



Workshop on Gender Responsive Approaches to Combating Trafficking in Persons (TIP) and Smuggling of Migrants (SOM) in Malaysia

Key Findings

On May 9-12, 2023, the US Indo-Pacific Command (USINDOPACOM) Office of Women, Peace & Security and the Pacific Forum jointly hosted a four-day workshop in Kuala Lumpur addressing the current progress related to combating Trafficking in Persons (TIP) and Smuggling of Migrants (SOM) in Malaysia. The workshop welcomed participants from international civil society organizations, as well as government representatives, including civilian agencies and defense forces, such as USINDOPACOM, the US Embassy Kuala Lumpur, US Coast Guard, US Department of Homeland Security, Malaysian Armed Forces, Malaysia Maritime Enforcement Agency (MMEA), and Royal Malaysian Police, Malaysian Council for Anti-Trafficking and Anti-Smuggling of Migrants (MAPO), Malaysian Ministry of Women, Family, and Community Development, the Malaysian Human Rights Commission of Malaysia (SUHAKEM), and the Malaysian Department of Labour, among others, totaling 70 participants. The workshop identified challenges and produced recommendations about future steps for the combating of TIP and SOM in Malaysia. The findings yielded from the workshop are as follows.

Current state of affairs in Malaysia regarding TIP and SOM

In the US Department of State's 2022 Trafficking in Persons (TIP) Report, Malaysia was ranked in Tier 3 (comprising countries and territories whose governments do not fully comply with the minimum standards and are not making significant efforts to do so) for the first time -- Tier 3 is the lowest of four tiers preceded by Tier 1, Tier 2, and Tier 2 Watch List. Governments placed on Tier 3 may be subject to restrictions on foreign assistance funding and programs from the United States and have limited access to other international support. This ranking is due to many factors: a decline in anti-trafficking investigations, lack of prosecution or conviction of government officials' alleged complicity, and an absence of adequate pursuit of credible allegations of labor trafficking.

TIP and SOM are particular challenges in sectors such as the rubber manufacturing industry and palm oil sector. A major challenge that was addressed within the workshop is a tendency to conflate victims of TIP and SOM. Per the State Department's definition, TIP and SOM are crimes of different nature. Victims of trafficking are deceived into a state of servitude, and no movement is required for victimization, while smugglers facilitate illegal movement across



borders for profit. Victims of smuggling are more vulnerable to then be subjected to trafficking. Disrupting the myth of movement in combating TIP is crucial: TIP is not necessarily transnational. The workshop addressed them both while attempting to tease out the important similarities and differences, and adding a gender perspective to enhance approaches to combating these challenges.

Linkages between Gender, TIP, and SOM

At the root of TIP and SOM, gender-based violence (GBV) is a fundamental security sector issue, and increases exponentially during conflict and crisis. A core driver of instability, GBV affects households, communities, and entire societies and is perpetuated through cultural norms, institutions, and structures. GBV can include any harmful threat or act directed at an individual or group based on gender or sex that is characterized by use of physical, psychological, sexual, economic, legal, political, social, and/or other forms of control or abuse. GBV reproduces and reinforces vicious cycles of structural gender inequality. GBV is both an indicator and driver of increased community vulnerability and instability.

TIP and SOM also intersect with other forms of marginalization, such as age, ethnicity, geographic location or migrant status, poverty and debt, conflict, lack of opportunity to access quality work, limited access to social protection, social norms about women in paid work and in the household, prevalent and persistent violence and abuse, and limits on mobility and decision-making power. The intersection of these forms of marginalization and victimization requires organizations and governments to utilize a rights-based, trauma-informed, and culturally competent approach. A human rights-based approach places the victim at the center and requires an analysis of human rights violations, while a trauma- and survivor-informed approach ensures the focus is “what happened to you?” rather than “what is wrong with you?” Such approaches require that stakeholders identify the role and obligations of states under international human rights law.

Challenges in combating TIP and SOM identified by CSOs

Many factors pose challenges for victim identification and care, as explained by both international non-governmental organizations (NGOs) and Malaysian civil society organizations (CSOs). For instance, International NGO speakers cited that the same inequalities underpinning crimes of TIP and SOM also prevent women and girls from accessing protection, assistance, and justice. Therefore, their recommendations included the need to support local CSOs' efforts through greater funding, ensuring safe migration (especially labor migration), strengthening



government-nonprofit collaboration, and ensuring streamlined victim referral processes and responses.

Malaysian CSOs face a multitude of challenges in supporting those impacted by TIP and SOM, especially when those individuals are not fully aware of the extent of their exploitation, experience language barriers or social isolation, face gendered stigma and shame (emasculatation and/or cultural shame regarding sexual exploitation), are financially dependent on others, or have experienced trauma or mental health. Malaysian CSOs also cited the need for psychological first aid for social worker support from the first interview with law enforcement. These organizations recommended strengthened efforts to provide channels and monetary support for repatriation and support for migrants, including documentation and permit issuance, and legal assistance, as well as prolonged shelter services.

Challenges in combating TIP and SOM identified by civilian agencies and defense forces

According to both US and Malaysian defense forces, many challenges faced by law enforcement make it challenging to achieve success in combating TIP and SOM. These include issues related to information sharing, communication systems, reconciling varying legal interpretations, and coordination, including enforcement efforts, frontline worker retention (due to regular personnel rotation and trauma), as well as search, identification, and rescue of trafficked individuals. The problem of social media's role in supporting the spread of TIP and SOM in Malaysia was also raised. Malaysian defense force experts also noted that the responsibilities of combating TIP and SOM have not been traditionally incorporated into the agendas of the security sector given that TIP and SOM diverge from conventional conceptions of conflict or national sovereignty.

To overcome these roadblocks, US and Malaysian defense sector representatives surveyed approaches that have worked, as well as remaining roadblocks. In particular, a need was noted for the Malaysia government to build bilateral relationships and maintain holistic standards of care for the physical, mental, and emotional safety of TIP and SOM survivors as well as frontline workers. Crucially, while there has been progress on these fronts in Malaysia, many speakers recommended that the defense forces and government agencies develop gender responsive approaches to TIP and SOM. Such an approach should identify and proactively address gender inequalities, as well as build upon the knowledge, perspectives, and contributions of all stakeholders. This approach should seek to avoid re-traumatizing the victims and protect their confidentiality, while also protecting frontline workers from emotional trauma.

The role of WPS in combating TIP and SOM



All forms of TIP and SOM are gendered, so gender inequality and TIP and SOM must be tackled simultaneously. Recent endeavors in both the United States and Malaysia emphasize the importance of centering WPS in combating TIP and SOM. Ensuring a gender perspective in the process of aiding victims of trafficking and smuggling should remain a top priority in both the Malaysian government's and CSOs' efforts to reduce TIP and SOM. Involving women in TIP and SOM solutions ensures their unique experiences are considered; helps protect against additional gender-based trauma during the identification, intake, sheltering, and repatriation processes; and helps support policies, institutions, and attitudes that foster long-term gender equality in Malaysia. This workshop was an unprecedented opportunity to bring together stakeholders across key sectors to strengthen prevention and prosecution of TIP and SOM while prioritizing the protection of victims and survivors.

Recommendations

Several recommendations emerged based on the plenary discussions and focused discussion in breakout groups that featured a mix of CSO representatives, government officials, and defense force personnel.

1. **Better data collection.** Malaysian CSOs and international NGOs, MAPO, and the Royal Malaysia Police should coordinate for better data gathering and trend analyses to more effectively target where shelters are needed and where recovery or restoration approaches are required.
2. **Conduct a gender audit.** The Malaysian government should conduct a gender audit to measure how gender perspectives are being incorporated into Malaysian Armed Forces, the Royal Malaysia Police, and MAPO planning and operations.
3. **Greater interagency and cross-border collaboration.** Malaysian defense force branches should engage in exercises with local CSOs and international NGOs and other Malaysian government agencies to strengthen prosecution through better data collection and evidence gathering. The Malaysian government should foster bilateral memoranda of understanding with Bangladesh, Indonesia, China, Sri Lanka, Thailand, Vietnam, and Pakistan to support a shared CSO/NGO directory for case referrals, as well as to facilitate trauma-informed, survivor-centered, and gender-aware victim referral mechanisms and briefings for top officials.
4. **More support for survivors.** The Malaysian government should offer increased survivor protection, informed by the non-punishment / immunity principles; better access to legal representation and better rights and protections for victim advocates; public awareness



campaigns, including a recalibration of the system to shed light on the marginalization of undocumented workers and launch a dedicated fund to support Malaysian CSOs that provide shelters and recovery or restoration projects. The Malaysian government should also offer greater material support and increased training in identification and response for frontline workers in hot spots.

5. **Greater enforcement of existing laws.** Malaysian labor rights enforcement officials should find and punish businesses abusing undocumented workers. The Malaysian government should also encourage employers to take legal routes of recruitment by lowering the costs to comply with foreign worker recruitment laws and regulations, such as employer costs for obtaining work permits or medical check-ups.
6. **Increase preventive measures.** The Malaysian government should conduct public awareness campaigns, increasing signage at hot spots and entry points (e.g., flights, ships, buses, public toilets). The government should also improve communications strategies to reach diverse audiences, especially those in rural communities and private industry.
7. **Expand the network of interpreters.** Where interpreters are scarce, interpreters should be available to work across multiple agencies (such as the army) and organizations. Immigration and defense force personnel could make better use of tools such as Google Translate.
8. **Review human resource policies.** Malaysian government agencies should rethink their policy of rotating personnel through various offices and instead consider allowing TIP and SOM experts to remain at their posts for extended periods to ensure better retention of expertise.

Through this workshop, members of civil society organizations, civilian government agencies, and defense forces from both the US and Malaysia had an opportunity to share knowledge, expertise, and recommendations, and to identify challenges and gender-responsive solutions to combat trafficking in persons and smuggling of migrants. To improve upon Malaysia's current TIP tier rank, civil society organizations, Malaysian government agencies, and Malaysian defense forces must work together to more consistently and thoroughly implement existing policies, and to build new and more effective programs. Importantly, all Malaysian personnel and agencies involved in combating TIP and SOM should build a holistic and nuanced understanding of the role a gender perspective can play in adopting an approach that is victim-centered, survivor- and trauma-informed, and sensitive to intersectional vulnerabilities.

Pre- and post-event survey findings



Participants were asked to respond to pre-event and post-event surveys to gauge their level of understanding and opinions on the subjects covered in the workshop. When asked whether it is important to understand the gender-specific issues related to the prevention and response of human trafficking in their work, both women and men largely agreed. However, one woman disagreed with the statement post-training, and one man answered that he could neither agree nor disagree with the statement.

In the pre-event survey, men were more likely to identify forced labor/services as the most common way traffickers exploit men and boys; men respondents diversified their answers post-event to include slavery, removal of organs and forced labor/services after the training. Similarly, women diversified their answers about the exploitation of men and boys to include other options like sexual exploitation, slavery, removal of organs and forced labor/services after the training. One man suggested “Forced beggar” as one trafficker tactic for exploiting men and boys.

Regarding the exploitation of women and girls, both women and overwhelmingly selected prostitution/sexual exploitation, an answer that remained consistent in the post-event survey. Both women and men selected all other forms of exploitation in greater numbers post-training, though selection of "Forced labor or services" (men and women respondents) as well as "slavery or servitude" (women respondents) decreased. One man suggested “Drug mule” as one trafficker tactic for exploiting women and girls.

Pre-training responses regarding what constitutes trafficking were similar among women and men who selected in decreasing order, “Services,” “Labor,” and “Sex acts.” However, after the training, 100% women selected "Sex acts" as the key component of trafficking while most men still selected "Services". Overall, post training, more women and men selected "Sex acts" as an option; women selected "Services" at a lower rate following training, while men selected this option at a higher rate. Similarly, men selected "Labor" less frequently post-event, while women were more likely to select it.

Pre-training, women and men were most likely to choose the option “Physical” when defining coercion. Post-training, however, both women and men selected the following ways traffickers coerce people at higher rates than pre-training: “Subtle,” “Overt,” and “Psychological.”

The preceding summary indicates that participants gained knowledge about combatting and TIP and SOM, and were better able to identify the nuances of differentiating between the various types of crimes and forms of victimization. When asked for feedback about the program, overwhelmingly participants indicated that it was “Good” or “Very helpful.” Suggestions for



improvement at future such engagements include increasing the number of enforcement agencies and protection officers; going into greater depth and including more practical guidance for addressing TIP and SOM in daily work; and including a discussion on coordination and cooperation between agencies and other stakeholders.