup>9</sup> For additional resources, please see: Marika McAdam (2022) *Implementation of the Non-punishment Principle for Victims of Human Trafficking in ASEAN Member States* Bangkok, Thailand: ASEAN-Australia Counter Trafficking (ASEAN-ACT), pp. 177-182.