


MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking





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List of Acronyms

CNA	Competent National Authorities
CSO	Civil Society Organizations
ETP	Enforcement Training Program
ILO	International Labour Organization
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
NRM	National Referral Mechanism
PEACE	Planning and preparation, Engage and explain, Account, Closure, Evaluation
PPT	PowerPoint
PTSD	Post-Traumatic Stress Disorder
SOP	Standard Operating Procedure
STD	Sexually Transmitted Disease
STV	Dutch Foundation against Trafficking in Women
UK	United Kingdom
UNODC	United Nations Office of Drugs and Crime
WFCL	Worst Forms of Child Labor



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FACILITATOR'S GUIDE

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Introduction

This facilitator's guide provides tips and guidance for trainers using the Master Enforcement Training Program: Enforcing the Law to Address Child Labor, Forced Labor and Human Trafficking to train those involved at the different phases of a child labor, forced labor, or human trafficking case, including labor inspectors, police officers, immigration officers, prosecutors, judges, and civil society. The facilitator's guide explains the training's objectives; an overview of the training structure and modes of delivery; and provides examples of ice breakers, energizers, agendas, and evaluations. The training methodology is interactive, helping participants engage with the substantive material and use skills covered in the training material.

The training curriculum can be tailored to address the needs of the specific participants based on their role and the phase of a case process (identification, investigation, referral, prosecution, and sentencing). Determining the needs of participants before conducting a training can help ensure that the program is a success. Sample agendas for different audiences have been provided to assist in determining which lessons to use.



Photo Credit: GPE/ Kelley Lynch, 2016, Liberia

Objectives of the Training

At the conclusion of the training program, labor inspectors, law enforcement officers, immigration officers, prosecutors, judges, and other participants, should:

- Understand the importance of addressing child labor, forced labor, and human trafficking.
- Have an increased understanding of how to identify, investigate, refer, prosecute, and sentence child labor, forced labor, and human trafficking cases.
- Understand their roles and responsibilities during child labor, forced labor, and human trafficking cases.
- Increase identification, investigative, referral-making, prosecutorial, and sentencing skills by participating in a series of interactive exercises.
- Learn how to use a victim-centered approach at each stage of the case process.

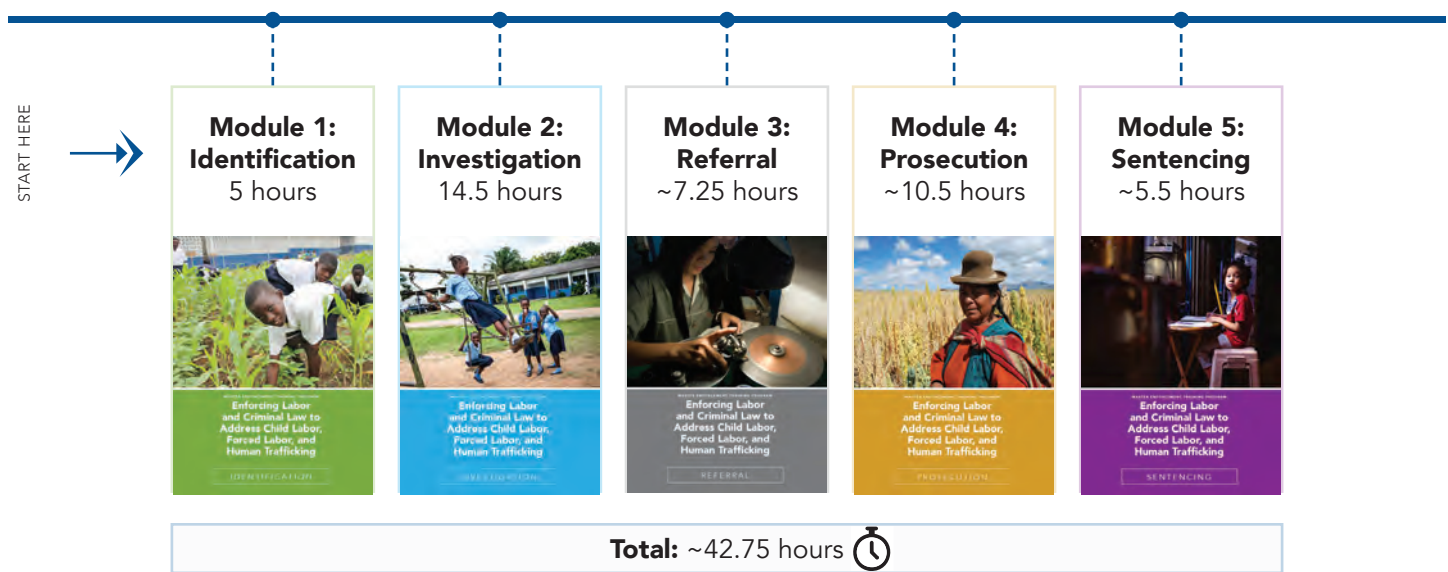


Photo Credit: Arcadiuș, 2011, Paraguay

Curriculum Structure

The Enforcement Training Program (ETP) curriculum consists of five modules of lessons and interactive exercises designed to help participants engage with the material in real-life scenarios. The curriculum is designed to walk participants through the five phases of a child labor, forced labor, or human trafficking case: identification (Module 1), investigation (Module 2), referral (Module 3), prosecution (Module 4), and sentencing (Module 5). It is unlikely that all the material in the curriculum can be covered in a single training session, so before conducting a training, facilitators should identify the training goals and identify the lessons to use to achieve those goals. Modules and lessons can be presented separately, if needed, or completed in sequence to build off each other. Going sequentially through all of the material would take approximately two weeks (10 days). However, not all the content will be relevant for all audiences. In trainings for those unfamiliar with the concepts of child labor, forced labor, and human trafficking, introductory lessons should be selected. For those with more knowledge of these issues as well as in follow-up trainings, more advanced skills-based lessons should be used. The curriculum presents a menu of options that can be used in different ways to fit the training needs of a specific group. Not all topics will be relevant for each of the groups that use this manual. A comprehensive description of the lessons and exercises included in the ETP curriculum can be found in Annex A.

The curriculum is broken down as follows:



Module 1: Identification

🕒 5 hours

- **Lesson 1.1: What is Child Labor, Forced Labor, and Human Trafficking?**
 - 90 minutes
- **Lesson 1.2: Indicators of Child Labor, Forced Labor, and Human Trafficking**
 - 2 hours and 15 minutes
- **Lesson 1.3: Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes**
 - 75 minutes

Module 2: Investigation

 14 hours and 30 minutes

- **Lesson 2.1: Types of Investigations**
 - 2 hours and 10 minutes
- **Lesson 2.2: Rescue Operations**
 - 2 hours
- **Lesson 2.3: Crime Scene Investigation**
 - 1 hour and 40 minutes
- **Lesson 2.4: Digital and Forensic Evidence**
 - 1 hour and 40 minutes
- **Lesson 2.5: Interviewing Victims**
 - 3 hours and 30 minutes
- **Lesson 2.6: Interviewing Suspects**
 - 95 minutes
- **Lesson 2.7: Charging**
 - 90 minutes
- **Lesson 2.8: Investigation Reports**
 - 25 minutes

Module 3: Referral

 7 hours and 18 minutes

- **Lesson 3.1: Victim Services**
 - 2 hours and 15 minutes
- **Lesson 3.2: Trauma-Informed Care**
 - 80 minutes
- **Lesson 3.3: Referral Mechanisms**
 - 1 hour and 40 minutes
- **Lesson 3.4: Process and Roles**
 - 1 hour and 38 minutes
- **Lesson 3.5: Mandatory Reporting**
 - 25 minutes

Module 4: Prosecution

 10 hours and 25 minutes

- **Lesson 4.1: Case Evaluation**
 - 90 minutes
- **Lesson 4.2: Pre-Trial and Bail**
 - 1 hour and 45 minutes



- **Lesson 4.3: Considerations for Victims in the Trial Process**

- 1 hour and 45 minutes

- **Lesson 4.4: Trial Practice**

- 2 hours and 50 minutes

- **Lesson 4.5: Evidence**

- 1 hour and 50 minutes

- **Lesson 4.6: Mutual Legal Assistance**

- 45 minutes

Module 5: Sentencing



5 hours and 35 minutes

- **Lesson 5.1: Sentencing Guidelines**

- 90 minutes

- **Lesson 5.2: Restitution**

- 75 minutes

- **Lesson 5.3: Plea Bargaining**

- 75 minutes

- **Lesson 5.4: Judicial Ethics**

- 95 minutes

The curriculum contains 48 interactive exercises that take 10 to 95 minutes to complete. The timeframe of the exercises can be adjusted to accommodate scheduling needs. The exercises are placed throughout each module and are designed to be interactive and help participants engage with the material. The exercises give participants the chance to discuss the material and use real-life scenarios. To make these scenarios more realistic and relevant for participants, facilitators should feel free to change details to contextualize them to the realities of the country where they are conducting the training and the participants in the training work.

Throughout the ETP, there are a series of exercises that use the same case studies. These case studies will allow participants to track the experience of victims throughout the child labor, forced labor, and human trafficking case process. It is important that facilitators keep copies of notes on the victims' outcomes at each stage of the process. At the end of the training, the facilitator will provide a recap of the experience of each victim to highlight the human face of child labor, forced labor, and human trafficking, and to show the impact that enforcement and justice systems can have on victims and their rehabilitation, reintegration, and recovery.

The four case studies tell the stories of Abdi, Ana, Kosal, and Mercy. The case studies can be found at the end of the Facilitator's Guide as Case Studies 1–4.

A more thorough description of each lesson and exercise, including the objectives, duration, and training method, is included as Annex B to this Facilitator's Guide. Annex B can be used to create a training agenda. Annex C provides a sample training agenda to demonstrate how to structure a training.

Adult Learning

Adults learn in a variety of ways, so training programs should incorporate a variety of learning styles. Adults can learn by hearing, seeing/reading, and by doing. Because of this, the ETP uses lectures and PowerPoint (PPT) slides that target auditory and visual learners and has many interactive exercises that will help those who learn best by doing. Additionally, skills-based activities help participants practice skills they use as part of their jobs, helping them apply and retain knowledge.

Adults are motivated to learn about things relevant to their experiences, including their work. Linking the training content to participants' experiences can help them engage with the material and increase participation. It also enhances the training experience of other participants when participants share their knowledge and experience.

Focusing on a problem, such as challenges in identifying instances of child labor, forced labor, or forced labor, helps adults learn as they can work to identify solutions. Focusing on a problem can also give purpose to the training and make it clear to participants why the training program is important.

It can be hard for adults to focus for longer than 30 minutes. Try to have lectures last 30 minutes or less and use exercises to help engage participants. Make sure to schedule icebreakers, energizers, and breaks.



Photo Credit: Arcadius, 2011, Paraguay

Presentation Skills

When facilitating a training program or presenting, trainers should be aware of their body language and voice, as both can impact participants' ability to understand and absorb the information. Presentation skills often develop over time, so it is important to practice presenting and public speaking while working on the skills and tips detailed below.

Speaking Tips:

- Trainers should speak clearly and project their voices so they can be heard without shouting. Speaking from the diaphragm allows presenters to be heard without having to yell.
- Speak slowly enough to be understood. If participants cannot hear or understand what the presenter is saying, they will not benefit fully from the training program. While it may feel awkward to speak more slowly and clearly than normal, it will sound more natural to those listening and trying to take notes.
- Trainers should use their voice to emphasize points as needed and avoid speaking entirely in a monotone. Audiences may find it more difficult to concentrate on a presentation conducted entirely in one tone.
- Sound confident. If a trainer sounds like he or she believes in what he or she is saying, participants are more likely to take it seriously.

Body Language:

- Trainers should try to appear relaxed, even if they feel nervous. Taking a few deep breaths can help trainers calm down.
- If standing, trainers should be aware of their hand placement. If they are not holding anything in their hands, trainers should place their hands together at the height of their belly buttons. Trainers can move their hands to gesture but should return their hands to the original position once they complete the gesture.
- If standing, presenters should stand with their feet roughly hip-distance apart. If appropriate, trainers can walk or move while presenting but should avoid looking like they are pacing.
- Whether sitting or standing, trainers should avoid hunching over and maintain good posture, as this can help project confidence.
- Trainers should try to look up at the audience instead of looking down or reading note cards or slides. Looking at the audience will also help engage participants.

General Tips:

- Take time to prepare before the training. Make sure to review the material, locate any needed supplies, and practice giving the presentation.
- Structure the training program based on the training needs of the participants. Make sure the topics covered are relevant to their work.
- Let participants know at the beginning of the presentation if they can ask questions during the presentation or if they should save questions until the end of the presentation.
- Have a timekeeper to ensure that the training stays on schedule.

Icebreakers and Energizers

At the beginning of a session, it is helpful to have participants get to know each other. This can help participants relax and feel comfortable engaging in discussions. Icebreakers provide a way for people to introduce themselves and interact. Energizers play an important role in trainings to help participants take a break from focused learning and recharge in a fun way that encourages them to move, laugh, and perk up. Energizers can be included in a training agenda at different points, such as after lunch when energy levels are likely to be low, or worked in throughout the day as needed. Examples of icebreakers and energizers are provided below.

Icebreaker 1: Pairs

 20 minutes

1. Prepare sets of note cards that each have half of a pair, or things that go together, such as peanut butter and jelly, Batman and Robin, or salt and pepper. *Do not repeat pairs.*
2. Distribute the note cards, giving each participant one note card. [5 minutes]
3. Tell the participants that they are each part of a pair and need to find their partner. Once they have found their partners, instruct them to find one thing they have in common with their partner. [5 minutes]
4. Once each pair has found each other and completed the instructions, have each pair introduce their partners and give their names, read their note cards, and share what they have in common. [10 minutes]

Icebreaker 2: When I Grow Up

 15 minutes


Have each participant introduce themselves, saying their name, where they work, and what job they wanted when they were in primary school.

Energizer 1: My Name Is

 15 minutes

Have each participant stand up one at a time and say their name. After saying their name, have each participant spell their name using a body part (such as an elbow, head, or foot) to “write” each letter as they say it.

Energizer 2: Hidden Talents

 20 minutes

1. Give each participant a note card. Instruct them each to write a secret talent they have on it. These talents can be big or small (such as being able to play violin solos or being able to wiggle their ears). [5 minutes]
2. Collect all the cards and bring them to the front of the room. Read each card in turn and have participants guess who has the secret talent on each card. Share the correct answer after people have guessed. [15 minutes]

Opening a Successful Training

On the first day of a training program, facilitators should:

- Welcome participants and introduce the training team.
- Have participants introduce themselves.
- Explain the objectives of the training.
- Review the agenda with participants and explain what will be addressed.
- Provide an overview of the training methodology, including lectures, different types of activities, discussion questions, and question and answer sessions.
- Explain the importance of active engagement by participating in exercises, asking questions, sharing experiences, and providing feedback in evaluations.
- Ask participants to share their expectations for the training.
- Explain house rules, which may include things such as turning phones to silent, remaining in the room until a scheduled break, and whether having coffee, tea, or snacks at your seat is permitted, etc.
- Explain the role and importance of evaluations.
- Explain that the learning environment should be open and inclusive. All opinions are welcome, provided no one is being disrespectful of others in the room. All ages, genders, and cultural groups should be treated with respect.

Continuing a Successful Training

When conducting a multi-day training, facilitators should do the following:

- At the end of each day, review the key points covered that day and provide an overview of what will be addressed the following day.
- At the end of each day, provide participants with a survey that asks about the physical environment (room, food, temperature, etc.) and questions about what they found most helpful and least helpful. This feedback can be used to make adjustments in future training days.
- At the beginning of each day of training, provide a summary of the previous day's session and an overview of the current day's agenda.

Understanding Expectations

It is important that facilitators understand participants' expectations at the beginning of the training so the trainer or training team can work to meet those expectations. When participants share their expectations, facilitators should acknowledge that it may not be possible to meet all expectations. Some participants may want an official certification at the end of the training, which may not be possible. **To discuss expectations, the facilitator should write each of the following questions on a different sheet of flipchart paper:**

- What do I expect from the training?
- What do I expect from other participants?
- What do I expect from the facilitators?

The facilitator should then give three note cards to each participant, asking them to write answers to the three questions on their cards. Participants should stick their answers on the corresponding flipchart pages. Once the answers have been collected, the facilitator should review the responses, summarizing the answers for the group. During the training, facilitators should remember to review the expectations periodically to help ensure that expectations can be met as much as possible.

Facilitators should also share their expectations for the training with participants. These expectations should include:

- Arriving on time
- Treating all present with respect
- Participating actively in discussions and exercises
- Being open to learning and new ideas
- Sharing feedback
- Establishing parameters for phone and laptop use
- Asking participants to keep their video on if the training is virtual (unless there are connectivity issues) and to mute their microphones unless they are talking.

Evaluations

Facilitators should collect feedback from participants at the close of each training day. **This can be done by having participants complete evaluations to provide feedback about:**

- How well the training is meeting their training needs and expectations.
- Gains in knowledge, understanding, and skills.
- Suggestions for improvement.

Remember to reserve time at the end of each day for participants to complete their evaluation forms. At the end of each day, the facilitators should review the evaluations and discuss what is going well and where there is room for improvement. When possible, suggestions for improvement should be incorporated into the following day's program. Trainers should also include questions about follow-up training needs on the final day of training. See Annex B for a sample evaluation form.



Photo Credit: Cameron Zohoori, 2011, Monrovia, Liberia

Annex A: Description of Lessons and Exercises

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 1: IDENTIFICATION	Lesson 1.1: What Is Child Labor, Forced Labor, and Human Trafficking? <ul style="list-style-type: none"> Definitions International Statistics Overview of Types of Child Labor, Forced Labor, and Human Trafficking Impact on Victims Impact on Society 	Understand the definitions of key terms related to child labor, forced labor, facts and figures about child labor, and what these crimes look like in practice.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	45 minutes for presentation, 90 minutes with exercises
	Exercise 1.1.1: Impact Icebreaker	To have participants approach child labor, forced labor, and human trafficking from a victim-centered lens.	Participants write down responses on note cards and share with the group.	10 minutes
	Exercise 1.1.2: Definitions of Child Labor, Forced Labor and Human Trafficking	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.	Small group activity to answer questions before and after Lesson 1.1; group discussion and explanation of correct answers followed by Q&A	35 minutes
	Lesson 1.2: Indicators of Child Labor, Forced Labor, and Human Trafficking <ul style="list-style-type: none"> Child Labor Indicators Forced Labor Indicators Human Trafficking Indicators Push-and-Pull Factors 	Learn to recognize child labor, forced labor, and human trafficking.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	40 minutes for presentation, 2 hours and 15 minutes with exercises
	Exercise 1.2.1: Indicators Energizer	To help participants start thinking about indicators of child labor, forced labor, and human trafficking.	Energizer that has participants share indicators and each react to a "tip"	10 minutes
	Exercise 1.2.2: Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.	Small group activity to analyze a series of short scenarios and determine which definition applies, followed by a full group discussion, review of answers, and Q&A	35 minutes
	Exercise 1.2.3: Push and Pull Factors	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.	Using the Enforcement Training Program case studies, identify push-and-pull factors and indicators	50 minutes
	Lesson 1.3: Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes <ul style="list-style-type: none"> Distinguishing Child Labor, Forced Labor, and Human Trafficking from Each Other Distinguishing Human Trafficking and Smuggling Myths and Misconceptions 	Learn to distinguish between child labor, forced labor, and human trafficking while also being able to distinguish between trafficking and migrant smuggling. Learn to recognize common myths and misconceptions about child labor, forced labor, and human trafficking so that more cases of child labor, forced labor, and human trafficking can be properly identified.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation 75 minutes with exercise
	Exercise 1.3.1: Myths and Facts about Child Labor, Forced Labor, and Human Trafficking	To identify common myths about child labor, forced labor, and human trafficking, identify sources of misconceptions and clarify information about child labor, forced labor, and human trafficking to better understand the reality of child labor, forced labor, and human trafficking. Ideally, this exercise will be completed in two parts, as a preview to Lesson 1.4 and as a closing activity for the lesson.	Quiz conducted before the start of the lesson; answers are reviewed by participants after the lecture and then reviewed by the full group, with explanations.	45 minutes (15 minutes at the beginning of the lesson and 30 minutes at the end)

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 2: INVESTIGATION	Lesson 2.1: Types of Investigations <ul style="list-style-type: none"> Reactive Investigations Proactive Investigations Disruptive Investigations Overview of Gender Considerations in Investigations 	Understand the definitions of key terms related to child labor, forced labor, facts and figures about child labor, and what these crimes look like in practice.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 2 hours and 10 minutes with exercises
	Exercise 2.1.1: Investigation Discussion	To have participants start thinking about different types of investigations to begin training on investigations.	Full group discussion answering questions	10 minutes
	Exercise 2.1.2: Risk Mapping	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.	Small group activity to answer questions before and after Lesson 1.1, group discussion and explanation of correct answers	90 minutes
	Lesson 2.2: Rescue Operations <ul style="list-style-type: none"> Identifying the Need for a Raid or Rescue Pre-Rescue Rescue Post Rescue 	Learn how to plan and conduct a child labor, forced labor, or human trafficking raid or rescue operation. During an activity, plan a rescue operation using case studies.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation 2 hours with exercises
	Exercise 2.2.1: Rescue Operations Discussion	To have participants begin considering when rescue operations may be needed.	Full group discussion answering questions	15 minutes
	Exercise 2.2.2: Planning a Rescue	Practice preparing for a rescue operation and identifying the steps that need to be taken. Determine the groups needed to carry out a rescue operation. Ensure that victim needs are anticipated and planned for.	In small groups, develop a rescue plan using a scenario. Each group presents its plan to the full group and discuss. Q&A to close the session.	1 hour and 15 minutes
	Lesson 2.3: Crime Scene Investigation <ul style="list-style-type: none"> Documenting the Crime Scene Evidence Collection Special Challenges in Collecting Evidence from Humans Witnesses, Victims, and Suspects Taking Notes 	Learn how crime scenes are processed and about common investigative issues. Practice documenting a crime scene and collecting evidence.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 1 hour and 40 minutes with exercises
	Exercise 2.3.1: Crime Scene Discussion	To have participants start thinking about crime scene investigation and processing a crime scene.	Full group discussion answering questions	10 minutes
	Exercise 2.3.2: Processing a Crime Scene	To practice the skills needed to properly process a crime scene.	Using mock crime scene(s), document and process the scene; include evidence collection.	60 minutes
	Lesson 2.4: Digital and Forensic Evidence <ul style="list-style-type: none"> Digital Evidence Forensic Evidence 	Learn about different types of digital and forensic evidence and how to use them effectively in child labor, forced labor, and human trafficking cases.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation 1 hour 40 minutes with exercises

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 2: INVESTIGATION	Exercise 2.4.1: Evidence Alphabet Energizer	To have participants start thinking about different types of digital and forensic evidence.	Plenary activity where participants give examples of evidence.	10 minutes
	Exercise 2.4.2: Digital and Forensic Evidence	To identify types of digital and forensic evidence that might be used in child labor, forced labor, and human trafficking cases.	Plenary brainstorm session to identify types of digital and forensic evidence that could be used in a child labor, forced labor, or human trafficking case.	60 minutes
	Lesson 2.5: Interviewing Victims <ul style="list-style-type: none"> Victim Screening The Planning and Preparation, Engage and Explain, Account, Closure, and Evaluation (PEACE) Model Interviewing Victims Interviewing Children Gender Considerations 	Understand the interview methods, roles, and perspectives that will encourage best practices for assessing, interacting with, and identifying individuals involved in child labor, forced labor, and human trafficking. Practice using interviewing skills and increase skills and confidence to conduct interviews that respect victims' rights and dignity.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	40 minutes for presentation, 3 hours and 30 minutes with exercises
	Exercise 2.5.1: Interviewing Victims Discussion	To have participants begin thinking about special considerations for interviewing victims, including child victims.	Full group discussion answering questions	15 minutes
	Exercise 2.5.2: Interviewing Victims	To observe best practices for interviewing victims and then practice using those skills by conducting mock interviews based on scenarios.	Facilitators demonstrate a victim interview, and then participants practice interviews in small groups before reconvening for a discussion and Q&A	50 minutes
	Exercise 2.5.3: Setting up a Victim Interview	Practice considering the needs of different victims during interviews. Think about needs before an interview to make interviews productive and prevent re-traumatization. Revisit the Enforcement Training Program case studies as the victims move through the case process.	In small groups, identify vulnerabilities and facts from Enforcement Training Program case studies that indicate special considerations for a victim interview and develop an interview plan. Each group presents their plan, followed by discussion and Q&A.	45 minutes
	Exercise 2.5.4: Interviewing Children	To observe best practices for interviewing children and then practice using those skills by conducting mock interviews based on scenarios.	Facilitators demonstrate a child interview, and then participants practice interviews in small groups before reconvening for a discussion and Q&A	60 minutes
	Lesson 2.6: Interviewing Suspects	Understand how to interview suspects in a way that respects and protects their rights and helps gain information that can help build a child labor, forced labor, or human trafficking case.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation 95 minutes with exercises
	Exercise 2.6.1: Interviewing Suspects Discussion	To have participants start thinking about interviewing suspects and how those interviews might be similar and different from interviewing a victim.	Full group discussion answering questions	15 minutes
	Exercise 2.6.2: Interviewing Suspects	To observe best practices for interviewing suspects and then practice using those skills by conducting mock interviews based on scenarios.	Facilitators demonstrate a suspect interview, and then participants practice interviews in small groups before reconvening for a discussion and Q&A	60 minutes

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 2: INVESTIGATION	Lesson 2.7: Charging	<p>Understand the elements that make up child labor, forced labor, and human trafficking offenses.</p> <p>Learn about charging child labor, forced labor, and human trafficking offenses, and other related crimes.</p> <p>Learn about who may be exempt from prosecution.</p> <p>Using case studies, practice determining charges for offenders.</p>	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 1 hour and 40 minutes with exercises
	Exercise 2.7.1: Charging Discussion	To have participants start thinking about different offenses that can be charged in child labor, forced labor, and human trafficking.	Full group discussion answering questions	15 minutes
	Exercise 2.7.2: Charging Offenses in the Enforcement Training Program Case Studies	<p>To have participants practice identifying charges that can be brought in different scenarios.</p> <p>Continue engaging with the Enforcement Training Program case studies to see how the case process is continuing for the victims</p>	<p>In small groups, have participants identify charges that can be brought for the Enforcement Training Program case studies and additional evidence that is needed.</p> <p>Each group presents their charging recommendations, followed by discussion and Q&A.</p>	55 minutes

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 3: REFERRAL	Lesson 3.1: Victim Services <ul style="list-style-type: none"> Victim Needs Types of Services Non-Criminalization of Victims 	<p>Understand the impact of child labor, forced labor, and human trafficking on individuals and victims' need for assistance once rescued and identified as victims.</p> <p>Learn to identify the appropriate services necessary to meet those needs and how those services should be provided to assist the victims most effectively.</p> <p>Understand the specific needs and services needed by adult as well as child victims.</p>	PowerPoint presentation of materials in the curriculum followed by a Q&A session	1 hour for presentation, 2 hours and 15 minutes with exercises
	Exercise 3.1.1: Victim Services Case Study Energizer	To start thinking about the needs of child labor, forced labor, and human trafficking victims by using an Enforcement Training Program case study.	Participants each identify a victim need and then group themselves by need before returning as a plenary to present the identified needs and the services that could address them	25 minutes
	Exercise 3.1.2: Determining the Needs of Victims	To identify the needs of victims of trafficking and the potential risks that create those needs.	Using a case study and working in small groups, identify the needs of victims, present to plenary and discuss, then Q&A	50 minutes
	Lesson 3.2: Trauma-Informed Care <ul style="list-style-type: none"> Impact of Child Labor, Forced Labor, and Human Trafficking on Mental Health Victim Assessment Empowering Victims Sharing the Trauma Story Reintegration 	<p>Understand the differences between stress and trauma</p> <p>Understand the impact of child labor, forced labor, and human trafficking on the mental health of victims</p> <p>Understand how to empower victims and to avoid re-traumatization</p>	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation, 80 minutes with exercises
	Exercise 3.2.1: Trauma Discussion	To begin thinking about trauma and its impacts on victims.	Full group discussion answering questions	15 minutes
	Exercise 3.2.2: Trauma-Informed Care Using Enforcement Training Program Case Studies	To incorporate trauma-informed care principles into interactions with and plans for a victim.	<p>Small group work using Enforcement Training Program case studies to develop trauma-informed care plans.</p> <p>Each group presents plans to plenary and discusses</p>	45 minutes
	Lesson 3.3: Referral Mechanisms <ul style="list-style-type: none"> Role of Referral Mechanisms Components of Referral Mechanisms Examples of Referral Mechanisms 	Learn about the role of National Referral Mechanisms and how they operate.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 1 hour and 40 minutes with exercises
	Exercise 3.3.1: Referral Mechanisms Discussion	Discuss experiences with and perceptions of referral mechanisms to begin thinking about child labor, forced labor, and human trafficking mechanisms.	Full group discussion answering questions	15 minutes

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 3: REFERRAL	Exercise 3.3.2: Using the Referral Mechanism with the Enforcement Training Program Case Studies	To understand how to use the local/national child labor, forced labor, and/or human trafficking referral mechanism (if one exists). Practice using the referral mechanism Discuss how to improve the use of a referral mechanism Discuss the benefits and challenges of a referral mechanism	In small groups, practice using the referral mechanism with Enforcement Training Program case studies. Groups present to the plenary and then discuss using the referral mechanism.	55 minutes
	Lesson 3.4: Process and Roles • Roles and Responsibilities • Mapping the Referral Process	Learn about the roles and responsibilities of the different agencies, offices, and organizations that play a role in building child labor, forced labor, and human trafficking cases, including providing services to victims Learn how to map the coordination and referral process	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation, 1 hour and 38 minutes with exercises
	Exercise 3.4.1: Telephone Energizer	Begin thinking about the importance of ensuring information is properly recorded and referred.	Plenary activity with participants first passing along a message verbally before using printed copies	23 minutes
	Exercise 3.4.2: Referral Mapping	To map the referral process for child labor, forced labor, and/or human trafficking cases	Identify roles and responsibilities at each stage of the case process; identify when referrals should be made	50 minutes
	Lesson 3.5: Mandatory Reporting • Benefits of Mandatory Reporting • Challenges of Mandatory Reporting	Understand the benefits and challenges of mandatory reporting Understand how mandatory reporting can work in practice	PowerPoint presentation of materials in the curriculum followed by a Q&A session	15 minutes for presentation, 25 minutes with exercise
	Exercise 3.5.1: Mandatory Reporting Discussion	Discuss the benefits and challenges of mandatory reporting	Plenary discussion about mandatory reporting and its benefits and challenges	30 minutes

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 4: PROSECUTION	Lesson 4.1: Case Evaluation	To learn how to evaluate a case, including whether or not to bring child labor, forced labor, or human trafficking charges.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation, 90 minutes with exercises
	Exercise 4.1.1: Case Evaluation Discussion	To begin thinking about how to evaluate child labor, forced labor, and human trafficking cases.	Full group discussion answering questions	15 minutes
	Exercise 4.1.2: Case Evaluation Scenario	To familiarize participants with the concepts relevant to case evaluation.	In small groups, participants evaluate a case study to determine if the suspect should be charged. Present to the full group and discuss, followed by Q&A.	55 minutes
	Lesson 4.2: Pre-Trial and Bail <ul style="list-style-type: none"> Restrictions on the Right to Bail Bail Pending Appeal 	Learn the basics about the right to bail and considerations for whether it is granted.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation, 1 hour and 45 minutes with exercises
	Exercise 4.2.1: Bail Discussion	To begin thinking about bail in child labor, forced labor, and human trafficking cases.	Full group discussion answering questions	15 minutes
	Exercise 4.2.2: Bail Scenarios	To become familiar with the considerations relevant to determining whether to grant bail to a defendant before trial.	Small group work using scenarios to argue for or against granting bail; present arguments to the full group for determination and discussion, followed by Q&A.	70 minutes
	Lesson 4.3: Considerations for Victims in the Trial Process	Understand the things about the trial process that may be especially important to victims of child labor, forced labor, or human trafficking victim. This may include providing information to victims, protecting victims' rights, and using victim impact statements.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 1 hour 45 min with exercises
	Exercise 4.3.1: Enforcement Training Program, Victim Needs During the Trial Process	To begin thinking about victim needs during the trial process of child labor, forced labor, and/or human trafficking cases. Revisit the Enforcement Training Program case studies to think about the victims' experience during the next stage of the trial process.	Plenary discussion about the needs of the Enforcement Training Program case study victims	15 minutes
	Exercise 4.3.2: Victims' Rights Scenario	To familiarize participants with the victims' rights concepts.	Plenary discussion about victims' rights using a scenario and a series of questions.	40 minutes
	Lesson 4.4: Trial Practice <ul style="list-style-type: none"> Opening Statements Direct Examination Cross-Examination Expert Witnesses Impeachment Closing Arguments 	To learn skills related to each part of a trial, including opening statements, direct examination, cross-examination, expert witnesses, impeachment, and closing arguments to ensure successful prosecution of child labor, forced labor, and human trafficking cases.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	45 minutes for presentation, 2 hours 50 minutes with exercises

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 4: PROSECUTION	Exercise 4.4.1: Open and Closed Questions	To practice asking open-ended and closed questions to improve questioning styles for direct examination and cross-examination, respectively.	In a plenary, practice asking open and closed questions on a familiar topic. Q&A session to close.	30 minutes
	Exercise 4.4.2: Opening and Closing Statements	To practice conducting opening and closing statements for a trial using commonly known fairy tales or stories.	Work in two groups to develop an opening and closing argument for a familiar story, present the opening and closing to the plenary and discuss. Follow with Q&A.	95 minutes
	Lesson 4.5: Evidence <ul style="list-style-type: none"> Types of Evidence used in Child Labor, Forced Labor, and Human Trafficking Cases How to Introduce Evidence at Trial 	Learn the different types of evidence used in child labor, forced labor, and human trafficking cases and how to introduce such evidence at trial.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	45 minutes for presentation, 1 hour 50 minutes with exercises
	Exercise 4.5.1: Evidence Energizer	To start thinking about evidence in child labor, forced labor, and human trafficking cases and how it can be useful during a prosecution.	Participants identify potential pieces of evidence in an Enforcement Training Program scenario and work together to present what they think the evidence helps prove	25 minutes
	Exercise 4.5.2: Admitting Evidence Drill	To practice the process of laying the foundation for introducing an exhibit into evidence at trial.	Participants practice admitting evidence one-by-one, followed by discussion	40 minutes
	Lesson 4.6: Mutual Legal Assistance	Learn what mutual legal assistance (MLA) is and how to request MLA.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	15 minutes for presentation, 45 minutes with exercise
	Exercise 4.6.1: Mutual Legal Assistance Discussion	To discuss prosecutors' experience with mutual legal assistance.	Plenary discussion about using mutual legal assistance	30 minutes

	Lessons/Exercises/ Topics	Objectives	Methods	Duration (Minutes)
MODULE 5: SENTENCING	Lesson 5.1: Sentencing Guidelines <ul style="list-style-type: none"> Sentencing Guidelines Sentencing Procedures 	To learn about sentencing guidelines and challenges. Practice child labor, forced labor, and human trafficking sentencing using scenarios.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	15 minutes for presentation, 90 minutes with exercises
	Exercise 5.1.1: Sentencing Discussion	To begin discussing sentencing and thinking about factors to consider when sentencing child labor, forced labor, and or human trafficking cases.	Full group discussion answering questions	15 minutes
	Exercise 5.1.2: Sentencing Scenarios	To determine appropriate sentences for child labor, forced labor, and human trafficking offenses.	Plenary discussion about mutual legal assistance; facilitator guides with questions	60 minutes
	Lesson 5.2: Restitution <ul style="list-style-type: none"> Role of Restitution Civil Procedures Criminal Procedures 	To learn about restitution and how to determine damages.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	15 minutes for presentation, 75 minutes with exercises
	Exercise 5.2.1: Restitution Discussion	To have participants start thinking about restitution, its different forms, and benefits for victims.	Full group discussion answering questions	15 minutes
	Exercise 5.2.2: Restitution and the Enforcement Training Program Case Studies	To practice determining restitution for victims. Learn about the benefits that restitution could bring to the Enforcement Training Program case study victims.	In small groups, create restitution recommendations using Enforcement Training Program case studies; present to plenary for discussion and Q&A.	45 minutes
	Lesson 5.3: Plea Bargaining <ul style="list-style-type: none"> Requirements for a Plea Bargain Roles and Responsibilities Arguments for Plea Bargaining Arguments Against Plea Bargaining 	To learn about plea bargaining and its benefits and challenges.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	30 minutes for presentation, 75 minutes with exercise
	Exercise 5.3.1: Plea Bargaining Discussion	To discuss the benefits and challenges of plea bargaining and when the use of plea bargains may be appropriate.	Plenary discussion about plea bargain and their benefits, challenges	45 minutes
	Lesson 5.4: Judicial Ethics <ul style="list-style-type: none"> Bangalore Principles Considerations for Online Activities 	Learn about the Bangalore Principles and how to apply them. Put the ethical principles into practice using a series of scenarios.	PowerPoint presentation of materials in the curriculum followed by a Q&A session	20 minutes for presentation, 95 minutes with exercises
	Exercise 5.4.1: Judicial Ethics Discussion	To begin discussing judicial ethics and start to consider what role ethical responsibilities play in and out of the courtroom.	Full group discussion answering questions	15 minutes
Exercise 5.4.2: Applying Ethics to Everyday Practice	Practice applying the Bangalore Principles to everyday scenarios.	In small groups, review scenarios and determine what action to take, present to plenary for discussion and Q&A.	60 minutes	

Annex B: Sample Evaluation

Daily Evaluation

RATING OF SESSIONS

Please rate each session that you attended by marking the box that best applies	1 Bad	2	3	4	5 Good
[Name of Lesson/Exercise]					
[Name of Lesson/Exercise]					
[Name of Lesson/Exercise]					
[Name of Lesson/Exercise]					

Please describe something you learned during today's session

[Insert Response]

Please describe something that could have been improved about today's session

[Insert Response]

A general evaluation, covering the entire training, should be used in addition to a daily evaluation to gain feedback about the success of the entire training program

General Evaluation

Please indicate how much you agree with the following statements by marking the box that best applies		Agree → Disagree				
		1 Bad	2	3	4	5 Good
1	The objectives of the training were clear.					
2	The training objectives were achieved.					
3	I learned something new about child labor, forced labor, and/or human trafficking.					
4	I am committed to trying to eliminate child labor, forced labor, and human trafficking.					
5	The training was too long.					
6	The training was too short.					
7	This training was necessary.					
8	I would like more training on child labor, forced labor, and/or human trafficking.					

Please provide additional feedback to help us improve our training on child labor, forced labor, and human trafficking.

[Insert Response]

Annex C: Sample Agendas

Training Agenda for Identifying Child Labor, Forced Labor, and Human Trafficking (1 Day)

Time	Topic/Exercise	Objective
9:00–9:30 am	Registration	Participants arrive, register, collect training materials, and prepare for the training. Complete pre-training survey.
9:30–10:00 am	Introduction to the Training Program	Welcome participants to the training. Provide an overview of the training agenda and expectations; participants provide their expectations.
10:00–10:10 am	Impact Icebreaker	To have participants approach child labor, forced labor, and human trafficking from a victim-centered lens.
10:10–10:55 am	What are Child Labor, Forced Labor, and Human Trafficking?	Understand the definitions of key terms related to child labor and forced labor, facts and figures about child labor, and what these crimes look like in practice.
10:55–11:30 am	Definitions of Child Labor, Forced Labor and Human Trafficking Exercise	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.
11:30–11:40 am	Break	
11:40–11:50 am	Indicators Energizer	To help participants start thinking about indicators of child labor, forced labor, and human trafficking.
11:50–12:20 pm	Indicators of Child Labor, Forced Labor, and Human Trafficking, Part 1	Learn to recognize child labor, forced labor, and human trafficking.
12:20–12:55 pm	Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking Exercise	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.
12:55–1:55 pm	Lunch Break	
1:55–2:05 pm	Indicators of Child Labor, Forced Labor, and Human Trafficking, Part 2	Learn to recognize child labor, forced labor, and human trafficking.
2:05–2:55 pm	Push and Pull Factors Exercise	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.
2:55–3:10 pm	Myths and Facts about Child Labor, Forced Labor, and Human Trafficking Exercise, Part 1	To identify common myths about child labor, forced labor, and human trafficking, identify sources of misconceptions, and clarify information about child labor, forced labor, and human trafficking to better understand the reality of child labor, forced labor, and human trafficking.

Time	Topic/Exercise	Objective
3:10–3:40 pm	Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes	<p>Learn to distinguish between child labor, forced labor, and human trafficking while also being able to distinguish between trafficking and migrant smuggling.</p> <p>Learn to recognize common myths and misconceptions about child labor, forced labor, and human trafficking so that more cases of child labor, forced labor, and human trafficking can be properly identified.</p>
3:40–4:10 pm	Myths and Facts about Child Labor, Forced Labor, and Human Trafficking Exercise Part 2	To identify common myths about child labor, forced labor, and human trafficking; identify sources of misconceptions; and clarify information about child labor, forced labor, and human trafficking to better understand the reality of child labor, forced labor, and human trafficking.
4:10–4:25 pm	Evaluations	Participants complete program post-tests and evaluations.
4:25–4:35 pm	Closing and Next Steps	Summary of the program and overview of the next training session.

Training Agenda for Investigating Child Labor, Forced Labor, and Human Trafficking (3 Days)

Day 1

Time	Topic/Exercise	Objective
9:00–9:30 am	Registration	Participants arrive, register, collect training materials, and prepare for the training. Complete pre-training survey.
9:30–10:00 am	Introduction to the Training Program	Welcome participants to the training. Provide an overview of the training agenda and expectations; participants provide their expectations.
10:00–10:10 am	Icebreaker	Have participants introduce themselves.
10:10–10:20 am	Investigations Discussion	To have participants start thinking about different types of investigations to begin training on investigations.
10:20–10:50 am	Types of Investigations	Understand the definitions of key terms related to child labor, forced labor, facts and figures about child labor, and what these crimes look like in practice.
10:50–11:00 am	Break	
11:00–12:30 pm	Risk Mapping Exercise	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.
12:30–1:30 pm	Lunch Break	
1:30–1:45 pm	Rescue Operations Discussion	To have participants begin considering when rescue operations may be needed.
1:45–2:15 pm	Rescue Operations	Learn how to plan and conduct a child labor, forced labor, or human trafficking raid or rescue operation. During an activity, plan a rescue operation using case studies.
2:15–3:30 pm	Planning a Rescue	Practice preparing for a rescue operation and identifying the steps that need to be taken. Determine the groups needed to carry out a rescue operation. Ensure that victim needs are anticipated and planned for.
3:30–3:40 pm	Break	
3:40–3:50 pm	Crime Scene Discussion	Learn how crime scenes are processed and about common investigative issues. Practice documenting a crime scene and collecting evidence.

Time	Topic/Exercise	Objective
3:50–4:20 pm	Crime Scene Investigation	Learn how crime scenes are processed and about common investigative issues. Practice documenting a crime scene and collecting evidence.
4:20–4:35 pm	Evaluations	Participants complete daily post-tests and evaluations.
4:35–4:45 pm	Closing and Next Steps	Summary of the day's program, overview of the next training session.

Training Agenda for Investigating Child Labor, Forced Labor, and Human Trafficking (3 Days)

Day 2

Time	Topic/Exercise	Objective
9:00–9:30 am	Registration	Participants arrive, register, and prepare for the training. Complete daily pre-training survey.
9:30–9:45 am	Training Overview	Welcome participants to the training. Provide a summary of the previous day's training and an overview of the current day's agenda.
9:45–10:45 am	Processing a Crime Scene	To practice the skills needed to properly process a crime scene.
10:45–10:55 am	Evidence Alphabet Energizer	To have participants start thinking about different types of digital and forensic evidence.
10:55–11:25 am	Digital and Forensic Evidence	Learn about different types of digital and forensic evidence and how to use them effectively in child labor, forced labor, and human trafficking cases.
11:25–11:35 am	Break	
11:35–12:35 am	Digital and Forensic Evidence Exercise	To identify types of digital and forensic evidence that might be used in child labor, forced labor, and human trafficking cases.
12:35–12:50 pm	Interviewing Victims Discussion	To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.

Time	Topic/Exercise	Objective
12:50–1:50 pm	Lunch Break	
1:50–2:20 pm	Interviewing Victims, Part 1	Understand the interview methods, roles, and perspectives that will encourage best practices for assessing, interacting with and identifying individuals involved in child labor, forced labor, and human trafficking. Practice using interviewing skills and increase skills and confidence to conduct interviews that respect victims' rights and dignity.
2:20–3:10 pm	Interviewing Victims Exercise	To observe best practices for interviewing victims and then practice using those skills by conducting mock interviews based on scenarios.
3:10–3:20 pm	Break	
3:20–4:05 pm	Setting up a Victim Interview Exercise	Practice considering the needs of different victims during interviews. Think about needs before an interview to make interviews productive and prevent re-traumatization. Revisit the Enforcement Training Program case studies as the victims move through the case process.
4:05–4:20 pm	Evaluations	Participants complete daily post-tests and evaluations.
4:20–4:30 pm	Closing and Next Steps	Summary of the day's program, overview of the next training session.

Training Agenda for Investigating Child Labor, Forced Labor, and Human Trafficking (3 Days)

Day 3

Time	Topic/Exercise	Objective
9:00–9:30 am	Registration	Participants arrive, register, and prepare for the training. Complete daily pre-training survey.
9:30–9:45 am	Training Overview	Welcome participants to the training. Provide a summary of the previous day's training and an overview of the current day's agenda.

9:45–10:45 am	Interviewing Children Exercise	To observe best practices for interviewing children and then practice using those skills by conducting mock interviews based on scenarios.
10:45–11:00 am	Interviewing Suspects Discussion	To have participants start thinking about interviewing suspects and how those interviews might be similar and different from interviewing a victim.
11:00–11:20 am	Interviewing Suspects	Learn about different types of digital and forensic evidence and how to use them effectively in child labor, forced labor, and human trafficking cases.
11:20–11:30 am	Break	
11:30–12:35 am	Interviewing Suspects Exercise	To observe best practices for interviewing suspects and then practice using those skills by conducting mock interviews based on scenarios.
12:35–12:50 pm	Charging Discussion	To have participants start thinking about different offenses that can be charged in child labor, forced labor, and human trafficking.
12:50–1:50 pm	Lunch Break	
1:50–2:20 pm	Charging	<p>Understand the elements that make up child labor, forced labor, and human trafficking offenses.</p> <p>Learn about charging child labor, forced labor, and human trafficking offenses, and other related crimes.</p> <p>Learn about who may be exempt from prosecution.</p> <p>Use case studies to practice determining charges for offenders.</p>
2:20–3:15 pm	Charging Offenses in the Enforcement Training Program Case Studies	<p>To have participants practice identifying charges that can be brought in different scenarios.</p> <p>Continue engaging with the Enforcement Training Program case studies to see how the case process is continuing for the victims</p>
3:15–3:30 pm	Evaluations	Participants complete daily post-tests and evaluations.
3:30–3:45 pm	Closing and Next Steps	Summary of the training, review next steps for implementing the training content, and discuss upcoming trainings. Closing ceremony.

Case Study 1: Abdi

Abdi is 20 years old. He was found in a Gulf State where he was doing construction work. Abdi did not have copies of his identification or travel documents, which were found in his employer's possession. Abdi found his job through a posting on WhatsApp. The posting was for a job in construction that paid more than he could earn doing construction work in his home country. Abdi worked with a recruiter in his home country to secure the job. Abdi had to pay a fee of one month's salary to the recruiter to obtain the job; he took out a loan to pay the fee. The job Abdi secured required 45 hours of work per week. He was told he would be provided with travel documents, transportation to the country where he would be working, food, and accommodation.

When Abdi arrived, he had to sign a new contract written in a language he did not understand. Abdi discovered later that the new contract required him to work more hours for less pay: He averages 70 hours per week and is paid approximately 75% of the previously agreed-upon salary. He is being charged for his accommodation and food. He is housed in a large space with the other construction workers; no one has their own room or privacy.

Abdi and the others must work long hours in the sun and rarely have time for water breaks. Abdi has collapsed from heat exhaustion while working, as have other workers. Abdi has some minor injuries from work. He wants the job he was promised. He is exhausted all the time from overwork and is not earning enough money to pay off his debt within a year, as he had anticipated. He was going to try to support his family with his overseas work, but now he does not think he can go home because his family will have to pay his debt.

Case Study 2: Ana

Ana is 13 years old. She was found working in a small garment factory with her mother and six other women and girls. A labor inspector conducted an inspection after receiving a tip from a teacher who said that Ana had stopped attending school because of her work. Ana's father was killed in a traffic accident two years ago, and Ana's mother now has to support her three children. Ana is the oldest.

Ana's mother has been working at the garment factory for over a year but has regularly been unable to meet her quota. Ana's mother is paid by the number of pieces of clothing she produces, and the number she must produce is higher than most workers can make in a day. Because of this, Ana's mother and several other women have their children assist them. The other two girls are 12 and 16 years old. Ana began helping her mother for a few hours a day around six months ago; she was still attending school when she started her work. Ana started working longer and longer hours because the rent for the sewing machines they are using was increased, and the family had some unexpected expenses when her little brother became very sick.

When Ana was found, she had back pain from sitting hunched over at her sewing machine and had some small cuts on her hands.



Photo Credit: Ben Burkland and Carolyn Cook, 2007, China

Case Study 3: Kosal

Kosal is 13 years old. He and his family are migrants who fled violence in their community. They are from a marginalized group that was subjected to ethnic violence. Kosal's family migrated illegally to a neighboring country. Kosal has not attended school regularly because he lacks the correct legal status in the country and his parents' agricultural work requires the family to move to a different part of the country each season. Kosal's parents are paid very low wages because of their migrant status. They cannot access labor protections, and farm owners know that Kosal's parents will not want to alert the authorities to their irregular status.

Kosal started working on the farms with his parents to help them earn more money so that someday they can earn enough to rent a home. For now, they live in migrant camps that are crowded and unsafe. Because he is unable to attend school, he wanted to contribute. Kosal does the same work his parents do, which is a variety of tasks that include preparing fields, planting, and harvesting. He works long hours in very hot weather with few breaks. He has to carry heavy loads when harvesting and often uses sharp tools. Kosal has been hurt a few times at work but has not been able to get medical assistance because his parents are afraid to go to a medical clinic in case they are reported.

Kosal knows that the farm owner has seen him working because the owner complimented him on how strong he is for someone so small. Kosal wishes he could be paid more. He is paid even less than his parents but is glad he is no longer in his old village. He recently heard the village was burned to the ground, and he is sad that he can never return.



Case Study 4: Mercy

Mercy is 22 years old. She searched for work outside of her village because her parents, needing the bride price, had forced her to marry a violent man. Her husband beat her severely, and she had to be treated for injuries at a local hospital. When she was at the hospital, she met a woman who said she wanted to help; the woman offered to help Mercy get smuggled to another country where she could work as a cleaner in a hotel. Although she was nervous about sneaking into another country, Mercy was excited by the opportunity and made arrangements to leave quickly.

When Mercy arrived at her destination, she learned she had to work as a prostitute instead of working as a cleaner in the hotel. The smuggler said she had to do it to pay back the expense of being smuggled. Mercy was beaten when she tried to resist. In addition to working as a prostitute in the hotel, Mercy was forced to perform on a webcam. Mercy was told that if she went to the police, her family would be told she was working as a prostitute, and the police would deport her because she entered the country illegally.

Mercy has been forced into prostitution for almost two years and still has not paid back her debt because her exploiter keeps adding additional expenses to the total. Mercy does not think that she will ever be able to leave, and even if she could, she knows that she can never return home. She hopes to start a new life, maybe in her new country. She would like to be a nurse or in another career that could help girls who need assistance.



MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

IDENTIFICATION

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Introduction to Module 1

Module 1 of the Enforcement Training Program focuses on Identification. Identification is the first step of child labor, forced labor, and human trafficking cases. Subsequent steps of this process are addressed in the modules on Investigation, Referrals, Prosecution, and Sentencing. The ability to identify and recognize child labor, forced labor, and human trafficking cases is important for first responders, law enforcement, labor inspectors, non-governmental organizations (NGOs), civil society organizations (CSOs), prosecutors, and judges. This module begins by looking at what child labor, forced labor, and human trafficking are, referring to international standards and norms. Definitions of these terms may vary in national legislation, so it is important to consult local laws and regulations. Indicators of child labor, forced labor, and human trafficking are covered next. Finally, the module addresses how to distinguish child labor, forced labor, and human trafficking from each other and from other crimes. The module has three interactive exercises to help put into practice the concepts learned during lessons.



Photo Credit: ©CIAT/Neil Palmer, 2010, Bolivia

Lesson 1.1: What are Child Labor, Forced Labor, and Human Trafficking?

Objective:

- Understand the definitions of key terms related to child labor, forced labor, and human trafficking; facts and figures about child labor, forced labor, and human trafficking; and what these crimes look like in practice.

Time:

 90 minutes

Steps:

- Exercise 1.1.1: Impact Icebreaker
 - 10 minutes
- Present PowerPoint Presentation 1.1: What are Child Labor, Forced Labor, and Human Trafficking?
 - 45 minutes
- Exercise 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking
 - 35 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 1.1: What are Child Labor, Forced Labor, and Human Trafficking?
- Projector
- Exercise 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking
- Handout 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking
- Handout 1.1.2 Key: Definitions of Child Labor, Forced Labor, and Human Trafficking

Overview of Child Labor, Forced Labor, and Human Trafficking

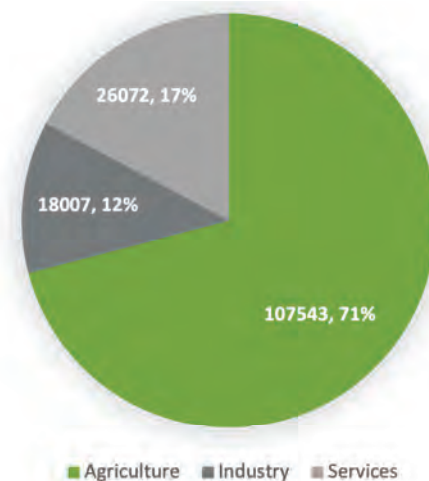
Millions of people around the world are engaged in child labor, forced labor, and human trafficking. The types of work that child laborers, forced laborers, and trafficked persons perform can vary from country to country, but many of the factors driving these activities and the negative impacts they cause are common globally.

Child Labor: Sustainable Development Goal 8.7 calls for the elimination of “child labor in all its forms” by the year 2025. Globally, 218 million children are employed. Of this number, as of 2016, 152 million children worldwide—or nearly 10 percent of all people under the age of 18—are engaged in child labor.¹ Of child laborers, 64 million are girls, 88 million are boys, and nearly half—73 million—are engaged in worst forms of child labor (WFCL).

Between 2000 and 2016, the number of children engaged in child labor globally was reduced by 94 million. The rates decreased substantially between 2012 and 2016. Some of the decrease could be due to global economic decline, which made all employment, including child labor, more difficult to obtain during those years. Between 2000 and 2016, the number of girls in child labor fell by only half as much as for boys. Forty-eight percent of children engaged in child labor, and 25 percent of those in hazardous work, are 5 to 11 years old. Between 2012 and 2016, children 5 to 11 years old had a smaller reduction in child labor than other age groups, and there was no reduction in the percentage of children in hazardous work during that period. Older children aged 15 to 17 years have made the biggest gains in reducing child labor, but there are still 38 million engaged in child labor, of whom 42 percent are in hazardous work. Information about the sectors in which children are engaged in child labor can be seen in the figure below.

Figure 1: Child Labor Engagement by Sector

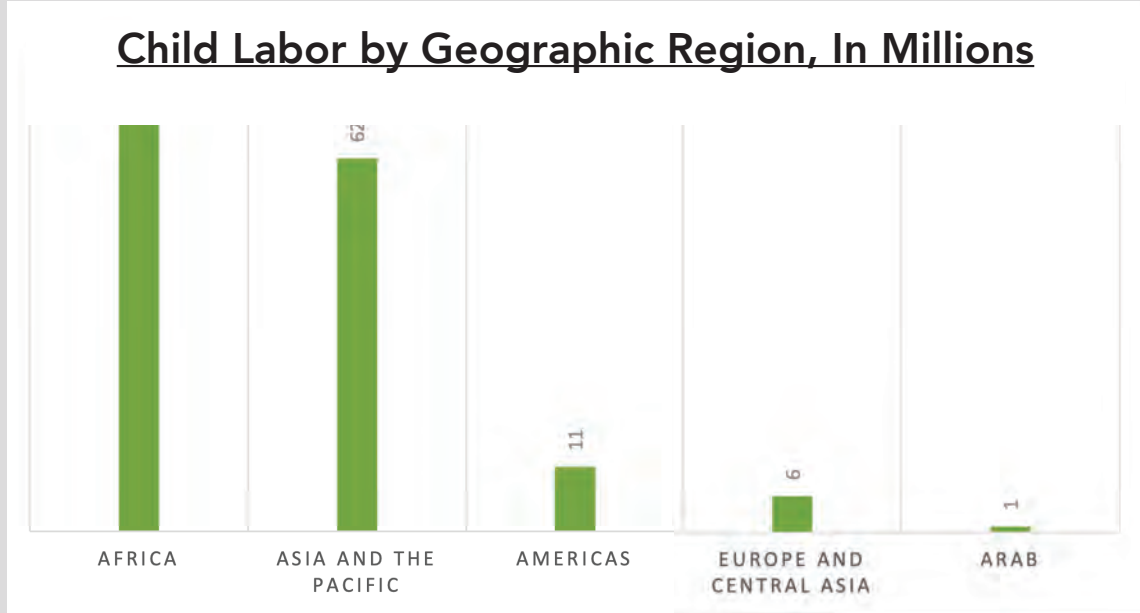
Children Ages 5-17 Engaged in Child Labor by Sector, in Thousands



Children working in agriculture often work for their families and frequently work in hazardous conditions. Three-quarters of children in child labor are employed in the industry and services sectors are in hazardous conditions. Children ages 5 to 11 years engaged in child labor tend to work in agriculture (83 percent), which is a higher rate than for older children. Globally, children ages 15 to 17 years are employed equally in agriculture, industry, and services. More information about the global spread of child labor can be seen in the figure below.

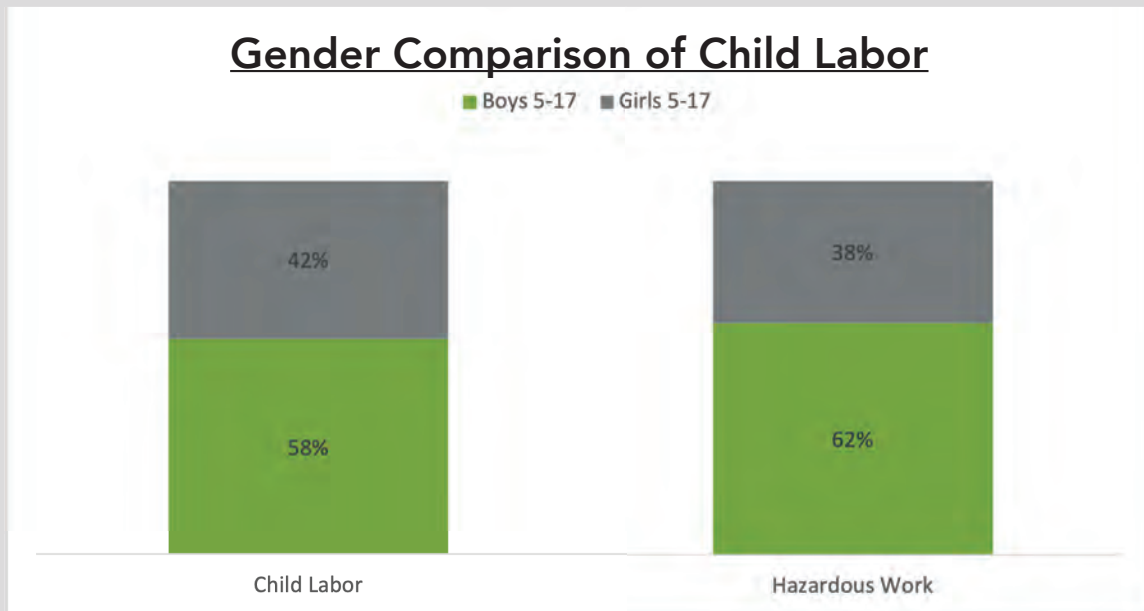
1. Global Estimates of Child Labour: Results and Trends, 2012-2016, International Labour Office (ILO), Geneva, at 5, 2017. https://www.ilo.org/wcms-sp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf

Figure 2: Global Spread of Child Labor by Geographic Region



In Africa, 20 percent of children are engaged in child labor. In the Asia and Pacific region, 7 percent of children are engaged in child labor.² The problem is not restricted to low-income nations; over half of all children in child labor are found in middle-income countries. More than 2/3 of child labor occurs within families, 27 percent is paid labor, and 4 percent are “self-employed.”

Figure 3: Comparison of Child Labor by Gender



While International Labour Organization (ILO) data indicate that boys are more frequently engaged in child labor and hazardous work,³ it should be noted that girls tend to work in less visible forms of child labor and may be under-reported. Girls perform household chores at a higher frequency and for longer hours than boys do. Household chores

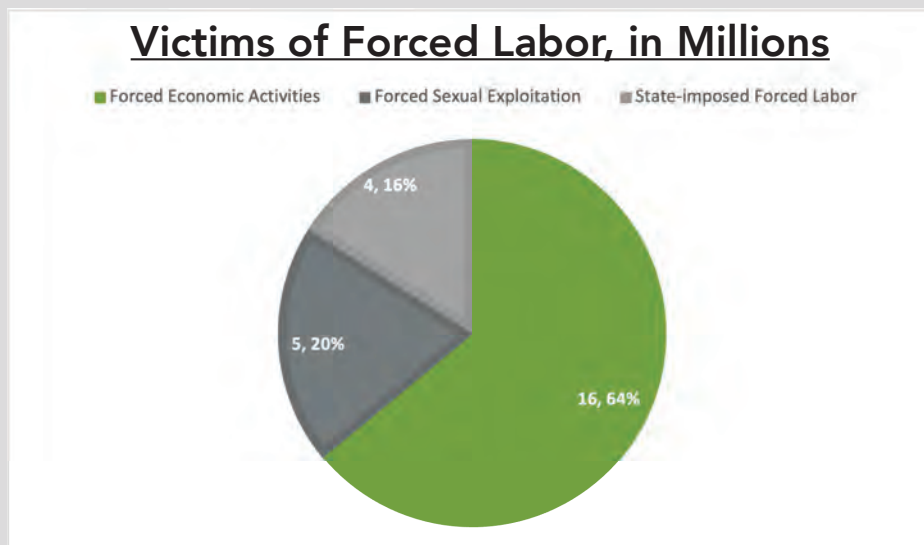
² Global Estimates of Child Labour: Results and Trends, 2012-2016, International Labour Office (ILO), Geneva, at 12, 2017. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf

³ Global Estimates of Child Labour: Results and Trends, 2012-2016, International Labour Office (ILO), Geneva, at 12, 2017. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf

are not inherently damaging to children. However, 2/3 of the children performing 43 hours per week or more of chores—which is considered “extremely long hours” and likely damaging to their education and/or physical, mental, or social well-being—are girls. Twenty-five percent of children completing over 21 hours of chores a week are employed outside of their home.

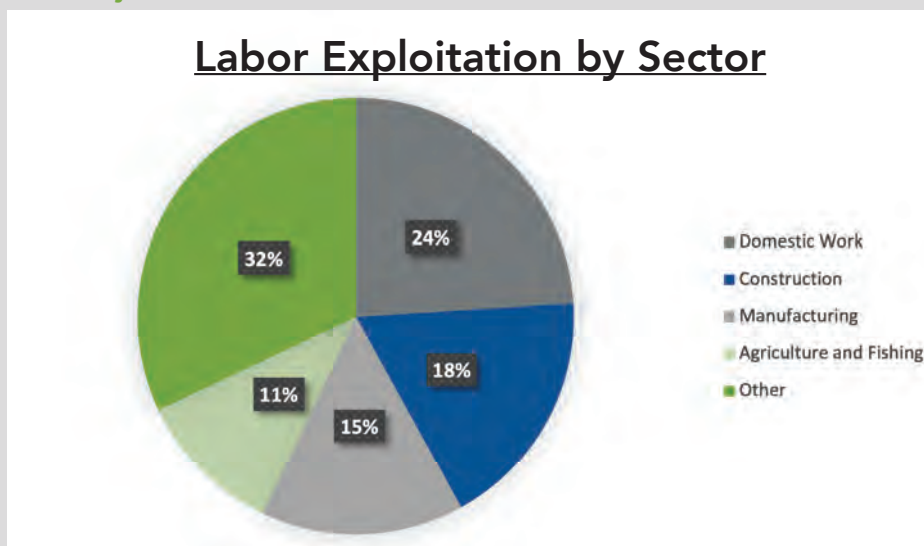
Forced Labor and Human Trafficking: Worldwide, 25 million people are in situations of forced labor.⁴ Withholding wages is the most common means of forcing people into labor. Other means include violence or physical threats or acts, debt bondage, threats against family, or sexual threats. Men and women experience coercion differently, with women most likely to be victims of sexual threats or abuse. All child victims of commercial sexual exploitation are in situations of forced labor.

Figure 4: Percentage of Victims Working in Three Categories of Forced Labor



Of the five million victims of forced sexual exploitation, one million are children. Eighteen percent of people in forced labor are children. One in four victims is exploited outside his or her country of origin, including 75 percent of those in forced sexual exploitation.

Figure 5: Labor Exploitation by Sector



4. Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, International Labour Office (ILO), at 5, 2017. https://www.ilo.org/wcms-sp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

In the above chart, “other” includes accommodation and food services, wholesale and trade, personal services, mining, or begging. Of the 16 million people in situations of labor exploitation, 57 percent are female, and 20 percent are children. Men in forced labor tend to work in mining, begging, construction, manufacturing, and agriculture. Women in forced labor are often engaged in domestic work, accommodation, and food services. Over half of men and women in forced labor are victims of debt bondage, often due to recruitment fees. This figure is over 70 percent for adults in forced labor in agriculture, domestic work, and manufacturing.

Impact on Victims

Child labor, forced labor, and human trafficking have significant impacts on victims. These impacts are both short and long term and are important to keep in mind when investigating and prosecuting child labor, forced labor, and human trafficking cases.

Child Labor: Child labor is harmful to children’s physical development because their bodies are still growing, and work performed in childhood can leave them at risk of illness and injury. Child labor harms children’s emotional growth and prevents them from forming normal emotional bonds with family and friends. They may also be subjected to fear, isolation, degradation, and exploitation that can leave them with low self-esteem and a lack of interpersonal skills. Child labor is also harmful to children’s social development because it prevents them from attending school, playing, socializing with peers, and enjoying life, and pushes them to maturity and adulthood prematurely. Children engaged in WFCL may be subjected to injuries or illness such as respiratory diseases or sexually transmitted diseases, sexual or physical violence, overly strenuous work, or overly long hours that harm their physical growth and development.⁵

Child labor can contribute to long-term cycles of poverty, lack of education, unemployment, isolation, and drug and alcohol abuse. Children engaged in child labor are more likely to drop out of school, be chronically absent or tardy, too tired to learn properly, and may perform worse than their peers academically.⁶ Approximately one-third of children in child labor are not in school.⁷

Human Trafficking and Forced Labor: Victims of human trafficking and forced labor often fear or mistrust law enforcement due to lies told by their trafficker or exploiter and from previous experiences of mistreatment or criminalization. Victims also may not trust other service providers. Victims may fear reprisal against their families, feel shame or stigmatization, not understand that they are victims, or believe they can resolve their situation on their own without assistance. Victims of human trafficking and forced labor may have experienced sexual abuse and related trauma. They may feel dependent on or grateful towards their trafficker or feel “bonded” to him or her and believe their family or community will never take them back after their experiences.⁸ Victims may have illnesses or injuries as a result of forced labor and trafficking. Victims may have been denied medical care to avoid discovery.

Child victims of human trafficking may become seriously injured or ill, in some instances resulting in death. Child trafficking victims are sometimes subjected to physical violence, starvation, or provided drugs, and both girls and boys can be victims of sexual violence (although girls are more commonly subjected to sexual abuse than boys). Child trafficking victims may be exposed to dangers, including working with chemicals and heavy machinery, and in the case of commercial sexual exploitation, sexually transmitted diseases (STDs) or pregnancy. Child victims of trafficking may experience psychological problems from being separated from their families and communities, which can lead to depression and suicide attempts.⁹

5. Child Labor Manual: A Resource for Labor Inspectors and Officers in Pacific Island Countries. International Labor Organization (ILO), 2015. https://www.ilo.org/suva/publications/WCMS_494313/lang--en/index.htm

6. Training Manual on Child Labour in Afghanistan, International Labour Organization (ILO), 2018 pg. 41. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/instructionalmaterial/wcms_667934.pdf

7. Global Estimates of Child Labour: Results and Trends, 2012-2016, International Labour Office (ILO), 2017. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf

8. The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation. The International Association of Chiefs of Police, 2007. <https://www.theiacp.org/resources/document/the-crime-of-human-trafficking-a-law-enforcement-guide-to-identification-and>

9. Training Manual to Fight Trafficking in Children for Labor, Sexual, and Other Forms of Exploitation: Understanding Child Trafficking. International Labor Organization (ILO), 2009. https://www.ilo.org/ipecc/informationresources/WCMS_IPEC_PUB_10771/lang--en/index.htm

Impact on Society

Child labor negatively impacts families and communities. Communities that rely on child labor are deprived of a more educated community and future increased earning potential. Children engaged in child labor often grow up to find themselves in the same subsistence situations that their families were in when they were children and unable to break cycles of poverty and lack of education. These children may also develop drug or alcohol problems or sustain psychological damage that can lead to violent crimes and negatively impact society as a whole.¹⁰

Child trafficking harms families who lose their children to this crime. In instances where parents receive the money they were promised for their child's labor, other families may be incentivized to send their children into exploitation. Ending a child's education, which nearly always occurs when a child is trafficked, has economic and social ramifications for communities and countries, and girls may be less likely to marry if they are considered to have been harmed by their experiences. Trafficking perpetuates cycles that put future generations at risk of poverty and trafficking, and when children return injured or sick, it puts a strain on the families, communities, and countries that must care for them. Efforts to rehabilitate victims and prevent child trafficking can drain resources from countries, governments, and communities.¹¹

Definitions

OVERVIEW OF TYPES OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

To understand child labor, forced labor, and human trafficking, it is important to understand key terms and definitions in both international conventions and domestic law. In this module, the definitions used are international standards from International Labour Organization Conventions (ILO Conventions) and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol). Definitions can vary at the country level, so it is crucial to consult local legislation and regulations to fully understand how to identify child labor, forced labor, and human trafficking locally. By understanding how these terms are defined internationally and at the local level, it can be easier to recognize cases of child labor, forced labor, and human trafficking and build a case for these types of offenses.

Child Work: Not all work performed by children is child labor. Child work is work that can be done legally by children. It is not child labor. Child work has restrictions based on age, working conditions, hours, and types of work that are performed. Child work should not negatively impact children's education or physical, mental, emotional, or social development. Working can allow children to develop skills that may help them in adulthood. Children can also gain responsibility through child work. Child work, understood to be benign or even beneficial for children, includes providing limited help to a family business or working small odd jobs to earn spending money when not in school.¹² In some jurisdictions, children may be permitted to work part time before or after school or full time with restrictions if they have reached the minimum age for employment. Examples of child work are illustrated below.

Martin is 15 years old, and he works at a dry goods store for two hours a day after school. He is responsible for taking inventory and helping customers locate items in the store. The job helps him pay for school fees and save some additional money.

Jasmine is 17 years old. She has a full-time job working as a receptionist at a doctor's office. She works 35 hours per week. Jasmine answers phones, helps schedule appointments, checks patients in when they arrive, and files paperwork. She hopes to train as a nurse once she has saved up more money.

10. Training Manual on Child Labour in Afghanistan, International Labour Organization (ILO), 2018. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/instructionalmaterial/wcms_667934.pdf

11. Training Manual to Fight Trafficking in Children for Labor, Sexual, and Other Forms of Exploitation: Understanding Child Trafficking. International Labor Organization (ILO), 2009. https://www.ilo.org/ipecc/Informationresources/WCMS_IPEC_PUB_10771/lang--en/index.htm

12. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

The chart below details the type of work children are legally permitted to engage in based on ILO Conventions. These ages serve as an example. Local legislation should be consulted to ensure that the ages included below are accurate. More information about the different types of employment can be found in the following chart (Table 1).

Table 1: Different Types of Child Employment

Type of Employment	Description	Age at Which Permitted
Light Work	Part-time work that is not likely to harm the health, safety, morals, or education of a child	13, can be lowered to 12 for developing economies
Minimum Age for Employment	Full-time employment that is non-hazardous	15, can be lowered to 14 for developing economies, must not be lower than the age of compulsory education
Hazardous Work	Work that is likely to harm the health, safety, or morals of a child	18, can be lowered to 16 for tasks identified by the government if the hazards have been mitigated
Worst Forms of Child Labor	<ul style="list-style-type: none"> a. All forms of slavery and practices similar to slavery, b. Prostitution and pornography, c. Illicit activities d. Hazardous work 	a–c are never permissible for children

Child Labor: Child labor occurs when children engage in employment, whether formal or informal, paid or unpaid, that is not permitted by law. This is different from child work, which can legally be performed by children (see “child work” definition above). Child labor can include children working at a younger age than the legal age of employment, working more hours than permitted for their age, or working in jobs children are not permitted to engage in (such as dangerous jobs like mining), or having work negatively impact their education, as in the case of younger children. The ILO defines Child Labor as “work that deprives children of their childhood, potential, dignity and which is harmful to their physical and mental development,”¹³ including “work that

- Is mentally, physically, socially, or morally dangerous and harmful to children; and
- Interferes with their schooling by:
 - Depriving them of the opportunity to attend school;
 - Obliging them to leave school prematurely; or
 - Requiring them to attempt to combine school attendance with excessively long and heavy work”

Minimum Age for Employment:

ILO Convention 138 on Minimum Age requires that the minimum age for employment

*shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.*¹⁴

However, the minimum age for employment can be lowered to 14 if the country has an emerging economy.¹⁵ The ILO recommends that countries set the minimum age for employment at 16.¹⁶

13. “What is Child Labour.” International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <http://www.ilo.org/ipecc/facts/lang--en/index.htm>

14. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976), Art. 2(3). International Labour Organization (ILO). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

15. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976), Art. 2(4). International Labour Organization (ILO). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

16. Recommendation concerning Minimum Age for Admission to Employment, 1973 (No. 146), Art. 7(1). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312484

Chores: Chores are distinct from child work. Children are permitted to perform household chores, or “services for consumption within their own households...include[ing] caring for household members; cleaning and minor household repairs; cooking and serving meals; washing and ironing clothes; and transporting or accompanying family members to and from work and school.”¹⁷ Although chores are considered a normal and healthy part of a child’s development, excessive involvement in chores can negatively impact children’s schooling and social and emotional growth. Household chores, which are performed without economic compensation in a child’s own home and contribute to the well-being of the child’s family, should not be confused with children in domestic work. Domestic work involves household tasks and domestic duties performed for payment in a household that is not the child’s own.¹⁸ Children engaged in domestic work are frequently in situations of child labor due to the long hours, working conditions, nature of tasks performed, and negative impacts on education. It should be noted that the burden of household chores falls disproportionately on girls as domestic tasks are often seen as the responsibility of women and girls. This can negatively impact girls’ education, including girls combining chores with employment and/or school and leaving school early.

Light Work: Children of a certain age may engage in light work. Light work is generally seen as part-time work that is not hazardous and does not interfere with school. The ILO’s Minimum Age Convention defines light work as work that is

(a) not likely to be harmful to their health or development; and

*(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.*¹⁹

Light work is permitted for children beginning at age 12 or 13 (depending on whether the country has an emerging economy)²⁰ and should not exceed 14 hours per week per child.²¹ The child’s parents, medical experts, and sometimes school authorities should all be consulted before children are engaged in light work.²² Examples of light work are provided below.

Joshua is 13 years old. He works for two hours a day, four days a week, as an assistant coach for a youth soccer team. He helps the coach demonstrate skills and helps to lead drills for the players. He works after school and on the weekends. Joshua is performing well in school and has perfect attendance.

Linda is 14 years old. She has a part-time job labeling fruit at a farm. She works for six hours on the weekend putting stickers on fruit. Linda is able to work with some of her friends. They are happy that they do not have to lift the heavy baskets of fruit as part of their job and are able to work out of the sun.

Worst Forms of Child Labor: The ILO identifies a subsection of child labor, the worst forms of child labor (WFCL), which children under 18 years of age should not participate in. Article 3 of ILO Convention No. 182 on the Worst Forms of Child Labor defines WFCL as follows:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

17. Global Estimates of Child Labour: Results and Trends, 2012-2016, International Labour Office (ILO), Geneva, 2017, pg. 21. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575499.pdf

18. Training Manual on Child Labour in Afghanistan, International Labour Organization (ILO), 2018. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---jpec/documents/instructionalmaterial/wcms_667934.pdf

19. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) International Labour Organization (ILO) Art. 7(1). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

20. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) Art. 7(1) and (4). International Labour Organization (ILO). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

21. Nepal Labor Inspection Training on Child Labor Facilitator’s Guide. Verité and Winrock International, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

22. Training Manual on Child Labour in Afghanistan, International Labour Organization (ILO), 2018. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---jpec/documents/instructionalmaterial/wcms_667934.pdf

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

Hazardous Work: Under ILO Convention 182 Article 3(d), hazardous child labor is work that by its nature or the circumstances in which it is carried out is likely to harm the health, safety, or morals of children. Table 2 below summarizes the difference between light work and non-hazardous work performed by children who have reached the minimum age of employment.

Table 2: The Difference between Light Work and Non-Hazardous Child Labor

Cannot Negatively Impact	Light Work	Non-Hazardous Employment Performed by Children Who Have Reached the Minimum Age for Employment
Health	✓	✓
Safety	✓	✓
Morals	✓	✓
Education	✓	

Hazardous work is work that is dangerous for children because of the unsafe or unhealthy conditions in which it is carried out, a lack of training or safety equipment, or because it is work that is particularly dangerous for children, such as carrying heavy loads, working with chemicals, or having to use dangerous tools. Children are smaller than adults and are still growing and developing, causing many of the hazards they encounter on the job to be more dangerous for them than for adults. Carrying heavy loads can cause permanent damage to a growing child (such as a spine curvature). Additionally, the damage to a child from chemical inhalation is also likely to have a more severe and long-term impact than for adults. Further explanation of what types of work can be considered hazardous child labor can be found in Article 3 of ILO Recommendation No. 190, which lists the following activities:²³

(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

23. Recommendation concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 1999 (No. 190), Art. 3. International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312528

Examples of hazardous work are provided below.

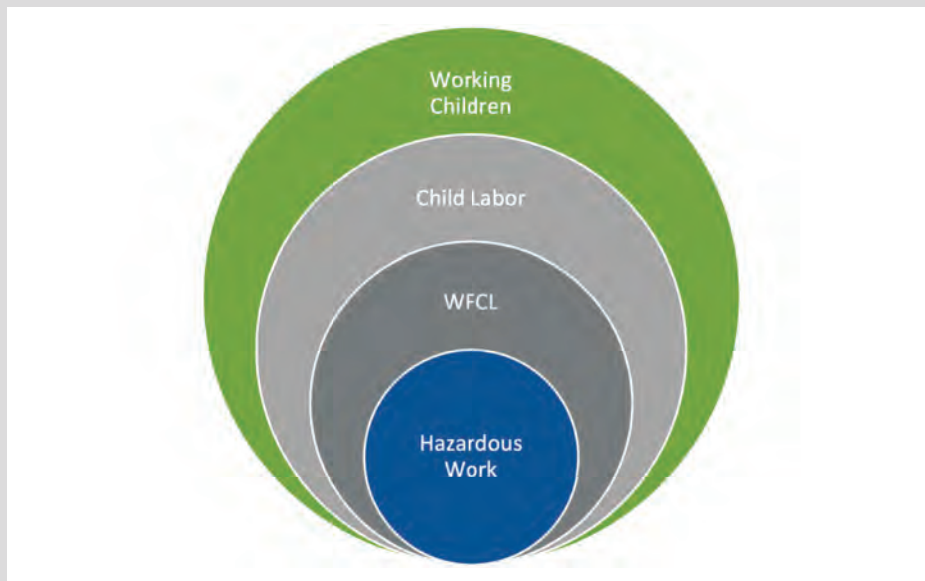
Priya is 15 years old. She works in a carpet-making factory 10 hours a day, six days a week. She has to work hunched over, and her back frequently hurts. The factory is hot and there are a lot of fibers in the air, which have caused her to develop a cough that she has had for the past six months.

Phil is 14 years old. He works as a porter, carrying bricks from the kiln to job sites. He works every day. The bricks are heavy, and he has cuts and scrapes from carrying them. Phil has to work outside carrying the bricks even when the weather is bad.

The ILO has acknowledged that in some circumstances, hazards can be mitigated for children ages 16 and 17. For children ages 16 and 17 to be able to engage in work that is included on a country's hazardous work list, the country must list it as a type of work in which it is possible to mitigate the hazards for children ages 16 and 17 to protect their health, safety, and morals and provide adequate instruction (effectively making the work non-hazardous).²⁴

The figure below explains the relationship between working children, child labor, WFCL, and hazardous work.

Figure 6: Relationship between Working Children, Child Labor, Worst Forms of Child Labor, and Hazardous Work



Forced Labor: ILO Convention 29 on Forced Labor defines forced labor as

*All work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*²⁵

The “penalty” referenced in the definition includes not just physical or sexual violence but also threats to report a victim to immigration authorities, threats to inflict physical harm on the victims or their family or friends, and the withholding of wages or personal documents.²⁶ Forced labor also includes people in situations of debt bondage, defined as “being forced to work to repay a debt and not being able to leave, or being forced to work and not being able to leave because of a debt.” Traditional debt bondage, similar to feudal systems, still exists today. However, modern debt bondage often refers to situations where workers are charged fees from recruitment agencies, which can lead workers or their families to

24. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) International Labour Organization (ILO) Art 3(3). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

25. Convention concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932), Art 2 (1). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

26. Victims of Modern Slavery – frontline staff guidance. Version 3.0, UK Home Office, 2016. <https://www.antislaverycommissioner.co.uk/media/1057/victims-of-modern-slavery-frontline-staff-guidance-v3.pdf>

take on loans that they cannot repay without the job, trapping them in the position. In some instances, these debts can be passed down from parents to children, keeping entire families in poverty and forced labor for generations.

Examples of forced labor:

Sanjay was offered a job as a cook in another country. His employer would pay for the cost of Sanjay's travel and arrange his visa. The salary he was promised was twice as high as he could make in his hometown. Sanjay's family borrowed money to pay the recruiter a recruitment fee that was two months of his promised salary. When Sanjay arrived at his job site, he discovered that the salary he would be paid was half of what he was promised. He could not look for other jobs in the country he was working because his employer sponsored his visa, and he could only stay in the country if he kept working for the same employer. Sanjay knew he had to earn enough money to pay off the loan his family obtained because if they could not pay, his father would lose his family's small farm.

Mary is a domestic worker. She had been excited to take the job because it was in a city and she looked forward to seeing new places and making friends. She hoped to start taking some classes at a local university. Once Mary arrived, her employers took her phone and did not let her leave the house unless it was to buy groceries for the family. Mary has been told that if she tries to leave, her sister will be harmed.

Although forced labor is often associated with poor, dangerous working conditions, the elements of coercion and/or deception are necessary to meet the criteria of forced labor. Poverty and unemployment create structures in which workers may accept unfavorable conditions, but these are not inherently situations of forced labor.²⁷ Exploitative working conditions, including situations in which workers are not fairly compensated or are expected to work in dangerous conditions, are not considered forced labor, even if the worker feels compelled to accept the conditions due to economic hardship.²⁸ However, if a worker is paid less than he or she was promised or is forced to do a different job than agreed to—which in many instances of forced labor is more dangerous or has more hours—then it may be a case of forced labor.

Human Trafficking. Human trafficking (also referred to as “trafficking in persons”) is defined by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (often referred to as the Palermo Protocol) as:

Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, or the removal of organs.²⁹

Examples of human trafficking:

Anya was offered a modeling job by a man posing as an agent. She traveled with him to another city, where she was forced to work as a prostitute. Anya was told that if she left, her family and friends would be told that she was working as a prostitute. Her trafficker knew that the stigma Anya would face would mean that she likely would not be able to return home.

27. Forced Labor and Human Trafficking: A Handbook for Labor Inspectors, International Labor Office (ILO), 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

28. Victims of Modern Slavery – frontline staff guidance. Version 3.0, UK Home Office, 2016. <https://www.antislaverycommissioner.co.uk/media/1057/victims-of-modern-slavery-frontline-staff-guidance-v3.pdf>

29. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (a). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>



Joseph was recruited to work in a mine. He was told that he would receive 50 percent of the gold he found. When he arrived, he learned that the men in charge of the artisanal mine took all of the gold that was found and would beat anyone who tried to hide gold or leave. Joseph was given food and a place to sleep but has to work long hours and has not been paid for the gold he found.

Forced labor can occur without the presence of human trafficking, but nearly all victims of human trafficking find themselves in situations of forced labor.³⁰ Although the word “trafficking” is often associated with movement, human trafficking does not require the victims to cross an international border. Victims can be trafficked within their own communities, and in some instances, within their own homes.

When the victims of human trafficking are children, the “means” mentioned in the Palermo Protocol (“...threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits...”) are not necessary for the crime of human trafficking to occur; this is because children cannot consent to being trafficked.³¹ Additionally, consent is not a defense for trafficking adults if any of the means listed in Art. 3 (a) were used.³²

30. Forced Labor and Human Trafficking: A Handbook for Labor Inspectors, International Labor Office (ILO), 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

31. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (c). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

32. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (b). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

WHAT CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING LOOK LIKE

Child labor is present in many sectors and types of work. It occurs most frequently in the informal sector, which is difficult for governments to monitor. The dangers and risks of child labor can vary, depending on the tasks that children are required to perform in different sectors. Forced labor and human trafficking can involve children and adults. In many instances, forced labor is performed in the open, at construction sites, or for agricultural work, giving the appearance of legitimacy. In other instances, forced labor and human trafficking may be more hidden, such as for domestic work, work on fishing boats, and work in factories.

Agriculture: Seasonal agriculture requires an influx of workers during harvest season, putting this sector at a greater risk of using child labor, forced labor, and human trafficking. If parents enlist their child in this type of work, the child may be required to migrate to a rural area. Migrating seasonally for work can make it difficult for children to stay enrolled in school, increasing the likelihood that they will leave school to work. The location of the worksite can cause children to miss school and also make it difficult for the government to monitor worksites for the use of child labor. At farming job sites, children often plow land or herd cattle and can sometimes work up to fourteen hours per day with little or no pay.³³ Industrial farm equipment, silos, manure pits, and pesticides pose great physical risks to children's health and safety.

Agricultural work often relies on migrant workers due to the seasonal nature of the work, which means that workers are less likely to have access to protections provided to full-time employees. Agricultural work that includes harvesting by hand is more likely to have violations. On smaller farms, work is often in the informal sector, increasing the vulnerability of workers. The sector involves unskilled labor, and the sector often is not required to provide the same standards and benefits to agricultural workers as other employees. Agricultural workers are often required to work long hours in high temperatures, putting them at risk for heat-related illness, which can be exacerbated by heavy protective gear. Wages in the agricultural sector are frequently lower than in other sectors, and often workers are paid by quotas or piece, meaning they have to pick or harvest a certain weight of a crop. Failure to pick the quota can mean they will be financially penalized.³⁴ Using a quota system can increase the number of hours workers must work in practice and lead to an increase in child labor if parents need the help of extra workers to meet their quota.

While women perform the majority of agricultural work, they work primarily on family farms and in the informal sector. In many instances, they work off the books to help their husbands meet a quota. Women in the agricultural sector are at risk of harassment and abuse, often from employers. Particularly if the women are migrants and lack legal status, they may fear being deported if they complain or report the abuse.

Landless farmers may be in situations of debt bondage. In many instances, farmers are required to pay for seeds and other inputs, which they may need a loan to pay for, but when the crop is harvested, they may make insufficient profits to recoup their investment. The farmers then have to take on additional loans the next season, increasing their debt. Sharecroppers are also frequently in debt to the owners of the land they are farming. Landless farmworkers, who are fed and housed by their employers, often have money deducted from their wages that exceeds the value of the services being provided, increasing the likelihood that they are in a situation of forced labor. In many instances, the accommodations provided by employers are substandard.

Fishing and Aquaculture: Fishing and aquaculture include wild-caught fishing, farm fishing (aquaculture), and fish processing. At fishing job sites, children often lift heavy fishing loads, clean and process fish, and repair nets. Both fishing and farming commonly involve carrying heavy loads and being exposed to the natural element, putting children at a high risk of physical deterioration or injury. While some children work on small fishing boats locally, others work on larger boats that spend long periods of time at sea, taking children away from their communities and isolating them from others.

33. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>.

34. Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains, Verité, 2017, p. 28. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>



Though involvement in familial fishing or agricultural work can be a normal part of childhood socialization in many communities, it is considered child labor if the tasks are risky, not age appropriate, or if the hours interfere with the child's study or playtime.

Fishing has expanded greatly in recent years, which has led to an increase in illegal, unlicensed, and unregulated fishing. These boats are more likely to rely on forced labor. The boats may catch more than the allowed quota of fish or catch protected species, resulting in dwindling fish populations.³⁵ Because of overfishing, boats must now travel further to catch fish, leading to more time at sea and increasing the vulnerability of those working on boats. Overfishing has also led to an increase in aquaculture. Farm-raised fish are sometimes fed fishmeal, which is sourced through wild-caught fishing.

Fishing in open water is often performed under hazardous conditions, particularly when on an unregulated vessel. Work must be performed on a moving ship, in bad weather or with exposure to the sun, far from medical care, and often for long periods at sea. Boats fishing in colder climates, including the arctic, expose workers to extreme cold. Workers have to use sharp, dangerous tools and heavy nets. Living quarters are often cramped, and there may not be sufficient access to adequate food and water. Workers may be required to work extremely long hours and may be subject to harsh discipline. As the boat may be at sea, workers are not free to leave and may not be able to speak to friends and family by phone. Workers on fishing boats are typically men and boys. Boats may also transfer their catches to smaller boats to avoid having to go to shore, trapping workers at sea for longer periods of time. Many workers on large fishing boats are migrants. These migrants are sometimes recruited and required to pay a fee to obtain the job, which in practice is different from the job that was accepted.

Smaller fishing boats can also lead to instances of debt bondage. On small boats, workers often are paid a portion of the catch by the boat owner, but the owner will frequently under weigh the portions of employees. Employees may also have to pay the boat owners for expenses such as food or supplies, increasing the debt they owe.

The extended exposure to water in both the collection and shrimp farming process leads to infections, fevers, rashes, and snake bites. In the farming phase, many forced laborers are paid very little and are not paid until the end of their

35. Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains, Verité, 2017, p. 74. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>

season, forcing them to take out loans from their employer that they pay off through additional work. Many fish farmers must work eleven-hour days during peak season and can only leave the farming facilities for a few days each month.

Fish and shrimp processing puts workers at risk through exposure to hazards, including cold temperatures, loud noises and vibrations, dangerous machinery and tools, chemicals, and airborne irritants. Work at processing facilities tends to be casual, so workers do not have access to the same protections as in the formal sector. Often, workers are employed on short-term contracts that must be frequently renewed, disincentivizing workers to speak out against conditions. Many workers at fish and shrimp processing facilities are women.

Construction: Construction includes a variety of tasks, including building, maintaining, demolishing, renovating, and repairing structures.³⁶ Construction tends to be performed by men and boys. Construction sites often employ children for building, stone-cutting, or transportation of materials. Construction sites are particularly hazardous. Construction sites are noisy and dangerous and often put children at risk of being hit by falling materials, inhaling dangerous chemicals or dust, being electrocuted by exposed wires, or falling off tall structures. Not only is there a risk of serious injury or death but also a high likelihood of physical deterioration.

Forced labor and human trafficking occur on construction sites, often with migrant workers traveling from South East Asia or East Africa to the Gulf States, where they are forced to work long hours for less pay than they were promised. They are often required to work outside in high temperatures and may lack needed protective gear. Workers recruited for these construction projects are men. Boys and men are also employed at construction sites closer to home.

Forced labor in the stone industry varies greatly by region but can be performed through debt bondage or by migrant workers. Because quarrying cannot be performed during rainy seasons, many families take out loans during those seasons and fall into debt bondage through high interest rates. Forced labor of children is common in this industry. The goal of the stone industry is to dig up large boulders and break them down into more useable pieces. To break down these boulders, the laborers must heat them up using whatever they can find, including tires and other toxic materials. After men break them into chunks, women and children work to transport the rocks and break them down further. This is a hazardous industry, with a high risk of death from falling rocks and heavy exposure to particles causing respiratory diseases.

Forced labor in brick production varies greatly by region, but in certain countries, it stems from a relationship between the caste system and debt bondage. A recruiter or subcontractor will often hire someone to work at a kiln and pay a small advance or loan.³⁷ The individual will then begin working to repay the debt but will never be able to do so because the interest will increase at a rate that no amount of work can match. This debt is often passed on to children after the parent dies, creating multigenerational debt bondage.³⁸ Brick builders are often given high quotas, and many are forced to work long hours. Bricks are used heavily in domestic construction projects, and according to the ILO, all bricks made in southeast Asia are likely made using some form of bonded child labor.³⁹

Domestic Work: Many children are engaged in domestic work, particularly girls, for exceedingly long hours under conditions of extreme isolation. In many cases, these girls are migrating from a rural area of the country to a more urban one. Sometimes they are promised the chance to go to school. The girls are most often not related to their employers. These conditions put children at a high risk of physical, psychological, and sexual abuse. Domestic work often evades government monitoring because it occurs in private homes. Many domestic workers are not paid at all, and there is a common overlap between child labor in domestic work and forced labor.

Migrant workers and children are the most vulnerable populations for forced domestic work and labor trafficking. Because they often work in private homes, they are especially vulnerable to exploitation. Most domestic workers are female

36. Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains, Verité, 2017, p. 38. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>

37. The Economist. "Toil and Trouble: Where Slavery Persists in All but Name." November 3, 2012. <http://www.economist.com/newsasia/21565685-where-slavery-persists-all-name-toil-and-trouble>

38. The Economist. "Toil and Trouble: Where Slavery Persists in All but Name."

39. Buried in Bricks: A Rapid Assessment of Bonded Labor in Brick Kilns in Afghanistan, International Labor Organization (ILO). 2011. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_172671.pdf



migrants working up to 18 hours per day, 7 days per week. Sometimes these individuals are paid far below minimum wage, are locked in their workplace, and are subjected to physical and sexual violence. Domestic workers may face sexual harassment and threats of deportation. Most people employed in domestic work are not covered by labor laws, and 11.5 million of the 67 million domestic workers worldwide are migrants, making them particularly vulnerable to abuse.⁴⁰ Abuses include a lack of healthcare and maternity coverage, unpaid wages, excessive overtime and workloads, and restrictions on movement in situations in which visas are dependent on the employer. The majority of domestic workers are women and girls.

Manufacturing: The manufacturing industry relies heavily on unskilled and manual labor, making the industry particularly vulnerable to child labor. Manufacturers often employ children to make textiles and garments, weave carpets, produce bricks, or complete other rote tasks within a supply chain. These children are often made to work extremely long hours, usually at least 14 hours per day.⁴¹ They are often threatened with violence and sexual abuse and paid negligible wages. The working conditions can also be extremely unhealthy and hazardous. Children often work in the same uncomfortable position doing the same task all day, which causes countless health problems. These children often face severe joint pain, arthritis, eye strain, cuts and wounds, and respiratory illness. Furthermore, the heavy machinery and rotating parts pose a great risk of injury or amputation.

Garment manufacturing relies heavily on seasonal workers, temporary workers, and short-term contracts. Workers are often not able to unionize. Workers in the garment sector are typically female; the vast majority of these workers are women and girls. Workers are often paid a piece rate, which incentivizes them to work excessive hours. Piece work is

40. Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, International Labour Office (ILO), 2017. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

41. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

often performed by subcontractors who work at home, and as a result, it is often impossible for labor inspectors to monitor. Those workers who are paid hourly are often forced to work overtime, under the threat of being blacklisted by the industry.⁴²

Migrant workers are often recruited to work in manufacturing, such as in the garment sector, through a labor broker. The workers then owe a recruitment fee debt to the broker. The workers are often required to live on-site where they work. Once they begin working, their employer may retain their travel documents and a mandatory deposit— often referred to as “runaway insurance”— to prevent the employee from leaving. The migrant workers are often paid far below minimum wage and local employees. These low wages are further reduced by debt repayment and mandatory food, housing, and medical fees.

Mining: Mining is typically very hazardous work, often putting it among the WFCL. Most child labor is used in small-scale mines in remote areas, making it difficult for the government to monitor. Children are often used to chisel away at large stones, dig away gravel and sand, excavate stone, load trucks, and transport materials. These children often work in cramped and unsanitary conditions. They are at risk of explosions, poisonous gases, dust inhalation, falling objects, and biological hazards. Further, they are at a high risk of injury or physical deterioration from carrying heavy loads, bending and squatting, and engaging in repetitive movements.

Mining, such as for gold, is often associated with the presence of violent criminal groups, causing dangerous working conditions. Gold mines are often in isolated areas beyond government oversight. The seclusion and the rushed nature of the work leave local populations vulnerable to labor and sex trafficking. Gold mining is often very high risk, with many workers suffering serious injury or death from mine collapses. Furthermore, dust often leads to lung damage, and the digging leads to muscular and skeletal problems.

Women are more likely to work in small-scale mines (sometimes called artisanal mines) than in large-scale commercial mines. Women perform mining activities as a means to increase family income when subsistence farming is not sufficient to meet the needs of the family. Women and girls are less likely than men and boys to participate in shaft mining.⁴³ Instead, women and girls typically perform tasks including panning, mineral cleaning, and trading, and perform domestic tasks in the camp. Women may also be involved in prostitution; in many instances, these women have been trafficked.

Sexual Exploitation: Over 99 percent of all victims of forced sexual exploitation, also known as sex trafficking, are women and girls; over 70 percent of victims are found in Asia and the Pacific.⁴⁴ Sex trafficking victims are often isolated, kept in brothels or hotels where they are not able to interact with the general public. Victims are often subjected to threats and violence; in some instances, they are forced to become addicted to drugs, making them dependent on their traffickers. Many sex trafficking victims fear law enforcement. They believe law enforcement is complicit with the trafficker, will return them to their traffickers, or will fail to recognize their situation as trafficking and send them back to their home community and the bad situation they left, possibly leading to their being exploited again. This fear can increase if victims have to repay a debt incurred in the migration or recruitment process. Additionally, victims may fear that they will be stigmatized and possibly prosecuted if prostitution is illegal in the jurisdiction.

42. Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains, Verité, 2017, p. 126. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>

43. Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains, Verité, 2017, p. 64. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>

44. Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, International Labour Office (ILO), 2017. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

Exercise 1.1.1: Impacts Icebreaker

Objective:

- To have participants approach child labor, forced labor, and human trafficking from a victim-centered lens.

Time:

 25 minutes

Materials and Preparation:

- Pens/pencils for all participants
- Note cards or sticky notes (one per participant)
- One flip chart
- Tape
- Write “Impacts of Child Labor, Forced Labor, and Human Trafficking” in marker on the top of the flip chart sheet

Steps:

- Explain to participants the goal and process of the activity
 - 2 minutes
- Distribute the note cards, giving one to each participant. Instruct them to each write one impact of child labor, forced labor, and/or human trafficking on their note card.
 - 5 minutes
- Have each participant introduce him or herself and then read what they have written on their note card. If an introductory ice breaker has already been done by the group, participants can skip introducing themselves. Each participant should tape their note card to the flip chart page after they have read the note card aloud.
 - 15 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- There are many impacts of child labor, forced labor, and human trafficking; some impacts are to victims, others are to society and the economy.
- The flip chart will be kept up throughout the workshop, and participants are encouraged to add to it and/or consult it.

Exercise 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking

Objective:

- To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.

Time:

 35 minutes

Materials and Preparation:

- One copy of Handout 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking for each participant
- Pens/ pencils for all participants;
- One flip chart for each group plus one for the facilitator
- One marker for each group plus one for the facilitator
- Overhead slide/ LCD projector with computer

Steps:

- Explain to participants the goal and process of the activity
 - 5 minutes
- Distribute Handout 1.1.2: Definitions of Child Labor, Forced Labor, and Human Trafficking and divide the participants into teams of four or five. Allow participants to review the handouts and work together as a team to write the answers on their flip chart.
 - 15 minutes
- Bring the teams back together and go through the responses as a group, having each team read out loud their answers. The facilitator will keep score on their flip chart, awarding 0 points for an incorrect response, 1 point for a correct response, and 1 additional point if the group responds correctly “incorrect” and provides an accurate correction of the statement. As the response sheets are corrected, engage the participants in discussions regarding the statements and why they are correct/incorrect.
 - 15 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- Understanding the definitions of child labor, forced labor, and human trafficking plays an important role in being able to identify cases
- There are several types of child labor, dependent on the age of the child and type of work performed
- Trafficking does not require crossing an international border

HANDOUT 1.1.2: DEFINITIONS OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

For each statement below, indicate whether it is correct or incorrect. If incorrect, explain why it is incorrect.

1. Child labor is the same thing as child work.
2. Performing age-appropriate domestic chores within the family home is always detrimental to children's welfare.
3. Children may engage in what the International Labour Organization (ILO) calls "light work" from the age of 12 or 13, depending on the country.
4. The ILO does not distinguish between types of child labor.
5. Hazardous child labor only describes child labor that exposes a child to physical or sexual abuse.
6. All victims of sexual exploitation are either women or girls.
7. The term "forced labor" can only be used to describe situations in which the victim is working under dangerous conditions.
8. The "threat of penalty" referred to in the definition of forced labor refers not only to physical or sexual violence but also to threats such as reporting a victim to immigration authorities or withholding of wages or personal documents.
9. Debt bondage is a form of forced labor that no longer exists in the modern world.
10. For the crime of human trafficking to occur, the victim must be transported between locations.
11. The internationally accepted definition of human trafficking can be found in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (often called the Palermo Protocol).
12. "...threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits..." must always be present for the crime of human trafficking to occur.

HANDOUT 1.1.2 KEY: DEFINITIONS OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

For each statement below, indicate whether it is correct or incorrect. If incorrect, explain why it is incorrect.

1. Child labor is the same thing as child work.

Incorrect. Child labor specifically refers to “work that deprives children of their childhood, potential, dignity and which is harmful to their physical and mental development.” Age-appropriate work that does not harm children’s mental, physical, social, or emotional well-being is not defined as child labor and is allowed under international law.

2. Performing age-appropriate domestic chores within the family home is always detrimental to children’s welfare.

Incorrect. Household chores can be benign or even beneficial to children as they allow them to learn responsibility and skills that will serve them in adulthood and contribute to the family’s well-being. However, if performing chores is negatively impacting a child’s schooling or their social and emotional growth, chores can become child labor.

3. Children may engage in what the International Labor Organization (ILO) calls “light work” from the age of 12 or 13, depending on the country.

Correct.

4. The ILO does not distinguish between types of child labor.

Incorrect. The ILO defines a subset of child labor as the “worst forms of child labor.” These include all forms of child slavery (including child labor, debt bondage, and forced child labor), the involvement of children in prostitution or pornography, the involvement of children in illegal activities, and hazardous child labor.

5. Hazardous child labor only describes child labor that exposes a child to physical or sexual abuse.

Incorrect. Hazardous child labor includes all child labor that exposes a child to physical, psychological, or sexual abuse, as well as work conducted in unhealthy conditions or dangerous or difficult environments such as mining or work in confined spaces or around dangerous machinery.

6. All victims of sexual exploitation are either women or girls.

Incorrect. Men, women, boys, girls, and nonbinary individuals can all be victims of sex trafficking. Anyone can be a victim of sex trafficking, regardless of the person’s age, gender, sexual identity or orientation, and socioeconomic status. Traffickers often choose their victims based on perceived vulnerability because traffickers look for people they can easily exploit.

7. The term forced labor can only be used to describe situations in which the victim is working under dangerous conditions.

Incorrect. Forced labor describes any work which the victim was coerced into and is doing under threat of penalty, even if the labor itself is not inherently dangerous or harmful.

8. The “threat of penalty” referred to in the definition of forced labor refers not only to physical or sexual violence but also threats such as reporting a victim to immigration authorities or withholding of wages or personal documents.

Correct.

9. Debt bondage is a form of forced labor that no longer exists in the modern world.

Incorrect. In addition to more traditional systems of debt bondage, which are similar to feudalism, modern debt bondage includes situations in which workers are charged fees from employment agencies that accrue interest they are unable to repay.

10. For the crime of human trafficking to occur, the victim must be transported between locations.

Incorrect. Although it is often associated with the transport of victims, human trafficking does not require the victims to be moved.

11. The internationally accepted definition of human trafficking can be found in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (often called the Palermo Protocol).

Correct.

12. "...threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits..." must always be present for the crime of human trafficking to occur.

Incorrect. When the victim of trafficking is a child, the "means" listed above are not necessary for the crime to occur.



Photo Credit: ©CIAT/Neil Palmer, 2009, Thailand

Lesson 1.2: Indicators of Child Labor, Forced Labor, and Human Trafficking

Objectives:

- Learn to recognize child labor, forced labor, and human trafficking.
- Understand the push-and-pull factors that can lead to child labor, forced labor, and human trafficking.

Time:



2 hours and 15 minutes

Steps:

- Exercise 1.2.1: Indicators Energizer
 - 10 minutes
- Begin presenting PowerPoint Presentation 1.2: Indicators of Child Labor, Forced Labor, and Human Trafficking (until the slide that says Exercise 1.2.2)
 - 30 minutes
- Exercise 1.2.2: Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking
 - 35 minutes
- Finish presenting PowerPoint Presentation 1.2: Indicators of Child Labor, Forced Labor and Human Trafficking
 - 10 minutes
- Exercise 1.2.3: Push-and-Pull Factors
 - 50 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 1.2: Indicators of Child Labor, Forced Labor, and Human Trafficking
- Projector
- Copies of Enforcement Training Program Case Studies 1–4

Being able to recognize child labor, forced labor, and human trafficking is the first step in bringing cases against these offenses. Understanding the indicators of child labor, forced labor, and human trafficking can lead to identifying potential cases that should be investigated and victims who may require assistance.

How to Identify Child Labor

There are several general indicators of child labor that labor inspectors and law enforcement officers should be alert to. These indicators include age-based indicators, vulnerability, recruitment, restriction of movement, threats, dependency, forced labor, and working/living conditions. These topics are expanded on below and can be used as a checklist by labor inspectors and law enforcement.

Age-based indicators:

- Child below the age of compulsory education out of school or at work instead of school
 - Frequent school absences and/or poor performance in school due to working
- Children working at night
- Children working more hours than allowed by the law
- Children doing tasks that are on the country's Hazardous Work List
- Children of an age permitted to do only light work doing work that is not on the country's Light Work List (if the country has such a list) or otherwise does not meet the country's definition of light work

Vulnerability (age, background, deception):

- Cultural tradition/birth status (prior determination of child with "slave" or bonded status)
- Traditional/inherited bondage; recruitment in exchange for a loan or cash advance to parents; recruitment of the child in the context of a tradition perpetuated by those in power; deception about living or working conditions.

Recruitment of child linked to debt (loan or advance allowance) or deceptive promises:

- Deception about the type of work the child will perform and/or skills that will be gained
- Children recruited through false promises of being able to attend school or to see their parents frequently.

Sale of child's labor:

- Someone other than the child benefiting from the sale of the child's labor

Restriction of movement:

- Child has limited freedom of movement and communication with others outside of work
- Child cannot leave his or her living quarters or has a restricted ability to leave
- Child is not allowed to talk to other children or adults
- Child is not allowed to practice his or her religion
- Someone other than the child is holding onto the child's identification documents
- Constant surveillance of a child by an employer, overseers, or armed guards
- Child is not permitted to play with other children
- Child domestic worker is not permitted to eat with the family or interact with the family's children



Living under the threat of penalty/retaliation/fear of punishment/physical abuse:

- Physical, psychological, or sexual violence or threats against child
- Punishment (deprivation of food, water, sleep, etc.)
 - Unfulfilled promises of education or vocational training
 - Wage deductions
- Threats of dismissal
- Child threatened with being reported to the authorities
- Child's family threatened
 - Threat of financial harm to other family members (loss of job/future employment; exclusion of family's access to loans)
 - Child's family threatened with violence
- Punishment/violence inflicted on children in front of the child as a warning
- Child is isolated and prevented from contacting his/her family
- Retention of child's wages or his/her identity papers

Dependency:

- Employer makes decisions in the child's private life (marriage, education, health, religion)
- Food, clothing, and housing are provided by the provider instead of paid wages

Forced work:

- Forced recruitment of child (especially if the child is not working for parents)
- At home looking after younger siblings or helping in family farms or businesses, to the extent that this becomes their main and only activity
- Forced overtime work
- Forced to work on call (day and night)
- Forced to work for the employer's private home or family
 - Forced to work when sick or injured
 - Forced to perform hazardous tasks without protection
 - Children doing dangerous industrial work, such as glassmaking, construction, and carpet weaving
 - Children performing dangerous agricultural work such as being exposed to hazardous machinery and chemicals
 - Children performing domestic work under conditions such as isolation, long hours, and abuse
- Forced to take drugs, alcohol, illegal substances
 - Forced to engage in illicit activities
 - Producing or selling illegal drugs
 - Involvement in gang activity
 - Involvement in illegal arms trafficking
 - Involvement in child sexual exploitation
- Forced to engage in sexual acts
- In criminal forms of exploitation such as slavery, bonded labor, and commercial sexual exploitation involving prostitution, pornography, and sex shows
- Working and living conditions
 - Dangerous work environment
 - Lack of training, safety equipment, and/or supervision
 - Performing dangerous tasks
 - Exposure to drugs and alcohol at work
 - Lack of privacy in living conditions
 - Unsafe living conditions

How to Identify Forced Labor

There are several key indicators that can demonstrate that someone is a victim of forced labor, including abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats/penalties, retention of identity documents, withholding of wages, debt bondage, abusive living and/or working conditions, and excessive overtime. It should be noted that forced labor shares many indicators with human trafficking.

Abuse of vulnerability:

- Tradition, birth (birth/descent into "slave" or bonded status)
- Coercive recruitment
- Sale of the worker
- Use of excessive recruitment fees

Deception:

- Work as performed is different from the work that was promised
 - Includes things such as the nature of the work, living conditions, hours, wages, housing, job location, identification of employer, or acquisition of legal status

Restriction of movement:

- Workers are not free to enter and exit the work premises
- Movements controlled inside the workplace through the use of surveillance cameras or guards
- Workers are accompanied by agents of the employer when traveling to or from the worksite
- Workers unable to terminate their employment due to their employer paying for training or other benefits
- Workers unable to resign in accordance with legal requirements
- Workers forced to continue working so they will not forfeit unpaid wages

Isolation:

- Workers isolated in remote locations and denied contact with the outside world
- Workers may not know where they are; the work site may be far from population centers and without transportation
- Workers in populated areas are isolated behind closed doors without means of communication to prevent them from contacting their families or seeking help
- The business is informal and not registered, making it very difficult for law enforcement or other agencies to locate and monitor the business



Photo Credit: ©2010CIAT/NeilPalmer, 2010, Bolivia

Physical and sexual violence:

- Workers, their families, and friends may be subjected to violence.
- Forced to take drugs or alcohol
- Violence used to force a worker to perform tasks that were not part of the job as agreed
- Physical abduction or kidnapping

Intimidation and threats/penalty:⁴⁵

- Workers threatened or intimidated if they complain about conditions or try to quit
 - Threats may include threats of violence, denunciation to the authorities, loss of wages or access to housing or land, the firing of family members, worsening of working conditions, or loss of “privileges” such as the right to leave the workplace
 - Other forms of punishment such as deprivation of food, water, or sleep
 - Violence against a worker in front of other workers
 - Threats to a worker’s family members
 - Removal of rights or privileges
 - Psychological coercion through insults and undermining workers

Retention of identity documents:

- Confiscation of identity paper or travel documents
- Worker unable to access personal documents

Withholding of wages:

- Worker unable to access his or her wages
- Wages withheld to cover “expenses” due to the employer, such as food or accommodation, often at inflated prices
- Wages withheld to cover recruitment fees
- Wages withheld for long periods, forcing a worker to stay until he or she is paid

Debt bondage:

- Worker owes a debt to the employer, which is deducted from wages; the worker is unable to leave the job until the debt has been paid off
- Worker or his/her family took out a loan used to pay a recruitment fee; the debt cannot be repaid without having a job, so the worker must stay in an exploitative form of employment. High recruitment fees are often charged to trap employees in this way.
- A worker incurs debt over time for “expenses” such as an inflated cost of food and housing, which the employee is not able to repay

45. The credibility and impact of the threats must be evaluated from the worker’s perspective, taking into account his or her individual beliefs, age, cultural background and social and economic status.

Abusive living and working conditions:

- Living and working conditions that workers would not freely accept
- Work performed under conditions that are degrading, or hazardous, and in violation of labor law
- Workers are subjected to substandard living conditions, such as overcrowded accommodations, unhealthy conditions, and are without any privacy

Excessive overtime:

- Workers forced to work excessive hours or days beyond the legal limits
- Workers forced to work on-call (night and day)

How to Identify Human Trafficking

Human trafficking indicators can be linked to the elements of trafficking offenses: act, means, and purpose. Indicators are present at each stage of the trafficking process, and it is important for labor inspectors, police officers, immigration officers, and first responders to be aware of what to look for. Human trafficking and forced labor share many indicators in common.

ACT:

Human trafficking requires one of the following acts: recruitment, transportation, transfer, harboring, or receipt of persons. Each of these acts has different indicators as detailed below:

Recruitment:

- Ads for jobs that appear too good to be true
- Charging recruitment fees, particularly high fees
- Recruiters requiring workers to pay back travel costs
- Recruiters not providing a contract or providing a different contract once a worker arrives at his or her destination

Transportation:

- A child or group of children traveling with an adult they are not related to
- A group of travelers whose travel documents and/or valuables are being held by one person who appears to be in charge
- False travel or identity documents
- A group traveling together with no common language or a limited means of communicating with each other
- Last-minute ticket purchases, including for flights
- One person speaking for a group traveling together when asked questions
- Using routes associated with trafficking
- One person in a group making all the purchase for the group, including food
- Only one person in the group having local currency

Transfer:

- Giving a child or adult to an employer or exploiter
- Negotiating a sale or contracting for the work of a child or adult

Harboring:

- Accommodation for a group purchased by one person (indicating that others may not have access to money)
- Someone who frequently brings different people to a hotel for a short period of time

Receipt:

- People working on the premises who appear to have been trafficked
- Children working on the premises in violation of child labor legislation
- Charging workers high prices for food, accommodation, or other needs

MEANS:

Human trafficking relies on means that include the threat or use of force or other forms of coercion, abduction, fraud, deception; the abuse of power or of a position of vulnerability; or the giving or receiving of payments or benefits to achieve a person's consent to be controlled by another person. Indicators of means are included below:

Threat or use of force or other forms of coercion:

- A person shows signs of fear or physical abuse
- Injuries, including frequent visits to a hospital or other medical provider for injuries
- Individual unwilling to answer questions or identify his/her employer

Abduction:

- A person was physically taken against their will
- Someone reports the disappearance of a friend or family member under circumstances that appear to be involuntary

Fraud:

- A person has to perform tasks or a job that was not included in his/her employment contract
- A person has to work for an employer other than the employer named in the contract

Deception:

- A person has been misled about their job, tasks, working conditions, employer, and/or accommodations

Abuse of power or a position of vulnerability:

- A person using the power of their position over another, such as a teacher over a student
- A person taking advantage of another's vulnerability, such as being orphaned or a refugee

Giving or receiving of payments or benefits to achieve the consent of a person having control over another person:

- Making payments or giving gifts to a parent or guardian

PURPOSE:

Human trafficking is perpetrated for the purpose of exploitation. Exploitation includes prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.

Prostitution of others or other forms of sexual exploitation:

- Brothel or other location offering the sexual services of children

Forced labor or services (refer to forced labor indicators section for a more comprehensive list):

- Workers forced to work long hours and/or not provided time off
- Workers forced to work in dangerous conditions
- Workers not provided with protective equipment
- Workers are isolated, not able to contact friends or family

Slavery or practices similar to slavery and Servitude:

- Bonded labor
- Employer appears to own the worker(s)
- Generational debt bondage, children are working to pay off the debts of their parents

Removal of organs:

- Scars that indicate a kidney has been removed



Photo Credit: Arcadiuș, 2011, Paraguay

Push and Pull Factors

Several factors can push and pull people into child labor, forced labor, and human trafficking. Push factors are circumstances that cause people to look for something that is new or different, often due to a lack of options and opportunities in their current employment or situation. Push factors include poverty, natural disasters, armed conflict and other crises, broken families and domestic violence, migration, disabilities, and discrimination. Pull factors are things that may lure people to different types of work. Pull factors include things such as a desire to gain new skills and see new places.

Poverty: Poverty is one of the main reasons that children engage in child labor; families put children to work so that the family can benefit from the extra income. The short-term benefit of not having to pay school fees and other school-related expenses such as books and uniforms can play into this decision as well. Unfortunately, by pulling children out of school and putting children to work, poverty continues as children earn less than adults, and a lack of education often traps the children in low-paying jobs even when they are adults.

Poverty increases the vulnerability of both children and adults. Many adults may struggle to find employment in their communities due to high levels of unemployment, a lack of skilled jobs, and a heavy reliance on the informal sector. Adults need to cover expenses such as food, housing, and medical care, and those living in poverty may seize on a chance to increase their earnings and end up in a situation of human trafficking or forced labor.

Natural disasters, armed conflict, and other crises: Crises cause upheaval and increase vulnerabilities for children and adults. In many instances, schools close, leaving children with time to fill. An example is the COVID-19 pandemic, which has led to many children being out of school, and many adults losing their incomes, factors that could result in increases in child labor. Other crises families face include losing their income if crops or businesses are destroyed, causing them to look for alternate sources of income, such as child labor. The need for extra income can be even more acute if a parent is killed or injured as a result of the crisis. After a disaster, adults will also be looking for jobs to replace ones that were lost, particularly if they need to cover expenses to rebuild a home or have lost assets such as crops or a business.

The work available after a natural disaster is often hazardous for children, such as construction, increasing the risks to children. Families may have to move as a result of a natural disaster if their homes were destroyed or they are fleeing violence, and becoming displaced increases the risk of child labor, forced labor, and human trafficking.

Broken families and domestic violence: Children in homes with drug or alcohol abuse, domestic violence, or who are victims of sexual assault are more likely to be sex trafficked. These children are more likely to look for work that keeps them out of their homes. Women and girls who are subjected to violence at home or who are being pressured to enter an early or forced marriage may look for employment opportunities outside of their communities. This can put them at risk for trafficking or forced labor.

Migrants: Migrants are vulnerable to child labor, forced labor, and human trafficking. Migrant children often are unable to attend school either because they are traveling with their families seasonally for work and would have to transfer schools too frequently or because they cannot access schools in a different country because they lack residency status or do not speak the local language. Because of this, and the poverty of many migrant families, migrant children can end up in child labor, primarily in the informal sector. Migrant children who migrate alone are also vulnerable to child labor.

Migrant adults can be pushed into forced labor and human trafficking. While migrants who migrate legally can find employment in the formal sector, migrant adults who migrate illegally are often unable to access work in the formal sector because they lack residency or the needed travel documents. Additionally, illegal migrants are often unwilling to access medical or other assistance because they fear being deported. This can increase the odds of being exploited because traffickers and exploitative employers are aware of migrants' reluctance to seek assistance from law enforcement or other authorities.

Disabilities: Many schools cannot accommodate children with disabilities, leading parents to pull them from school to work. Disabled children are sometimes trafficked for forced begging. Disabled adults may struggle to find work in the formal sector and instead have to work in the informal sector, where they may find themselves in exploitative labor because of their vulnerability and limited employment options.

Discrimination: Some families that have lower social status, such as from being from an ethnic minority, indigenous group, religious minority, or a lower caste, may have more limited economic options and historical discrimination that results in fewer assets and opportunities. Given these challenges, the families are pushed into removing their children from school because they need the children to bring in extra income. In some cases, the families may be in situations of bonded labor that also cause the children to work at young ages.

Discrimination may cause adults to be in bonded labor within their communities or to look for opportunities to work in locations farther away, where they may not be subject to the same discrimination. The decision to look for work farther away may also lead to exploitation, particularly if the employers are seeking out vulnerable workers and the workers are unskilled.

Desire to gain new skills: Children and their families may feel that having a child work and gain skills on the job is more useful than attending school. Many believe that these skills will help a child gain a better job in the future. Most children who leave school early will enter unskilled positions, where they will not learn skills as valuable as they would in school or through a vocational or apprenticeship program.

Adults may see the chance to work for a different type of company or doing different work as a way to further their career. Working in a big hotel overseas might help them start a small hotel closer to home or learn how to cook a new type of food as a line cook, which could land them a good job as a chef in a restaurant.

Desire to see new places: Adults and children may be lured by the prospect of traveling to a new location or country to work. Recruiters will often talk of the opportunities in far-away places, the chance to meet new people, see new things, and have new experiences. Employers may offer to advance the travel costs, which will have to be repaid. In reality, the employee may end up trapped in their new job.



Photo Credit: Flore de Preneuf/PROFOR, 2012, Liberia

Exercise 1.2.1: Indicators Energizer

Objective:

- To help participants start thinking about indicators of child labor, forced labor, and human trafficking.

Time:

 15 minutes

Materials and Preparation:

- Note cards, at least one per participant
- Pens/pencils for all participants

Steps:

- Explain to participants the goal and process of the activity
 - 1 minute
- Have each participant write an indicator of child labor, forced labor, and/or human trafficking on their note card.
 - 4 minutes
- Tell the participants they have one minute to get up, walk around, and switch cards with at least three people. Then tell participants that each of them has received a note card that is a “tip.” Have each participant read what is on the card they have been given, and then have each participant tell the group what their card says and why they think it could be an indicator of child labor, forced labor, and/or human trafficking.
 - 10 minutes

Exercise 1.2.2: Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking

Objective:

- To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.

Time:

 35 minutes

Materials and Preparation:

- One copy of Handout 1.2.1: Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking for each participant
- Pens/pencils for all participants
- One flip chart for each group plus one for the facilitator
- One marker for each group plus one for the facilitator
- Flip chart paper prepared with a chart that is numbered 1–10 and has the categories found in Handout 1.2.1: Recognizing Cases of Child Labor, Forced Labor, and Human Trafficking (child labor, hazardous work, etc.)

Steps:

- Explain to participants the goal and process of the activity
 - 5 minutes
- Distribute Handout 1.2.1 and divide the participants into teams of four or five. Allow participants to review the handouts and work together as a team to write the answers on their copy of the handout.
 - 15 minutes
- Bring the teams back together and go through the responses as a group, asking what groups answered for each question, going question by question. The facilitator will check off each category identified by the groups for each question and then lead a discussion about how the groups made their decisions and what the correct answers are.
 - 15 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- It is important to remember that a worker can be engaged in multiple types of exploitation at the same time.
- Knowing the different categories of child labor and permitted child work will help identify whether work is permissible.
- Not all work that has poor conditions qualifies as forced labor or human trafficking. That does not mean that other violations cannot be addressed or that workers cannot be compensated.



Photo Credit: Bioversity International/Alfredo Camacho, 2007, Bolivia

HANDOUT 1.2.2: RECOGNIZING CASES OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

Scenario	Child Labor	Hazardous Work	WFCL	Forced Labor	Human Trafficking	Child Work	Adult Work
Dan is 20 years old and works on a construction site where he works 10 hours per day. He is still trying to pay back the cost of his flight to the country and a fee he paid a recruiter.							
Abby is 13 years old. She traveled to the capital to go to school and stay with the family, who offered to pay for her school fees. She is required to spend most of her day cleaning the house and rarely goes to school.							
John is 25 years old. He got a job at a quarry. The work is hard. He has to cut and carry heavy stones. He gets one day off per week and is paid his salary every two weeks.							
Helen is 14 years old. She works after school in a printing shop where she helps take orders and organizes printed materials.							
Carlos is 16 years old. He works on a ranch where he helps herd cattle and does other tasks related to animals.							
Nadia is 24 years old. She accepted a job as a secretary but has been required to perform sexual acts for her boss's clients as well. She has been beaten when she has refused.							
James is 32 years old. He took a short-term job on a fishing boat. He has been on the boat for a year. He has not been able to leave and has not been able to access his salary.							
Mercy is 12 years old. Her mother has a job sewing clothes. Mercy's mother is only paid once she reaches her quota. Mercy often has to help her mother with sewing. She goes to school but falls asleep in class.							



Scenario	Child Labor	Hazardous Work	WFCL	Forced Labor	Human Trafficking	Child Work	Adult Work
Mark is 18 years old. He works in an artisanal mine. He works with chemicals but does not have any protective equipment because he cannot afford it.							
Ana is 22 years old. She works on a farm using machetes to cut crops. She works long hours and cannot leave the farm to see her family; she is required to live with the other farmers.							

HANDOUT 1.2.2 KEY: RECOGNIZING CASES OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

Scenario	Child Labor	Hazardous Work	WFCL	Forced Labor	Human Trafficking	Child Work	Adult Work
Dan is 20 years old and works on a construction site where he works 10 hours per day. He is still trying to pay back the cost of his flight to the country and a fee he paid a recruiter.				x	x most likely because of debt bondage		
Abby is 13 years old. She traveled to the capital to go to school and stay with the family, who offered to pay for her school fees. She is required to spend most of her day cleaning the house and rarely goes to school.	x	Depends on the tasks she performs		x	x		
John is 25 years old. He got a job at a quarry. The work is hard. He has to cut and carry heavy stones. He gets one day off per week and is paid his salary every two weeks.							X hard work does not mean human trafficking
Helen is 14 years old. She works after school in a printing shop where she helps take orders and organizes printed materials.						x	
Carlos is 16 years old. He works on a ranch where he helps herd cattle and does other tasks related to animals.	x	X working with animals	x				
Nadia is 24 years old. She accepted a job as a secretary but has been required to perform sexual acts for her boss's clients as well. She has been beaten when she has refused.				x	x		
James is 32 years old. He took a short-term job on a fishing boat. He has been on the boat for a year. He has not been able to leave and has not been able to access his salary.				x	x		
Mercy is 12 years old. Her mother has a job sewing clothes. Mercy's mother is only paid once she reaches her quota. Mercy often has to help her mother with sewing. She goes to school but falls asleep in class.	x						

Scenario	Child Labor	Hazardous Work	WFCL	Forced Labor	Human Trafficking	Child Work	Adult Work
Mark is 18 years old. He works in an artisanal mine. He works with chemicals but does not have any protective equipment because he cannot afford it.							X safety issues but likely not forced labor; needs further investigation
Ana is 22 years old. She works on a farm using machetes to cut crops. She works long hours and cannot leave the farm to see her family; she is required to live with the other farmers.				x	x		

Exercise 1.2.3: Push-and-Pull Factors

Objective:

- To ensure participants understand push-and pull-factors and are able to recognize indicators of child labor, forced labor, and human trafficking.

Time:

 50 minutes

Materials and Preparation:

- Copies of the Enforcement Training Program Case Studies 1–4
- Pens/pencils for all participants
- One flip chart for each group plus one for the facilitator
- One marker for each group plus one for the facilitator
- Flip chart paper with the following written on it:
 - What are the push-and-pull factors in the scenario?
 - Is the case child labor, forced labor, human trafficking, or more than one of these?
 - What are the indicators of child labor, forced labor, and/or human trafficking in the scenario?

Steps:

- Explain to participants the goal and process of the activity
 - 5 minutes
- Divide the participants into four groups. Provide each group with a copy of a different case study. Instruct each group to answer the three questions listed on the flip chart paper using their case study.
 - 15 minutes
- Bring the teams back together and have each group present their findings, beginning by reading the case study to the group and then answering the questions. Allow the group to discuss each case study if others have comments.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- There are many factors that can push or pull someone into child labor, forced labor, and human trafficking.
- Some indicators of child labor, forced labor, and human trafficking may be easier to recognize than others.
- These four case studies will be used throughout the workshop to help track the experience of victims during all stages of a child labor, forced labor, and human trafficking case. At the end of the workshop, the group will review each story and how each victim experienced the trial process.

Lesson 1.3: Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes

Objective:

- Learn to distinguish between child labor, forced labor, and human trafficking; trafficking from migrant smuggling; and child labor from child work.
- Learn to recognize common myths and misconceptions about child labor, forced labor, and human trafficking so that more cases of child labor, forced labor, and human trafficking can be properly identified.

Time:

 75 minutes

Steps:

- Exercise 1.3.1: Myths and Facts About Child Labor, Forced Labor, and Human Trafficking
 - 15 minutes
- PowerPoint Presentation 1.3: Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes
 - 30 minutes
- Exercise 1.3.1: Myths and Facts About Child Labor, Forced Labor, and Human Trafficking Recap
 - 30 minutes

Supplies:

- PowerPoint Presentation 1.3: Distinguishing Child Labor, Forced Labor, and Human Trafficking from Other Crimes
- Projector
- Copies of Handout 1.3.1: Myths and Facts About Child Labor, Forced Labor, and Human Trafficking
- Pens or pencils

Distinguishing Child Labor, Forced Labor, and Human Trafficking from Each Other

Child labor, forced labor, and human trafficking may have overlapping and similar concepts, but the elements that make up the crimes are not identical. They are three separate crimes. Distinguishing between child labor, forced labor, and human trafficking is especially important when thinking about how to bring charges against suspected offenders because it is possible someone could be tried for more than one of the crimes at the same time due to the nature of their actions.

Interrelated definitions can make the distinctions difficult to understand, but it is easier to understand the distinction between child labor, forced labor, and human trafficking if you start by considering trafficking and what elements make up the crime. Human trafficking requires a form of exploitation, which can be a worst form of child labor (WFCL) or forced labor. Human trafficking can include child labor or forced labor, but not all child labor or forced labor is human trafficking.

Below are more detailed explanations of the distinctions between child labor, human trafficking, and forced labor and between forced labor and human trafficking.

Child Labor vs. Human Trafficking and Forced Labor

Human trafficking of a child victim, or child trafficking, should first be distinguished from human trafficking. Unlike human trafficking, child trafficking does not require the use of threat or use of force or any form of coercion, abduction, fraud, deception, or abuse of power or of a position of vulnerability.⁴⁶ Additionally, under the Palermo Protocol, children cannot consent to being trafficked.

Child trafficking and forced labor of children can fall under the umbrella of child trafficking. Child labor includes several different types of illegal child work, such as children working below the minimum age of employment or working more hours than legally permitted, as well as children engaged in any of the WFCL. Child trafficking and forced labor of children are WFCL.⁴⁷ For more information on child labor definitions, refer to Lesson 1.1. While all child trafficking and the forced labor of children can be considered child labor, it is important to remember that not all child labor (or WFCL) is child trafficking or child forced labor. Figure 7 below explains the relationship between child labor and child trafficking and forced labor of children.

Figure 7: Relationship between Child Labor, Child Trafficking, and Forced Labor of Children



46. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (c). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

47. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182). (Entered into force November 19, 2000). International Labour Organization (ILO) Art 3(a). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEX-PUB:12100:0::NO::P12100_ILO_CODE:C182

Forced Labor vs. Human Trafficking

Forced labor and human trafficking are similar crimes that can be challenging to distinguish. Under the Palermo Protocol, forced labor is one of the acts that can constitute human trafficking.⁴⁸ Some countries have laws that include forced labor as a type of human trafficking, while others include forced labor as a separate offense. The ILO describes the difference between forced labor and human trafficking by noting that “not all forced labor is a result of human trafficking”⁴⁹ but that “almost all cases of human trafficking result in forced labor,” with organ trafficking being an exception. This is because the definition of forced labor is more expansive than human trafficking as it covers “any work or service extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁵⁰ It does not require a specific act, means, and purpose as human trafficking does, and as a result, it can be easier to prove a forced labor case than a human trafficking case in countries that have forced labor as a separate offense. It is also important to note that because forced labor’s definition is more broad, it can cover government-imposed forced labor, such as in Uzbekistan’s cotton sector.⁵¹ Additionally, it is important to remember that poor working conditions are not the same as forced labor.

Distinguishing Human Trafficking from Smuggling

It is important that victims of human trafficking are properly identified as trafficking victims and not as smuggled migrants. It is also crucial to remember that people who are voluntarily smuggled are often trafficked by either their smuggler or someone else upon arrival at their destination. Because countries have different responsibilities with regard to how they address human trafficking victims and smuggled migrants, correct identification is crucial to ensuring victims of human trafficking receive the necessary support and that their cases are handled properly. A trafficked person is automatically a victim of a crime and is entitled to protection and government assistance. Without understanding the distinction between smuggled migrants and victims of trafficking, it is easy to misidentify trafficked persons as illegal migrants. Misidentification can lead to detrimental outcomes for trafficked victims if they are deported or detained for immigration offenses instead of provided needed support and assistance, causing even more trauma. Additionally, human trafficking cannot be fully addressed if opportunities for investigating and collecting evidence are missed because of misidentified cases.

There is often confusion between human trafficking and migrant smuggling, and while there can be overlapping characteristics, they are not the same. Smuggling of migrants means “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.”⁵² Human trafficking is somewhat similar to smuggling in that trafficking can involve the transfer of a person across borders. However, while smugglers transfer people for the purpose of gaining payment from the person being smuggled, traffickers transfer people for the purpose of exploiting them.

48. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (a). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

49. Forced Labour and Human Trafficking: handbook for labour inspectors. International Labour Organization (ILO), at 5, 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

50. Convention concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932), Art 2 (1). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

51. Findings on the Worst Forms of Child Labor—Uzbekistan, U.S. Department of Labor, 2018. <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/uzbekistan> and Trafficking in Persons Report: Uzbekistan, United States Department of State 2020. <https://www.state.gov/reports/2020-trafficking-in-persons-report/uzbekistan/>

52. Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000. (Entered into force 28 January 2004), Article 3. https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf

Smuggling and Trafficking Differ in the Following Ways:^{53, 54, 55}

- Smuggling a person means to facilitate that person's illegal crossing of a border and entry into a country that he or she chose to enter. The person's choice and consent in the process is a distinguishing feature of migrant smuggling. Although smuggling often involves dangerous conditions and mistreatment, mistreatment or harm is not a necessary element of the crime of smuggling. Therefore, the person being smuggled is not automatically a victim as a result of the migrant smuggling, but they can be a victim if there has been additional harm. In contrast, when a trafficked person is transported across international borders, the victim is intentionally forced or tricked into recruitment and transport. A person cannot consent to being trafficked. The crime also includes the necessary element of exploitation after transport. A trafficked person, unlike a smuggled person, is automatically a victim as a result of the trafficking itself.
- Smuggling is a crime against the state and the state's sovereignty. Human trafficking is a crime against the individual and their right to be free from involuntary servitude.
- Smuggling requires the illegal crossing of international borders. Trafficking does not require the crossing of international borders, although it can. Trafficking can occur completely within national borders.
- With smuggling, the smuggler uses illegal documentation or unofficial ports or points of entry. Traffickers may use either legal or illegal documents.
- The relationships between the smuggler and the migrant, and the trafficker and the victim, also differ. The smuggler and the migrant are partners in a commercial interaction with the migrant contracting with the smuggler to assist him or her across a border. The migrant enters into the arrangement willingly. The smuggler has no intention of exploiting the smuggled person after the migrant has successfully crossed the border. The relationship between a smuggler and the smuggled person is short term. In contrast, the relationship between a trafficker and a victim is rooted in exploitation and is longer in duration, often indefinite. If a trafficking victim has crossed an international border, the relationship does not end there. The intention of the trafficker is to exploit the victim in the new country. Victims of trafficking may have agreed to the illegal border crossing, but the initial consent is negated by subsequent improper means (threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, giving payments or benefits to a person in control of victim) used by traffickers, with the intent to further exploit the victim. However, this distinction is not to say a smuggled migrant cannot become a victim of trafficking if the smuggler exploits the person, sells the person and his or her debt (the smuggling fee the person smuggled owes), or forces the person to work off transportation costs through exploitation.
- The smuggler profits from the migrant's smuggling fees. The trafficker continues to control the victim after the border crossing, if there is a crossing, to continue profiting through exploiting the victim.

53. Anti-Trafficking Training Material for Judges and Prosecutors Background. International Centre for Migration Policy Development, 2006. https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/icmpd_curriculum_2006_en_1.pdf

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Key differences between smuggling and trafficking are shown in the chart below:

Figure 8: Key Differences between Smuggling and Human Trafficking

Smuggling	Trafficking
Crime against the state	Crime against an individual
Commercial relationship between smuggler and person being smuggled	Exploitative relationship between trafficker and person being trafficked
Illegal border crossing is a requirement for the crime	Illegal border crossing is not required but may have occurred
Migrant must consent to crossing a border illegally	Consent is not relevant if the trafficker used force or coercion at any point in the process

Distinguishing Child Labor from Child Work

Child labor and child work are both forms of children in employment, with the first being illegal and the second being legal. Child work encompasses legal work that children are allowed to perform in a particular jurisdiction. The types of work children are permitted to perform often include light work, and once the child has reached the minimum age for employment, full-time non-hazardous work. Child work is work that is beneficial for children, as it helps them gain skills and responsibilities while also earning income. Work performed by children cannot harm their health, safety, or morals, and in the case of light work, it cannot harm their education.

Child labor refers to illegal child employment. Child labor includes children performing light work below the minimum age for light work or engaging in full-time employment when they are under the minimum age for employment. Children engaged in any of the WFCL, including hazardous work, are also in child labor.

MYTHS AND MISCONCEPTIONS

There are many myths and misconceptions about child labor, forced labor, and human trafficking that must be corrected if governments are to address the crime properly. Myths and misconceptions can result in the failure of criminal justice professionals to identify crimes when they occur, preventing victims from having access to the care and assistance they need.

Child Labor Myths and Misconceptions:⁵⁶

Myth: Many people work as children, and it does not cause any harm.

Fact: Working as a child, or child work, is not the same as child labor. Jobs like doing chores around the house, after-school jobs, or babysitting are not child labor. By definition, child labor is mentally or physically dangerous and harmful to children and interferes with their ability to go to school.

Myth: Child labor is necessary to help children and their families survive extreme poverty.

Fact: Often, child labor makes situations of extreme poverty worse because children are unable to go to school and receive an education that may prepare them for a stable and better paying job. Victims of child labor may not have any opportunity to receive a basic education because they are working during school hours. Additionally, working in hazardous conditions exposes children to risks to their physical or mental health, which also affects their ability to work in the future.

Myth: Child labor is necessary for a country's economic growth and development.

Fact: Child labor is an obstacle to not an inevitable consequence of growth and development. Child labor leads to lower national income, depressed wages, increased adult unemployment, slow technological advancements, and difficulty attracting foreign investors.

56. "Unlucky for some: 13 myths about child labor." World Vision Australia, 2012. <https://www.worldvision.com.au/docs/default-source/school-re-sources/myths-about-child-labour.pdf>

Myth: All children who work are engaged in child labor.

Fact: Many children who work are engaged in legal employment, such as light work and other non-hazardous work (provided the children have reached the required minimum ages).

Myth: No child under the minimum age for employment can perform any work.

Fact: While this is true in some countries, in many countries, children are permitted to perform light work, which is part-time work that does not negatively impact their health, safety, morals, or education. Typically, light work is permitted for children who are 13 years and older, but this varies by country.

Myth: Victims of child labor only work in sweatshops and factories.

Fact: Victims of child labor work in a wide range of industries. Many victims of child labor work in agriculture and farming, while others work in the mining and construction industries.

Myth: Victims of child labor do not perform difficult tasks, so they are not really at risk.

Fact: The work that victims of child labor perform is hazardous or dangerous to their physical and/or mental health. Many victims suffer long-term health problems because of malnutrition, chemical exposure, abuse, injury, exhaustion, and psychological harm.

Myth: Victims of child labor can easily go back to school once they are done working and have made some money.

Fact: Victims of child labor do not often have control over when they can stop working. Even if they have made some money, it is likely not enough to save for future educational expenses and schooling. Additionally, if children have been forced into child labor from a young age, it will be difficult to reintegrate into the schooling system and catch up.

Human Trafficking and Forced Labor Myths and Misconceptions:^{57, 58}

Myth: Trafficking requires movement, so trafficking victims are foreign nationals or immigrants from other countries.

Fact: Trafficking can occur entirely within a country's borders, meaning that a person can be a victim of trafficking within his or her own country. Movement across international borders may be involved, but the legal definition of human trafficking does not require the element of international travel, transportation, or movement.

Myth: All victims of sex trafficking are women.

Fact: Men, women, boys, girls, and nonbinary individuals can all be victims of sex trafficking. Anyone can be a victim of sex trafficking, regardless of their age, gender, sexual identity or orientation, and socioeconomic status. Traffickers often choose their victims based on perceived vulnerability because traffickers look for people they can easily exploit.

Myth: If a person consents to their initial working condition and is informed of the type of labor he or she would be doing, then it is not forced labor or human trafficking.

Fact: When identifying a victim of forced labor or human trafficking, initial consent to provide labor does not negate the fact that the victim was subsequently subjected to force, fraud, or coercion to get the person to continue working against his or her will. If coercion is used for further exploitation, the person is a victim, even if he or she initially provided consent to the situation.

57. Human Trafficking: A guide for criminal justice professionals. Wisconsin Department of Justice, 2020. <https://www.doj.state.wi.us/sites/default/files/ocvs/human%20trafficking/DOJ%20HT%20Guide%20for%20Criminal%20Justice%20Professionals%20Jan%202020.pdf>

58. Student Toolkit. National Human Trafficking Resource Center, 2013. <https://humantraffickinghotline.org/studenttoolkit>

Myth: Victims must be physically restrained for trafficking to have occurred.

Fact: Physical restraint, bodily harm, or physical force is not an essential element of the crime of human trafficking. While physical restraint may occur, psychological control, such as through the use of threats, is sufficient to meet the elements of human trafficking.

Myth: Victims are quick to seek help or assistance and will self-identify as victims of a crime.

Fact: Often, victims of trafficking will not seek any help and will not consider themselves victims of a crime. This is because they lack trust in the legal and criminal justice systems, self-blame, or believe the misinformation traffickers have told them. Therefore, it is crucial for law enforcement and service providers to be able to recognize the signs of human trafficking so that victims are identified and assisted because otherwise, they may never seek help.

Myth: Human trafficking and forced labor only occur in illegal industries.

Fact: Human trafficking can occur in both legal and illegal industries. The industry or type of work is not the criminal part of the act. Trafficking can occur in legal industries that are fully visible to the public, such as tourism, fishing, hospitality, and agriculture.

Myth: Trafficking victims who are in a foreign country are undocumented immigrants or in the country illegally.

Fact: Victims of human trafficking can be in a foreign country through either illegal or legal means. Some victims have obtained visas and have legal documents.

Myth: Victims of human trafficking and forced labor are always from areas with high poverty or are from rural villages.

Fact: While poverty may be a factor that makes the victim vulnerable in the eyes of the trafficker or exploiter, poverty alone is not a universal risk factor for human trafficking and forced labor. Trafficking victims can come from a range of socioeconomic backgrounds.



Photo Credit: Aquistbe, 1968, Bolivia

Exercise 1.3.1: Myths and Facts about Child Labor, Forced Labor, and Human Trafficking

Objective:

To identify common myths about child labor, forced labor, and human trafficking; identify sources of misconceptions; and clarify information about child labor, forced labor, and human trafficking to better understand the reality of child labor, forced labor, and human trafficking. Ideally, this exercise will be completed in two parts, as a preview to Lesson 1.3 and as a closing activity for the lesson.

Time:

 50 minutes

Materials and Preparation:

- Make copies of Handout 1.3.1A: Child Labor, Forced Labor, and Human Trafficking: *True or False?* for each group.
- Before the facilitator teaches Lesson 1.3, have participants complete the “pre-lesson” portion of the handout. They will keep this handout throughout the lesson, as they will refer to it again at the end of the lesson.
- Pens or pencils

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants if they think they personally have a good understanding of child labor, forced labor, and human trafficking and whether they think they would be able to identify common myths and misconceptions.
- Break up the group of participants into groups of two. Each group of participants should have one handout.
- Ask participants, in their groups of two, to look at the handout and take note of the “pre-lesson” and “post-lesson” columns.
- Instruct participants to discuss each statement on the handout with their partner and to write “true” or “false” in the “pre-lesson” column for each statement.
 - 10 minutes
- The facilitator should then teach Lesson 1.3 as planned.
- After the lesson, have participants, in their original pairs, go through the statements in the handout again to see if any of their responses to the questions have changed based on what they have learned in the lesson. Any changes should be marked on their response sheets.
 - 5 minutes
- Reconvene once participants have finished.
- As a group, go over the list of statements on the handout, then ask volunteers to state the correct answer for each statement and why that answer is correct. Refer back to Lesson 1.3 for an explanation of the truth behind myths, if necessary. All the statements are from the lesson.
- Ask participants to reflect on the differences between their “pre-lesson” and “post-lesson” answers and circle the answers that changed after the lesson.

- Ask participants to volunteer to share which statement their group was most surprised to learn was a myth when they had thought it was true before the lesson. Guide the discussion by asking other groups if they shared a similar initial misconception.
- Ask participants to consider why they believed certain facts to be true or false. The goal should be to help participants identify stereotypes they carry and where their biases may stem.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- There are many myths and misconceptions about child labor, forced labor, and human trafficking.
- Addressing common myths and sharing correct information about the reality of child labor, forced labor, and human trafficking is essential to ensure that governments address the crimes properly.
- As a result of cultural ideals and society, and even political ideologies, individuals within a certain community may have widespread misinformation about child labor, forced labor, and human trafficking.
- Myths and stereotypes take a long time to break and are often unintentionally ingrained in one's mind. Participants should not feel guilty or discouraged if they believed some myths to be true. Instead, participants should feel empowered by their new understanding, which can correct future misconceptions and encourage them to teach others in their communities.
- Myths and misconceptions can result in criminal justice professionals failing to identify crimes when they occur, thus preventing victims from accessing the care and assistance they need.

HANDOUT 1.3.1: CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING: TRUE OR FALSE?

Statement	True or False?
Trafficking requires movement across international borders.	
Even if a person consents to his or her initial working condition, he or she can still be a victim of human trafficking.	
There is a difference between working as a child and child labor.	
All trafficking victims are women.	
Victims of child labor only work in sweatshops and factories.	
Victims are often reluctant to seek assistance from law enforcement and the government.	
Child labor is necessary for families who face extreme poverty.	
A person does not have to be physically restrained to be a victim of human trafficking.	
It is easy for victims of child labor to return to school and have a normal life.	
Human trafficking and forced labor only occur in illegal industries.	

HANDOUT 1.3.1 KEY: CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING: TRUE OR FALSE?

Statement	True or False?
Trafficking requires movement across international borders.	False
Even if a person consents to his or her initial working condition, he or she can still be a victim of human trafficking.	True
There is a difference between working as a child and child labor.	True
All trafficking victims are women.	False
Victims of child labor only work in sweatshops and factories.	False
Victims are often reluctant to seek assistance from law enforcement and the government.	True
Child labor is necessary for families who face extreme poverty.	False
A person does not have to be physically restrained to be a victim of human trafficking.	True
It is easy for victims of child labor to return to school and have a normal life.	False
Human trafficking and forced labor only occur in illegal industries.	False

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MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

INVESTIGATION

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Introduction to Module 2

Investigations play a crucial role in child labor, forced labor, and human trafficking cases. A good investigation can identify violations of the law, and the evidence collected can lead to a successful prosecution. Investigations can be conducted by a range of individuals depending on the rules of the jurisdiction and the offense being investigated, but the most common investigators are police, labor inspectors, and prosecutors. This module addresses conducting investigations, conducting rescue operations, documenting a crime scene, evidence collection and special types of evidence, conducting interviews of victims and suspects, charging child labor, forced labor, and human trafficking offenses, and writing investigation reports. This module includes discussions to encourage participants to begin thinking about topics and interactive exercises that will allow participants to use the skills they have learned.



Photo Credit: Arcadiuș, 2011, Paraguay

Lesson 2.1: Types of Investigations

Objectives:

- Learn about reactive, proactive, and disruptive investigations
- Learn how to map risk, identifying areas with a high likelihood of child labor, forced labor, or human trafficking occurring; and practice using this skill during an activity.

Time:

 2 hours and 10 minutes

Steps:

- Exercise 2.1.1: Investigations Discussion
 - 10 minutes
- Present PowerPoint Presentation 2.1: Types of Investigations
 - 30 minutes
- Exercise 2.1.2: Risk Mapping
 - 90 minutes

Supplies:

- Flip chart
- Markers (black, red, green, and blue)
- PowerPoint Presentation 2.1: Types of Investigations
- Projector
- 10 note cards or sticky notes
- Tape
- Map of the Country
- Handout 2.2.1A: *Article 3 of International Labour Organization (ILO) Convention 182 on the Worst Forms of Child Labor (WFCL)*
- Handout 2.2.1B: *Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)*

Child labor, forced labor, and human trafficking investigations are a key step of the case process. There are three types of investigations that labor inspectors, police officers, immigration officers, and prosecutors can conduct:

- Reactive
- Proactive
- Disruptive

Reactive Investigations

Reactive investigations occur when a child labor, forced labor, or human trafficking victim makes a report or seeks assistance; or when a police officer, labor inspector, or immigration officer receives a tip about child labor, forced labor, or human trafficking. Reactive investigations can also begin if an inspector or officer sees something he or she thinks may be child labor, forced labor, or human trafficking. In conducting these types of investigations, officers and investigators are *reacting to information they receive*, and the cases are dependent on victim testimony.¹ The need for victim testimony for reactive investigations is due to a lack of other evidence tying the suspect to the alleged crime.

Proactive Investigations

Proactive investigations are intelligence-driven and are also known as being police-led or investigator-led. Proactive investigations are important for child labor, forced labor, and human trafficking cases because it is rare for victims to self-report cases, and the crimes may be hidden, with officers and inspectors receiving tips for only a small number of the cases. Instead of waiting for tips, officers and investigators conduct investigations to uncover evidence and identify instances of child labor, forced labor, and human trafficking. This can be done by identifying areas and sectors likely to engage child labor, forced labor, and human trafficking and beginning investigations and conducting inspections at those locations. Because proactive investigations uncover other types of evidence, they are not solely reliant on victim testimony. For example, if during an investigation, evidence of an original offer for employment or contract for employment is discovered that is different from the work being performed at the job site, or if there is evidence that pay was withheld by examining financial records, the need for victim testimony would be reduced. For this reason, proactive investigations are particularly helpful in instances when victims are not willing or able to testify. Proactive investigations can use a variety of investigative techniques, including surveillance and undercover operations.²

Ideally, proactive investigations are able to use a variety of types of evidence, including victim testimony.

Proactive investigations require labor inspectors, police officers, and immigration officers to be familiar with child labor, forced labor, and human trafficking patterns in their areas. **This would include learning about:**

- Industries and sectors that use child labor, forced labor, and human trafficking;
- Areas within the country or a specific province or city with a high prevalence of child labor, forced labor, and human trafficking;
- The profile of child labor, forced labor, and human trafficking victims in their area (such as ages, sex, nationality);
- Transportation routes that traffickers use, including specific ports of entry; and
- Patterns in child labor, forced labor, and human trafficking that affect men, women, boys, and girls differently.

Information about child labor, forced labor, and human trafficking patterns may be available through national agencies and task forces. Local civil society organizations (CSOs) and non-governmental organizations (NGOs) can also be valuable sources of information about child labor, forced labor, and human trafficking. **Global resources for this information include:**

- The United Nations Office of Drugs and Crime (UNODC) Global Report on Trafficking in Persons has regional and country-specific information <https://www.unodc.org/unodc/data-and-analysis/glotip.html>

1. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), p. 15, 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

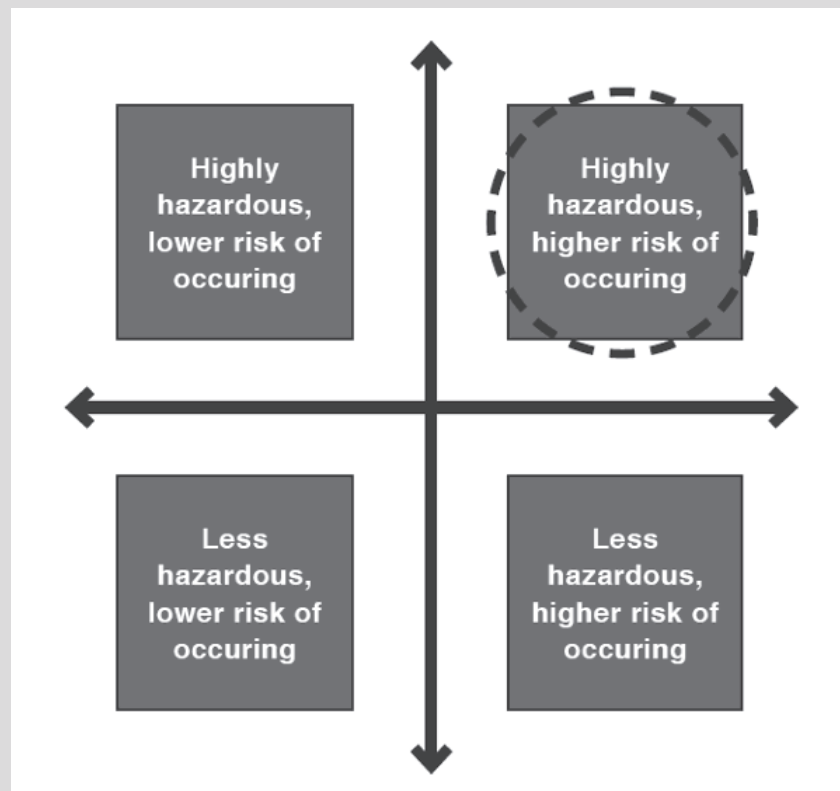
2. Anti-Trafficking Training Material for Judges and Prosecutors Handbook. International Centre for Migration Policy Development, p. 54, 2006. http://lastradainternational.org/Isidocs/540%20AGIS_JUD_Handbook.pdf

- U.S. Department of Labor List of Goods Produced by Child Labor or Forced Labor, which provides information for specific countries as well as for specific types of products or industries <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>
- U.S. Department of Labor Findings on the Worst Forms of Child Labor has country specific reports <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>
- U.S. Department of State Trafficking in Persons Report <https://www.state.gov/bureaus-offices/under-secretary-for-civilian-security-democracy-and-human-rights/office-to-monitor-and-combat-trafficking-in-persons/>

Risk mapping: A labor inspector or police officer can do risk mapping to target limited resources to areas and sectors that are most likely to have child labor, forced labor, and human trafficking.³

Child labor: Mapping risk for child labor can include looking at the probability and scope of potential hazards for children. Targeted inspections can be more efficient than randomized ones because the odds of finding child labor are increased. By reviewing information about sectors and regions and comparing that to information about child labor and hazardous work, sectors and areas that are more likely to have child labor can be targeted during inspections. Thus, for example, labor inspectors can focus on areas and sectors with high prevalence of child labor that also have a high risk of hazardous work.

Figure 1: Risk-Based Targeting⁴



3. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M3 at 12, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

4. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M3 at 13, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

When mapping risk, labor inspectors should consider the following:

- What is the worst outcome?
- How often does the worst outcome occur?
- What is the most dangerous task?
- How often is that task performed?
- Are children near the task, or do they perform the task?
- How likely is it that something goes wrong when a child performs the task or is near the task being performed?
- Are there safety measures in place?
- Are there different tasks being carried out by boys versus girls, and are the risks or hazards impacting them differently?

Labor inspectors and police officers can also consider sectors and geographies that are particularly prone to child labor, forced labor, and human trafficking. **These may include sectors such as:**

- **Sectors that rely on recruitment:** This often includes work in other countries that rely on recruiters to help identify and place workers. Labor recruiters can help people obtain valuable employment opportunities, but in some instances, these recruiters can take advantage of potential workers by requiring high recruitment fees that can leave these potential workers in situations of debt bondage. Workers may also find themselves working in a job that is different from the work that was promised by the recruiter, such as by receiving different pay, working longer hours, or performing different tasks.
- **Informal sector:** The majority of child labor occurs in the informal sector in large part because it is less heavily monitored and regulated. Forced labor and human trafficking can be found in the informal sector as well because the lack of regulation leaves workers more vulnerable to exploitation. Informal worksites are often isolated, making it difficult for workers to contact family and friends or receive assistance. Additionally, isolation can make workers less able to leave and more dependent on their employers. The informal sector is challenging for authorities to monitor, particularly in domestic work, which occurs in private homes where labor inspectors are often not authorized by law to conduct inspections. Workers in the informal sector are often from vulnerable groups, including migrants and children.
- **Seasonal and/or migrant work:** These sectors are vulnerable to child labor, forced labor, and human trafficking because of the temporary surges in low-skilled workforces (for example, agriculture for planting or harvesting). Because of the seasonal nature of this type of work, workers are often not considered to be full-time employees and cannot access worker protections or benefits, making them more vulnerable to abuse. Seasonal workers often have to move frequently, making it difficult to keep their children in school if their families are moving with them. Migrants may not speak the local language and are not able to access assistance that could encourage employers to not exploit workers. Migrants often do not have access to the protections and services that citizens can enjoy, making it difficult, if not impossible, to enroll their children in school, which leads to more children working. By having children leave school early to begin working, generational poverty is perpetuated.
- **Low-skilled work:** These are often low-valued jobs that involve repetitive motions or other manual labor. Low-skilled jobs are often done by vulnerable people, including children and people subjected to forced labor and trafficking. Examples of this type of work include mining, agriculture, construction, brick making, portering, carpet making, garment making, and domestic work. Low-skilled work may be gendered, with construction, mining, and brick making often done by men and boys and carpet making, garment making, and domestic work often being done by women and girls. Low-skilled work may be performed by people from the geographic area, but often people in situations of forced labor and/or trafficking come from another country or region, such as workers from South East Asia and East Africa being recruited to work in the Gulf States.



- **Piece work or quota work**⁵: Because workers in these sectors are paid by volume, not by time, and often must meet certain targets, workers may need to have their children work to help them meet their targets. In many instances, targets are too high for one individual to meet or the pay is too low to have only one person work and provide for the family's needs. Because of this, families may find it necessary to have their children assist in work.
- **Illegal or immoral activities**: These activities are difficult to monitor. Because traffickers and labor exploiters are already engaged in criminal activities, they are often more willing to engage in other illegal activities such as child labor, forced labor, and human trafficking. Illegal activities include things such as prostitution, pornography, drug trafficking, and armed combatants.

Geographic areas of focus could include:

- Areas that lack access to schools and/or childcare are more likely to engage children in child labor
- Rural, remote areas that are more difficult to monitor because labor inspectors often have to cover broad geographic areas with limited resources
- Areas with high levels of poverty and/or income inequality
- Areas with displaced populations
- Areas with a high migrant population

5. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, pp. M3 at 14-15, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

Disruptive Investigations

Disruptive investigations are intended to disturb, interfere with, or disrupt child labor, forced labor and trafficking operations. Disruptive investigations work to make it difficult for perpetrators of child labor, forced labor, and human trafficking to conduct business, but these types of investigations can make it harder to investigate and prosecute offenders if they stop or shift their businesses. These types of investigations are often conducted with the cooperation of multiple agencies.⁶

Each type of investigation (reactive, proactive, and disruptive) has benefits and challenges. Reactive investigations can be easier to conduct than proactive ones as they respond to already identified cases of child labor, forced labor, and human trafficking. Reactive investigations can evolve into proactive investigations if additional work is done to identify evidence. If a reactive investigation does not evolve into a proactive investigation, it will be less time consuming for investigators; it will also be a weaker case and rely more heavily on victim testimony, which could result in more pressure on the victim. Proactive investigations require more effort but ultimately can build stronger cases. Disruptive investigations can have an immediate tangible impact if they are able to shut down a trafficking operation. However, disruptive investigations can have unintended consequences if traffickers simply relocate and move victims, or if sex workers are misidentified as trafficking victims.

Overview of Gender Issues in Investigations

When conducting investigations or doing risk mapping, it is important to be mindful of gender considerations. When risk mapping means taking into account risks that may be gender-related, such as:

- Girls may be more likely to drop out of school to begin working or marry for cultural reasons
- Men often migrate for work and may be subjected to forced labor or human trafficking. In some instances, men will migrate with their families. While the men may have legal work, their spouses and children may not, which can leave women and children vulnerable if they cannot access education and are only able to work in the informal sector.
- Women and girls are more likely than men and boys to be engaged in domestic work, which is difficult to monitor and investigate due to its informal nature and location in private homes.
- Women are more likely than men to be engaged in piece work, such as in the garment sector, which is often done in small informal worksites, making it difficult to monitor.
- Men and boys may work on fishing boats, which can be hard to monitor due to their movement and communication challenges, while women and girls are more likely to be employed in fish processing.
- Men are more likely to be engaged in forced labor that is visible, such as in agriculture, which at first glance may appear to be legitimate.
- Men and boys are more likely to be employed in shaft mining, while women and girls are more likely to engage in mining through activities like panning, cleaning, and performing domestic tasks in mining camps.

Special considerations may be advisable when interviewing women and children. Lesson 2.5 has more information about these considerations.

6. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), p. 16, 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

Exercise 2.1.1: Investigations Discussion

Objective:

To have participants start thinking about different types of investigations to begin training on investigations.

Time:

 10 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain to the participants the objectives of the exercise.
 - 1 minute
- Ask participants the following questions and write down answers on the flip chart:
- What role do investigations play in child labor, forced labor, and human trafficking prosecutions?
- What is a proactive investigation?
 - 7 minutes
- Key messages
 - 2 minutes

Key Messages:

- Investigations build a case of prosecutions. They identify the evidence needed to prove a case.
- Proactive investigations are investigations that seek out different types of evidence. They will be discussed in this lesson.

Exercise 2.1.2: Risk Mapping⁷

Objective:

To identify what economic activities and industries are at risk for child labor, forced labor, and human trafficking in different parts of the country.

Time:

 90 minutes

Materials and Preparation:

- If possible, the facilitator should locate a large map of the country and hang it at the front of the room. If a large map cannot be located, the facilitator should draw a large map of the country. The map should note international borders, internal provincial/regional/county/state borders, as well as major cities and towns.
- Locate and make copies of the following for each group: map of the country, the country's hazardous work list (if there is one)
- Make copies of the following handouts for each group: Handout 2.1.2A: Article 3 of ILO Convention 182 on the Worst Forms of Child Labor, Handout 2.1.2B: Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)
- 10 sticky notes or 10 small note cards and black markers for each group
- Tape
- Red, green, black, and blue markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants why it is important to map where the risks of child labor, forced labor, and human trafficking are the greatest. Guide the discussion to reflect that:
 - Labor inspectors and law enforcement officers can feel overwhelmed by the size and scope of child labor, forced labor, and human trafficking in the country and be unsure where to start. Risk mapping can help target work by identifying areas and sectors of focus, making the work seem more manageable.
 - Mapping can help identify sectors and areas that are a high priority because of their links to the WFCL, forced labor, and human trafficking. These would also be areas that workers would need to be removed from.
 - Targeting a sector or geographic area can show that labor inspectors and law enforcement are working to reduce child labor, forced labor, and human trafficking; targeting can also show employers that competitors are being treated the same way, making employers more likely to comply as no one will have an unfair advantage.
 - Targeting on a sector or geographic area can help maximize limited resources by focusing on a more data-driven approach.
 - 15 minutes

7. Adapted from Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M3 at 26, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

- Ask the participants to divide into several small groups based on the geographic areas in which they are based and the substantive focus of their work (child labor or forced labor/human trafficking). Distribute copies of the map to each group; provide child labor-focused groups with copies of the hazardous work list and ILO WFCL handout and the forced labor/human trafficking groups with a copy of the Palermo Protocol handout.
- Have each group refer to the map and discuss which towns, cities, and rural areas in their geographic area have the most child labor or forced labor/human trafficking, which groups are the most vulnerable to exploitation, and which economic sectors employ the most children or use the most forced labor/human trafficking. Write the names of towns identified on the note cards (one town per card) and the types of child labor or forced labor/human trafficking found in that town. Each group must identify on their card whether they are a child labor group or a forced labor/human trafficking group. Encourage the groups to be as specific as possible, such as by identifying specific crops (such as sugar cane, tea, or cotton), services (such as portering), and industries (such as gold mining or brick making). Each group should consider the specific types of work identified and if they are performed by workers of a specific gender, sexual identity or orientation, or age. The child labor-focused groups should consult the hazardous work list during this time.
 - 20 minutes
- Reconvene and have each group report their findings. As groups report back, ask them to attach their note cards to the corresponding location on the map at the front of the room.
 - 20 minutes
- Once everyone has attached their cards to the map, review the types of child labor listed on each of the child labor cards and ask participants whether it is a worst form of child labor or involves hazardous work. If so, circle it using a red marker. Then ask if any of the types of child labor listed involve migration for work. If so, use a green marker to draw an arrow to show where the children are migrating from. Next, review the forced labor/human trafficking cards. If participants agree that they are examples of forced labor/human trafficking, circle them in black. Then ask if any of the types of forced labor/human trafficking listed involve migration for work. If so, use a blue marker to draw an arrow to show where the victims are migrating from. Finally, ask participants if there is overlap between sectors and geographic areas for child labor and forced labor/human trafficking, and if so, what the reasons for that overlap may be. Participants should be specific about the source, transit, and destination within the geographic areas they are discussing. Also identify if child labor and forced labor/human trafficking use the same migration patterns. Encourage questions and comments.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- Mapping is a way of identifying target groups of at-risk children and other vulnerable groups and the sectors they work in. Geographical localities that include the largest numbers of children exposed to the worst forms of child labor should be prioritized for child labor-related inspections, while geographic localities with the largest number of forced labor and human trafficking should be prioritized for law enforcement investigations. Geographic areas with a high prevalence of forced labor can also be prioritized by labor inspectors.
- It is important to understand migration patterns of child laborers and forced labor/human trafficking victims whose homes and workplaces are far apart. It is also important to notice similarities in migration patterns between different groups of people.
- It is important to recognize the differences in the types of work performed by men, women, boys, and girls.
- Mapping exercises can focus on larger areas such as a province or district or a smaller area, such as a town or even a

neighborhood.

- Mapping helps inspectors and law enforcement strategize their work on child labor and forced labor/human trafficking, prioritize interventions, identify good collaborating partners, and make efficient use of scarce resources. It also helps inspectors and police develop a holistic view of the problem and think more broadly about solutions.
- Child labor and forced labor/human trafficking are often hidden; therefore, good mapping requires speaking with community stakeholders such as school officials, village leaders, child development officers, non-governmental organizations, and civil society organizations. Through collaboration, inspectors become familiar with areas and sectors that they may not have been previously exposed to, and they gain experience in interviewing children, workers, and employers.
- Decisions to expose children to WFCL are often made within the family. Parents have an important role in preventing their children from becoming child laborers and removing them from hazardous work. Whenever possible, inspectors should speak with the families of child laborers about the benefits of educating their children and inform them of assistance that they can access.



Photo Credit: Simonas Rupšys, 2016, Thailand

HANDOUT 2.1.2A: ARTICLE 3 OF ILO CONVENTION 182 ON THE WORST FORMS OF CHILD LABOR

ILO Convention No. 182 defines the worst forms of child labor as:

- **ALL TYPES OF SLAVERY**, including the sale and **trafficking** of children; **forced labor** to pay off a debt; any other type of forced labor, including using children in **war and armed conflict**
- All **ACTIVITIES WHICH SEXUALLY EXPLOIT CHILDREN**, such as **prostitution, pornography**, or pornographic performances
- Any **INVOLVEMENT IN ILLEGAL ACTIVITIES**, especially the production or trafficking of drugs
- Any work which could damage the health, safety, or wellbeing of children ("**HAZARDOUS WORK**")

HANDOUT 2.1.2B: ARTICLE 3 OF THE PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (PALERMO PROTOCOL)

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

Lesson 2.2: Rescue Operations

Objective:

- Learn how to plan and conduct a child labor, forced labor, or human trafficking raid or rescue operation.
- During an activity, plan a rescue operation using case studies.

Time:

 2 hours

Steps:

- Exercise 2.2.1: Rescue Operations Discussion
 - 15 minutes
- PowerPoint Presentation 2.2: Rescue Operations
 - 30 minutes
- Exercise 2.2.2: Planning a Rescue
 - 75 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.2: Rescue Operations
- Projector
- Copies of Handout 2.2.2: Planning a Rescue Scenarios

Labor inspectors and police officers sometimes conduct raids or rescue operations. Rescues should be conducted if child laborers, forced laborers, or human trafficking victims are in immediate danger. If danger is identified during an investigation, a rescue operation may need to be conducted. All rescue operations should be conducted with the best interest of the victims in mind, anticipating their immediate needs and keeping the rescue plan confidential. All rescues must be conducted by inspectors or officers authorized to conduct rescues, and a warrant must be obtained in advance if required in the jurisdiction.

Identifying the Need for a Rescue Operation

If the health, safety, or wellbeing of child laborers, forced laborers, or trafficking victims is at risk, they must be removed as quickly as possible. **Examples of instances in which an immediate rescue is needed include⁸:**

- Workers subjected to rape or other sexual abuse
- Workers who are beaten or subjected to physical or mental abuse
- Workers with serious illnesses who have been unable to access treatment
- Workers engaged in bonded labor
- Children engaging in sexual acts or other sex work
- Workers who have been trafficked or are at risk of being trafficked
- People engaged in work that could have a serious impact on their health

Rescues should be divided into three stages: pre-rescue, rescue, and post-rescue.

Pre-Rescue

Labor inspectors and police officers should begin by collecting and verifying information. This may involve speaking to the people who have reported a suspected case of child labor, forced labor, or human trafficking and learning about areas with a high prevalence of child labor, forced labor, and/or human trafficking from local NGOs and other resources. Reports should be verified within 72 hours so that a timely rescue can be conducted if needed. Once a situation is verified and a rescue is deemed necessary, planning should begin.

Labor inspectors and police officers that identify the need for a rescue operation should begin coordinating with other groups necessary to conduct the rescue. Coordination should be done in a way that keeps the information confidential, so that employers and traffickers do not become aware of the operation being planned. In many jurisdictions, labor inspectors need to coordinate with the police for a raid to be conducted. Additionally, service providers (government, NGOs, or CSOs) such as shelters, social services, medical providers, and legal service providers will need to be contacted to attend to the immediate needs of victim. Service providers who have staff who can address psychosocial needs, such as counseling for victims of sexual assault, should be included to ensure that these services can be provided immediately if needed. The actual number of members of the rescue team will depend on the size of the location and the number of victims thought to be at the location.

Before conducting the raid, a plan of action will be needed.

- This plan should seek to avoid inflicting additional trauma on victims. For more information about trauma-informed care, refer to Lesson 3.2.
- The plan should divide work and assign tasks to individuals so that everyone knows their roles and responsibilities.
- A map of the worksite/rescue site should be drawn, and areas likely to have victims should be identified.
- Additionally, dangerous areas should be marked as well.

Once a plan has been created, members of the rescue team should receive an orientation that includes the following⁹:

- A briefing on laws relevant to child labor, forced labor, and/or human trafficking
- Clear designation of roles and responsibilities during the rescue operation

8. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M4 at 16, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

9. Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M4 at 18, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

- A briefing on the strategies the employer is likely to use to avoid detection or to resist authorities
- Information about how to employ child- and victim-sensitive approaches. This will be important due to the trauma many of the victims will have undergone. The use of appropriate language and behavior and non-criminalization of victims should be addressed. For more information, see Lesson 3.2.

Rescue

Rescue operations should always be conducted in the best interest of children and victims of forced labor and human trafficking. Rescue plans should remain confidential until the victims have reached a safe location. The location of the victims should not be shared.

At the start of the raid, the rescue team should place members in locations designated during the planning phase, making sure exits are being observed and an employer or trafficker cannot move victims to avoid detection. If possible, in cases involving victims who are women or children, having female officers present is a best practice.

During the rescue, victims should be separated from employers or traffickers. This may be easiest to do in instances of child labor, where children may be easily identifiable. It is important to separate victims from their employers or traffickers because it will help prevent victims from being threatened or persuaded to lie.

During the rescue, police officers and labor inspectors should collect evidence and document the crime scene. This will be explained in Lesson 2.3.

Victims should be cared for during and after the rescue. Their personal belongings should be identified, collected, listed, and kept safe. The names of the rescued victims should not be released to the public. Food, shelter, transportation, and medical care should be arranged for in advance. Emergency care for victims should be provided with the assistance of NGOs and CSOs with staff specializing in human trafficking, forced labor, and child labor. A full, individualized treatment plan should be developed in the post-rescue phase.

Post Rescue

After a rescue operation, a follow-up report will need to be prepared that includes information about the victims and what was found during the rescue operation. The immediate needs of victims must be addressed and plans for the intermediate needs of victims will need to be developed, with roles and responsibilities of government agencies and other service providers identified. More information about addressing victim needs can be found in Module 3: Referral. Steps will need to be taken to continue an investigation and prosecute offenders.



Photo Credit: Kalle Kortelainen, Nepal

Exercise 2.2.1: Rescue Operations Discussion

Objective:

- To have participants begin considering when rescue operations may be needed.

Time:

 15 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants the following questions and write down answers on the flip chart
- When are rescue operations needed?
- Who is needed to conduct a rescue operation?
 - 10 minutes
- Key messages
 - 3 minutes

Key Messages:

- Rescue operations are needed when the health and safety of workers are at risk
- Law enforcement or labor officers authorized to conduct a rescue are needed as well as other key service providers
- During the lesson both questions will be answered in depth

Exercise 2.2.2: Planning a Rescue Operation

Objectives:

- Practice preparing for a rescue operation and identifying the steps that need to be taken.
- Determine the groups needed to carry out a rescue operation.
- Ensure that victim needs are anticipated and planned for.

Time:

 75 minutes

Materials and Preparation:

- Flip chart paper and markers for each group
- Copies of Handout: 2.2.2: Planning a Rescue Operation (give one scenario to each group)

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Divide the participants into small groups of 4–8 people. Give each group a copy of a scenario, repeating scenarios if necessary. Have each group create a rescue plan that addresses the issues in their scenario.
 - 30 minutes
- Bring all of the groups back together and have each group present their scenario and rescue plan. Allow for comments and discussion.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- Preparing for a rescue operation can help ensure that things go smoothly and that victim needs are met.
- Maintaining confidentiality throughout the planning process and rescue operation is essential to success. Information should be shared only on a need-to-know basis.
- Arranging in advance for the immediate needs of victims helps meet those needs.

HANDOUT: 2.2.2: PLANNING A RESCUE OPERATION

Scenario 1: A labor inspector receives a tip that children are working at a mine. The children appeared to be boys ranging in age from 12 to 17 years. The children have been seen at the mine during the school day and were seen carrying materials out of the mine.

Scenario 2: A police officer receives a tip that men are working on a farm in hazardous conditions and do not appear to ever leave the premises. The men are working with pesticides without any protective equipment for very long hours. The person making the tip said she believes the men live on site and speak to each other in a language she does not understand.

Scenario 3: A labor inspector notices several children working on a small fishing boat. The children appear to work for much of the day, hauling nets, and cleaning fish with sharp knives.

Scenario 4: A police officer receives a tip that women and girls are being forced to work in a brothel. The women and girls do not appear to leave the brothel and at least one girl appeared to be injured.

Lesson 2.3 Crime Scene Investigation

Objectives:

- Learn how crime scenes are processed and about common investigative issues.
- Practice documenting a crime scene and collecting evidence.

Time:

 1 hour and 40 minutes

Steps:

- Exercise 2.3.1: Crime Scene Discussion
 - 10 minutes
- PowerPoint Presentation 2.3: Crime Scene Investigation
 - 30 minutes
- Exercise 2.3.2: Processing a Crime Scene
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.3: Crime Scene Investigation
- Projector
- If possible, the facilitator should set up a mock crime scene (or scenes) that includes the following:
 - Timecards
 - Tools (or pictures of tools) that would be used at the worksite being portrayed
 - Clothes
 - Financial records
 - Identification card of a child
 - Picture of an injury (to represent an injured person at the worksite)
- Gloves
- Evidence bags/paper bags and labels
- Cameras or phones
- Crime scene tape or rope
- Sign-in sheet
- Evidence log
- Paper

Bringing a successful child labor, forced labor, or human trafficking case requires evidence. Much of this evidence will be collected from crime scenes connected to the case. There are several types of locations that can be crime scenes in child labor, forced labor, and human trafficking cases. **These include worksites and other locations that may be linked to the offenses such as:**

- Border crossings
- Airports or seaports
- Taxis, boats, vessels, trucks, buses, or other vehicles used to transport or conceal victims
- Immigration-control premises
- Brothels
- Restaurants, bars, and night clubs
- Factories, farms, plantations, mines, fishing boats, or other locations where legal and illegal work is taking place
- Hotels or motels where a victim has stayed or is being harbored
- Homes where women or girls are forced to perform domestic work

In child labor, forced labor, and human trafficking cases, workplaces and other locations can be inspected or searched with proper authorization. This may include routine labor inspections as well as raids and rescues conducted during an investigation. Before entering a worksite, make sure the entrance is authorized, either by being part of an investigation conducted as part of a labor officer's duties or by obtaining a warrant. If there is evidence of a crime, investigating the crime scene will help build a case against suspected offenders.

Crime scenes can provide valuable information and evidence to the labor inspectors and law enforcement officers who are investigating child labor, forced labor, and human trafficking cases. These crime scenes may have evidence of dangerous working conditions, underage workers, employment records, personal documents being held, abuse, and other indicators of child labor, forced labor, and human trafficking. Additionally, witnesses, victims, and/or suspects may be found on the premises, and their statements and testimony can prove to be an invaluable resource during a trial or administrative proceeding.

Some countries have specific rules or guidelines for processing a crime scene or collecting evidence, and it is important to follow such rules or guidelines. The information contained in this lesson addresses recognized international best practices.

The following materials may be useful in properly processing a crime scene:

- Tape or rope to use as a barrier to entry
- Communication equipment
- Tweezers/forceps
- Warrants/consent to search forms
- Logs for chain of custody, recording evidence, and photos
- Measuring equipment
- Photographic equipment
- Evidence bags
- Boxes
- Evidence flags, markers, placards
- Gloves
- Swabbing kits
- Chemical tests

Having these materials available will allow labor inspectors and officers to secure a crime scene, document the crime scene, and collect evidence.

Securing the Crime Scene

The first step to be taken at a crime scene is to secure it. Labor inspectors and law enforcement officers should first determine whether anyone may try to harm the sites or if there is anything dangerous at the scene, such as weapons, chemicals, or explosives (such as those used in mining). If additional support is needed due to hazards at the work site, it should be requested.

Transient evidence, which is evidence that may leave or disappear, should be noted and recorded. Any persons present at the worksite qualify as transient evidence, including witnesses, presumed victims, and presumed offenders.

To secure the crime scene, officers will need to establish a perimeter, which can be done using materials such as crime scene tape or rope. Areas where people could enter, such as doors or gates, should be secured and officers or inspectors should monitor entrances. While processing the crime scene, officers or inspectors should only use one entrance to the crime scene to limit disturbances and aid rescue efforts. Access to the crime scene should be restricted to those working on the case, and the entry and exit of anyone entering or leaving the crime scene should be recorded in a log. The officer recording entries and exits should also record information about anything removed from the crime scene and any changes to the crime scene. An area for emergency vehicles should be set up outside of the crime scene.



Photo Credit: Cameron Zohoori, 2011, Liberia

Documenting the Crime Scene

While documenting the crime scene, officers and inspectors must work to preserve the scene, disturbing it as little as possible while conducting their investigation. No one should eat, drink, or smoke at a crime scene because doing so could produce material that may be mistaken for evidence. Officers and inspectors should wear protective clothing and gloves to avoid contaminating the crime scene.

Officers or inspectors should begin by sketching the crime scene, including large stationary objects and/or landmarks as reference points. This can be a bird's eye view that shows the full crime scene in a way that a photograph cannot. The officer who draws the sketch should sign and date it.

Before entering the crime scene, take photographs from the outside and of the surrounding area. The entire crime scene should then be photographed. This includes photographing each piece of evidence before it is collected to show where it was found in the crime scene. Properly documenting the crime scene helps establish the chain of custody for evidence.

Documenting the crime scene is a critical part of building a case. Photographs and other documentation will help others visualize the scene. Properly documenting the scene provides a record of everything that occurred at the scene after the arrival of labor inspectors or police officers. Documentation will form the basis of the report about the investigation, and notes and visual documentation will prepare inspectors and officers to testify if necessary.

Collecting Evidence

Evidence found at a crime scene can help secure a conviction at trial. Evidence is important for two reasons: for what it proves and for where it leads you. It is important to remember that one piece of evidence can lead to another. It is crucial that evidence not be lost or contaminated because that can lead to it being excluded at trial, and the entire case may be undermined.

A variety of evidence can be found at a crime scene. This evidence can vary depending on the type of job site (whether it is agricultural, a factory, construction site, a mine, or other type of workplace), type of work being performed, and if children are working on the premises. There are three primary types of evidence that may be found at a crime scene: physical evidence, documentary evidence, and electronic evidence.

Physical Evidence is also known as material evidence and includes tangible objects (such as clothing, tools, machinery, chemicals, and computers), biological materials (such as blood, hair, fingerprints, saliva, urine, semen, and vomit), and injuries (such as cuts, bruises, scars, and broken bones).

Documentary Evidence includes things such as contracts, letters, photographs, tickets, birth certificates, employment records, receipts, and other documents. Documentary evidence can help show many things, including that someone was at a location, someone is under the minimum age for employment, or that someone was employed by a company.

Digital Evidence includes things such as computers, cell phones, and electronic banking records. This will be discussed in Lesson 2.4.

Officers should begin by collecting the evidence that can be easily removed. The largest, most difficult to move evidence should be collected last. All evidence should be recorded in the evidence log. Evidence must be collected carefully, and contamination of evidence must be avoided. Gloves should be worn while handling evidence so that an officer's fingerprints do not contaminate it.

Evidence should be stored in clean, new, unused, and undamaged containers such as jars or bags. When evidence is placed inside, the containers must be able to seal completely without any material inside able to leak or fall out. Each container should be labeled and signed at the crime scene. **The label should include the following information:**

- Time of collection
- Date
- Location
- Officer's name, ID number, and signature

When collecting evidence, investigators and officers are beginning the chain of custody. The chain of custody is an accurate record of everyone who has handled the evidence from the time it is collected until the time it is presented in court during a trial. It includes dates and signatures of the people who have handled the evidence since it was first collected, and there must be no gaps.

Impact of Victim Blaming and Bias

When working with victims, it is crucial to avoid blaming them for things they were subjected to such as child labor, forced labor, human trafficking, sexual assault, and other offenses. Blaming victims implies the victims are responsible for the crimes others have committed against them and that the crimes are somehow their fault.

Blaming the victims also makes it harder for them to recover from trauma, can increase their anxiety, and make it less likely that they will seek assistance or come forward in the future.

Special Challenges in Collecting Evidence from Humans

Unlike many crime scenes, it is common to find people at child labor, forced labor, and human trafficking crime scenes. It may be difficult to distinguish victims, suspects, and "innocent bystanders." There may be biological evidence at the crime scene that can be used to prove a child labor, forced labor, or human trafficking case. Examples include:

Child labor:

- Linking a child to a hazardous tool or piece of machinery through fingerprints, hair, etc.
- Linking a child's injuries to a particular tool or piece of equipment
- Establishing the age of a victim

Forced labor:

- Showing that an individual slept at the worksite
- Linking a person to a hazardous tool or piece of machinery through fingerprints, hair, etc.
- Linking a victim's injuries to a particular tool or piece of equipment

Sex Trafficking:

- Showing that a particular individual sexually assaulted a victim (rape kit)
- Corroborating a victim's account
- Identifying injuries, illness, or disease related to exploitation

Caution should be used when attempting to collect evidence from a person. It may not be clear who is a suspect or a victim. Because biological evidence degrades quickly, it may not be possible to collect evidence that was previously



present. If a suspect was sexually assaulted by multiple people recently, there could be samples from multiple people present, which can make the identification of perpetrators more challenging.

Before beginning to collect human evidence, try to establish the victim's account of what happened. Having the victim's account will help identify corroborating evidence. However, be mindful that evidence could be rapidly deteriorating. For example, if a victim talks about specific injuries, acts of violence, or doing specific tasks with a particular tool or machine, this can help guide you in identifying and obtaining human evidence.

Tips for Collecting Evidence from People:

- If possible, record the general scene (noting where an individual was found and what he or she was doing using cameras and videos, drawings, plans, and written descriptions) before taking biological evidence.
- Always maintain the individual's privacy and dignity. Treat them as people in need of assistance, not merely as evidence.
- Make a note, draw, or photograph the victim showing visible injuries, clothing, where they were initially located, and noting, if possible, what equipment, computers, phones, etc., they had access to at the crime scene. Be aware that showing a victim's face may cause security problems for the victim and reduce the chances of cooperation.
- Take precautions to avoid cross-contamination of evidence items, and make sure to collect and store evidence properly.
- Obtain control samples from the victim, ideally including fingerprints, hair, and DNA samples. These will be needed to link victims to locations, tools, and other objects.

- Similar techniques should be employed when examining potential suspects, keeping in mind legal requirements about searches and seizures of evidence from potential defendants.
- Cross-contamination may be inevitable when suspects and possible victims are found together. Try to ensure that searches are conducted by separate people.
- Try to keep suspects and possible victims separate as far as possible not only to avoid cross-contamination of evidence but also to prevent intimidation.
- Always consult experts about whether or not a physical specimen examination should take place (with victim consent), and if so, what type of exam is most appropriate and least intrusive. Always have an expert conduct any intimate exam. Make sure that the expert is familiar with the needs of the victims.

Witnesses, Victims, Suspects

It is likely that other people will be present when officers and investigators arrive at a child labor, forced labor, or human trafficking crime scene. Make sure to record the names and contact information of those present, as well as a description of what they were doing when you arrived on the scene. Make a note of visible injuries. Ideally, these should be photographed, but be mindful of the need to be sensitive and to protect the privacy of individuals.

Identifying Witnesses, Victims, and Suspects: When first arriving at a crime scene, it may be difficult to distinguish between witnesses, victims, and suspects. Be mindful of where people are found, what they are doing, and who appears to be in control. People may not self-identify as victims, and suspects may attempt to blend in with workers. By looking for indicators of child labor, forced labor, and human trafficking, you can begin to separate people, asking them questions to determine if they are witnesses, victims, or suspects. **Things that should be considered (in addition to indicators discussed in Lesson 1.3) include:**

- Signs someone may be a victim of child labor, forced labor, or human trafficking:
 - The person is a child
 - Visible injuries
 - Performing dangerous work
 - Does not speak the local language
 - Performing tasks with other employees
- Signs that someone may be a suspect
 - Appears to be in charge
 - Threatens investigators or others at the site
 - Is the named owner of the business

Remember, it is important to separate victims and suspects immediately so that the control employers and traffickers have over their victims is reduced, and victims will feel more comfortable. Victims are still unlikely to feel truly safe immediately after being rescued due to the trauma they have endured. Initial interviews may be conducted onsite if deemed appropriate, but it is best if they are conducted away from the job site to reduce stress for victims.

Immediate Needs: The rescue or raid plan should incorporate plans to address immediate needs. Immediate needs include assistance and services that need to be provided right away, including things like food, water, medical care, psychosocial support services, and shelter. A police officer or labor inspector should assess immediate needs and coordinate with service providers.

Note Taking

Inspectors and officers should take notes at the crime scene. These notes are important because if an officer or inspector is called to testify about the crime scene, he or she can review the notes before testifying instead of relying on memory alone. Notes taken at the crime scene should include the following:

- Time and date
- Persons present, and persons entering and leaving the crime scene
- Signs of activity
- A description of the scene that includes locations of physical evidence
- Descriptions of physical evidence, including who discovered it and who collected it
- The names of the photographers and others involved in documenting the crime scene



Photo Credit: Nahuel Berger / World Bank, 2007, Argentina

Exercise 2.3.1: Crime Scene Discussion

Objective:

- To have participants start thinking about crime scene investigation and processing a crime scene.

Time:

 10 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain to the participants the objectives of the exercise.
 - 1 minute
- Ask participants the following questions and write down answers on the flip chart
- What is the most important thing to remember when processing a crime scene?
- What are the benefits of crime scene investigation?
 - 7 minutes
- Key messages
 - 2 minutes

Key Messages:

- There are many things to remember when processing a crime scene, including the importance of identifying and assisting victims, properly collecting evidence, and establishing the chain of custody.
- Crime scene investigation can identify evidence, suspects, and victims, helping to build a case.

Exercise 2.3.2: Processing a Crime Scene

Objective:

- To practice the skills needed to process a crime scene properly.

Time:

 60 minutes

Materials and Preparation:

- If possible, the facilitator should set up a mock crime scene (or scenes) that includes the following:
 - Timecards
 - Tools (or pictures of tools) that would be used at the worksite being portrayed
 - Clothes
 - Financial records
 - Child's Identification card
 - Picture of an injury (to represent an injured person at the worksite)
- Gloves
- Evidence bags/paper bags and labels
- Cameras or phones
- Crime scene tape or rope
- Sign-in sheet
- Evidence log
- Paper

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Divide participants into groups (the number of groups should be the number of crime scenes set up).
 - 5 minutes
- Ask the participants to begin documenting the crime scene. The first step will be to rope off the scene and station an officer at the entrance of the scene. This officer will be responsible for signing people in and out of the crime scene.
 - 10 minutes
- Next, have one participant sketch the scene and have another participant photograph the scene. The person sketching the scene should make sure to include large objects/landmarks and sign and date the sketch. The person sketching the scene should photograph the scene from the outside and inside.
 - 10 minutes
- The remaining participants should each collect a piece of evidence. Participants should wear gloves and photograph the evidence where it is located in the crime scene with an evidence marker, including a close up photograph with a ruler for scale. Participants should bag their evidence, seal the bag, and label the evidence as follows:
 - Time of collection

- Date
- Location
- Officer's name, ID number, and signature
- Evidence should then be included in the evidence log.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- Proper crime scene procedure helps strengthen a child labor, forced labor, or human trafficking case.
- Proper evidence collection is essential; this includes photographing, collecting, and documenting evidence.

Lesson 2.4: Forensic and Digital Evidence

Objective:

Learn about the different types of digital and forensic evidence and how to use them effectively in child labor, forced labor, and human trafficking cases.

Evidence plays a crucial role in proving cases of child labor, forced labor, and human trafficking by demonstrating that the crimes' elements have been met. Forensic and digital evidence can help build a child labor, forced labor or human trafficking case, but the evidence presents special challenges. It is essential to learn how to collect, preserve, and use these types of evidence.

Time:

 1 hour and 40 minutes

Steps:

- Exercise 2.4.1: Evidence Alphabet Energizer
 - 10 minutes
- PowerPoint Presentation 2.4: Digital and Forensic Evidence
 - 30 minutes
- Exercise 2.4.2: Digital and Forensic Evidence
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.4: Forensic and Digital Evidence
- Projector

Forensic Evidence

Forensics refers to the scientific tests or techniques used to help detect crime. There are three types of forensic evidence: biological, impression, and manufactured. Examples of each are provided below.

Figure 2: Examples of the Three Types of Forensic Evidence

Biological Evidence	Impression	Manufactured
<ul style="list-style-type: none">• Blood• Saliva• Semen• DNA• Hair• Fingerprints	<ul style="list-style-type: none">• Footprints/shoe prints• Tire markings• Tool marks• Bite marks or scratches	<ul style="list-style-type: none">• Tools• Machines• Firearms• Ammunition• Fibers• Paint• Powder residues• Polymers (such as plastic)• Glass• Documents• Serial numbers• Chemicals

Forensic evidence can strengthen a child labor, forced labor, or human trafficking case. For example, forensic evidence might help prove that the accused was at a mine that employed children in hazardous child labor, that a trafficker caused injuries to a victim, or that an employer was not paying an employee their full salary. The use of forensic evidence could also help connect a suspect to other crimes. Analyzing the messages on a trafficker's cell phone could find discussions about other crimes. A forensic analysis of a recruiter's bank records could provide evidence of related crimes such as money laundering.

Forensic evidence must be properly collected and stored, with the chain of custody maintained at all times. To collect forensic evidence, proper crime scene procedure should be followed by assessing the scene, photographing the evidence, collecting it properly (which may include casting, dusting, etc.), and bagging and labeling the evidence. If the chain of custody is broken, it could be a sign the evidence was tampered with and lead to an acquittal. Everyone handling the evidence should be careful to log it properly.

Forensic evidence can be analyzed in different ways, depending on the type of evidence. **These types of analysis include things such as:**

- DNA analysis
- Ballistics
- Blood splatter
- Fingerprinting
- Financial analysis

All laboratories analyzing forensic evidence must have records about the systems, protocols, and control processes they use for each type of analysis they conduct. The labs should also have records about the calibration and maintenance of their equipment and the credentials and training of their staff. Contamination must be avoided. Expert testimony about the forensic conducted can be provided by either the person who conducted the analysis or an expert with similar qualifications. If the expert is not sufficiently qualified, the evidence may be challenged in court. For more information about using forensic evidence during a trial, refer to Lesson 4.5.

Digital Evidence

Digital evidence, also known as electronic evidence, plays an increasing role in child labor, forced labor, and human trafficking cases. These types of evidence can help show that a victim was deceived, that pay was withheld, or the nature of specific workplace conditions. **Digital evidence has a variety of forms including:**

- Emails
- Cell phones
- Text messages
- WhatsApp messages
- Social media posts
- Photos, videos, and audio recordings
- Electronic payments
- Cryptocurrencies
- App data
- Cloud storage
- GPS
- Fitness trackers
- Medical devices
- Cars (with computer systems)
- Websites and dark web
- Computer files

Figure 3: Facebook Post Advertising for Workers



Human trafficking and forced labor are often aided by the use of the internet. The internet and social media are used for recruitment, control and monitoring of victims, conducting trafficking operations, and may be used by victims when seeking help. Recruiters often use the internet to lure victims by using websites, social media, and apps such as WhatsApp to offer employment¹⁰. Digital evidence can show that the job offered was different from the job as performed, helping to prove deception.

Traffickers use the internet and social media to conduct their trafficking operations, such as by advertising the services of women and girls trafficked for prostitution.¹¹ Traffickers often use social media and apps to plan and communicate.¹² Electronic payment records can help show the amount of money workers were paid, the payment of illegal recruitment fees, and receipt of payments from customers of persons trafficked for sexual exploitation.

10. On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking. Polaris, pp. 19, 21, 2018. <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf> image from p. 21.

11. On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking. Polaris, p. 22, 2018. <https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Social-Media.pdf>

12. Broe, Alana, "Recruited by Facebook, Rescued by Family." Trafficking Matters. <https://www.traffickingmatters.com/recruited-by-facebook-rescued-by-family/>

While digital evidence can provide benefits to proving a case, it can also be more difficult to use than some other types of evidence. **Using digital evidence poses the following challenges:**

- Technology is always advancing
- Data may be encrypted or password protected
- Large amounts of data may need to be analyzed
- Data are sensitive and can easily be altered or erased
- Digital evidence must be authenticated and linked to a person, not just a username. The prosecutor will have to prove that the evidence is what it claims to be
- Jurisdiction: digital evidence may be stored in another country
- Chain of custody must be maintained during the seizure, storage, management, and analysis of the data
- Privacy concerns

When these challenges are addressed, digital evidence can be used to help strengthen a case. While technology can allow people to hide their identities, traffickers and those involved in forced labor will leave a digital footprint that can be used as evidence. There are five principles that should be used when gathering digital evidence: data integrity, audit trail, specialist support, appropriate training, and legality.¹³

Data integrity: The integrity of data must be maintained at all times. Maintaining the integrity of data should guide all decisions made about digital evidence. No action taken should materially change any data, electronic device, or media which could later be used as evidence in a trial.

Audit trail: This is also referred to as chain of custody and includes a record of all of the processes that the evidence has undergone.¹⁴ A third party should be able to perform the actions as described in the audit trail and obtain the same results. The chain of custody must also include information about who handled the evidence and when they handled the evidence, beginning at the time of its collection.

Specialist support: If first responders are unfamiliar with gathering digital evidence and its implications they should request specialist assistance immediately. Because of the many types of digital evidence, including a wide range of systems that can be used, it is crucial to make sure that the expert working at the crime scene is an expert in collecting the type of evidence present and has the needed tools.

Appropriate training: If no specialist is available to collect the evidence at the site, the inspector or officer searching, seizing and/or accessing original data held on an electronic device or digital storage media must be trained to do so legally and must be able to explain and justify the relevance and implications of his or her actions.

Legality: The person and agency in charge of the investigation are responsible for ensuring that the law, evidence rules, and principles of digital evidence are followed. Legal guidance is established by each jurisdiction. It is crucial to follow local rules.

For more information about using digital evidence during a trial, refer to Lesson 4.5.

13. Electronic Evidence – A Basic Guide for First Responders. European Union Agency for Network and Information Security (ENISA), p. 5, 2015. <https://www.enisa.europa.eu/publications/electronic-evidence-a-basic-guide-for-first-responders>

14. Electronic Evidence – A Basic Guide for First Responders. European Union Agency for Network and Information Security (ENISA), p. 6, 2015. <https://www.enisa.europa.eu/publications/electronic-evidence-a-basic-guide-for-first-responders>

Exercise 2.4.1: Evidence Alphabet Energizer

Objective:

- To have participants start thinking about the different types of digital and forensic evidence.

Time:

 10 minutes

Steps:

- Explain to the participants the objectives of the exercise.
 - 1 minute
- Have the participants stand in a circle. Have the first participant name a piece of evidence (digital or forensic/physical) that begins with the letter "A." The other participants should shout whether they think the evidence is digital or forensic. Continue with the next person in the circle, having them name a piece of evidence that begins with the letter "B." Continue the exercise until the group has gone through the alphabet.
 - 7 minutes
- Key messages
 - 2 minutes

Key Messages:

- Evidence is all around us and can come in different forms, such as a bank statement that can be digital or forensic.
- Digital and forensic evidence will be explained in more detail in Lesson 2.4.

Exercise 2.4.2: Digital and Forensic Evidence

Objective:

- To identify types of digital and forensic evidence that might be used in child labor, forced labor, and human trafficking cases.

Time:

 60 minutes

Materials and Preparation:

- Flip chart paper
- Markers for facilitator

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Ask participants to think about types of digital and forensic evidence that could be used in a child labor case and have them brainstorm ideas as a large group; the facilitator will write ideas on the flip chart. If needed, use the following to generate discussion:
 - Evidence that can show a child's age
 - Evidence that can show a child has not been attending school regularly
 - Evidence that a child was performing a WFCL
- 15 minutes
- Ask the participants to think about types of digital and forensic evidence that could be used in a forced labor or human trafficking case and have them brainstorm ideas as a large group; the facilitator will write ideas on the flip chart. If needed, use the following to generate discussion:
 - Evidence that illegal recruitment practices were used
 - Evidence that workers did not receive the job that was offered
 - Evidence of abuse or threats of abuse
 - Evidence of a lack of pay
 - Evidence of isolation
 - Evidence of other illegal activities
- 20 minutes
- Review the evidence suggested by participants, choose a few of the ideas, and have participants discuss how they could locate and obtain the evidence.
 - 10 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- Evidence can help prove a case; knowing what type of evidence to look for plays an important role in building a strong case.
- Thinking about different ways to prove elements of a crime can increase the chances of successfully identifying and using evidence in a case.



Photo Credit: Arcadiuș, 2011, Paraguay

Lesson 2.5 Interviewing Victims

Objectives:

- Understand the interview methods, roles, and perspectives that will encourage best practices for assessing, interacting with, identifying victims of child labor, forced labor, and human trafficking.
- Practice using interviewing skills and increase skills and confidence to conduct interviews that respect the rights and dignity of victims.

Time:




3 hours and 30 minutes

Steps:

- Exercise 2.5.1: Interviewing Victims Discussion
 - 15 minutes
- Begin presenting PowerPoint Presentation 2.5: Interviewing Victims (stop at slide that says “Victim Interview Demo”)
 - 30 minutes
- Exercise 2.5.2: Interviewing a Victim
 - 50 minutes
- Finish presenting PowerPoint Presentation 2.5: Interviewing Victims
 - 10 minutes
- Exercise 2.5.3 Setting Up a Victim Interview
 - 45 minutes
- Exercise 2.5.4: Interviewing Children
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.5: Interviewing Victims
- Projector
- 2 copies of Resource 2.5.1a Victim interview Script
- Copies of Resource 2.5.1b Victim Interview Scenarios
- Copies of Tool 2.5.1a: Guide for Interviewing Victims—Identifying Forced Labor or Human Trafficking
- Copies of Tool 2.5.1a: Assessing Whether it is a Case of Forced Labor or Human Trafficking
- Copies of Enforcement Training Protocol Case Studies 1–4
- Copies of Tool 2.5.4a: Guide for Interviewing Children—Identifying Child Labor
- Copies of Tool 2.5.4b: Assessing Whether it is a Case of Child Labor
- 2 copies of Resource 2.5.4a Child Interview Script
- Copies of Resource 2.5.4b Child Interview Scenarios



Interviews, particularly interviews involving child labor, forced labor, and human trafficking victims, can provide key information to help build a case. While information provided by victims can help bring a case, to increase its strength and likelihood of success, victim testimony should be corroborated where possible. Understanding the needs of victims (including gender-specific needs, and particularly the needs of children) can help put victims at ease during the process and increase the interviewer's effectiveness. Victims should always be treated with respect and should give informed consent before being interviewed. Trained interpreters should be available and used if needed to ensure that a victim understands the questions being asked. The confidentiality of the interview is an important part of maintaining victim safety and building trust.

Part of the purpose of an initial screening interview is to assess whether someone is a victim of child labor, forced labor, or human trafficking, so it is important to be familiar with indicators, understand the trauma victims may have undergone, and patient. Planning and preparing for interviews plays an important role, as does knowing the types of information that is needed and the purpose the information will serve. Be mindful of ways victim re-traumatization can be avoided, such as by videotaping interviews (where this is legal, and consent is obtained) as this can help eliminate the need for multiple interviews about the same topics. Interviewers in cases of child labor, forced labor, and human trafficking should receive comprehensive training on these topics as well as on victim needs and trauma-informed care.

Victim Screening

Often the first interview with a potential victim of child labor, forced labor, or human trafficking is a screening interview to determine whether the subject is a victim. In some jurisdictions, a person cannot be identified as a victim unless they participate in the prosecution process, meaning that they will be unable to access victim services without participating in a case. This type of interview may be done by first responders, NGOs, law enforcement, labor officers, or others who can then refer the case to the responsible authorities. It is important for these individuals to remember that child labor, forced labor, and human trafficking victims may not identify themselves as victims, and that the person conducting a screening interview needs to look for and ask questions to identify indicators.

Victims who experience several forms of discrimination, as is often the case with victims of trafficking for sexual exploitation, face even stronger negative stereotypes. For example, migrant women at risk of deportation might face the preconception that they are pretending to be victims of trafficking to avoid sanctions or deportation. Victims may also be reluctant to participate if family members were involved in their child labor, forced labor, or human trafficking, such as parents who arranged a job for a child. Victims can also have economic motivations that discourage them from identifying as victims, such as the need to pay a debt that incurred to pay a recruitment fee. Additional information about indicators can be found in Lesson 1.3. Additional information about referrals can be found in Module 3.

The PEACE Model

An interview should be conducted to help determine whether a child labor, forced labor, or human trafficking victim has been properly identified. Interviews can provide law enforcement and labor inspectors with evidence that is helpful for prosecution.

The PEACE Model¹⁵ (for investigative purposes) was developed as a collaborative effort between law enforcement and psychologists in England and Wales. It presents a helpful outline that can be used for teams to build their own guidelines for the interview process. It is used to establish the facts of a case, obtain relevant information, and collect evidence to allow a decision to be made on whether to prosecute. No single answer will determine whether a child labor, forced labor, or human trafficking offense has taken place. Thus, the interview must consist of sets of questions focusing on establishing the elements of the perceived violation (for human trafficking, this would include act, means, and purpose). For more on the establishing elements, see Lesson 1.2.

PEACE Stands for:

- Planning and Preparation
- Engage and Explain
- Account
- Closure
- Evaluation

Interviewing Victims

When interviewing victims, the PEACE model should be used, as described below.

P: PLANNING AND PREPARATION

Before conducting an interview, planning and preparation should be done. This includes conducting a pre-interview assessment, identifying the interview team, and choosing the interview venue.

Pre-Interview Assessment: This step should be conducted prior to the interview of a potential child labor, forced labor, or human trafficking victim to identify the most effective interview strategy. Such an assessment would ideally include information based on all the available data regarding:

1. Current physical condition of the victim;
2. Psycho-emotional¹⁶ state of the victim;
3. Case background;
4. Victim's nationality, age, and gender
5. Interview environment and equipment;
6. Likely direction of the investigation (for law enforcement); and
7. Timeframe and schedule of interview.

Identifying the Interview Team: An ideal team approach consists of two law enforcement/investigator interviewers and, where possible, the participation of a range of other professionals who should act in partnership with the interview officials.¹⁷ It can be beneficial to have law enforcement and prosecutors meet before the interview occurs to create an interview plan, keeping in mind the need to balance the need for the best evidence with the best interests of the victim. The entire interview team should be aware of all that is known about the possible child labor, forced labor, or human trafficking victim and their background; special cultural practices also need to be taken into account. Because trust and safety

15. Investigating Human Trafficking Cases Using a Victim-centered Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

16. This includes the physical characteristics and socio-demographics of the victim.

17. Investigating Human Trafficking Cases Using a Victim-centered Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), p. 39, 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

are often lacking for these victims, it is crucial the interview team make every effort to address the most basic needs of the potential victim.

In setting up the interview team, the needs of child victims (including gender-based considerations) should be taken into account. Ideally, assigned personnel should have received child labor, forced labor, and human trafficking training, which includes a gender-sensitive approach.¹⁸ If an interpreter is needed, identify a trained interpreter who can be present. Ensure that the interpreter used for the victim interview is not used to interview the victim's suspected trafficker or exploiter.

Gender Sensitivity: Female victims of violence, including trafficking for sexual exploitation, end up experiencing structural secondary forms of violence. As a consequence, mistrust in the judicial system increases, leading victims to refuse assistance even when offered to them. The refusal to accept the provided assistance can impact the number of victims identified and result in low numbers of investigations, prosecutions, and convictions. A gender-sensitive approach should be taken while handling all child labor, forced labor, and human trafficking cases with all victims, regardless of gender, so all victims are treated equitably. It is a best practice to ask victims whether they have a preference regarding the gender of the investigating officers responsible for interviewing them or the service providers assisting them. Do not assume that victims prefer persons of the same gender. The victim's preference should always be considered whenever possible; the victim should be kept informed at all times of what's going to happen in a way they can fully understand (i.e., in a language she can communicate in and in a style that is intelligible for her according to her education and cultural background, for example). It is also key to involve the victim in all decisions about further steps, proceeding only with her full consent. Victims of sexual exploitation may fear their families and communities finding out about what happened to them due to potential stigma and ostracism. To address the victim's privacy concerns, explain to the victim that the interviews are confidential, maintain the confidentiality of the interview, and protect the victim's privacy.

Choosing the Interview Venue: The interview should never take place at the location where the potential victim was exploited, such as a job site. The interview should be conducted in an environment that is safe, private, free from foreseeable distractions, secure, and comfortable. If at all possible, the interview should take place in a neutral venue, such as a designated child- or victim-friendly space at a police station or labor office, or at a location outside of these offices if no such space exists. Where possible, a victim-friendly space should include things such as soft lighting, couches, throw pillows, toys for children, and other touches that contribute to a welcoming, neutral environment. Interviewing victims requires patience and understanding. Because victims are being asked to recall a traumatic experience, it will likely take time for them to be willing to give their account of events. It is recommended that interviews allow regular breaks, especially when dealing with child victims. Having a successful interview also depends on the victims' needs being met, such as food, medical, psychosocial, accommodation, and addressing risks to the victim.¹⁹ For more information about victim needs, refer to Lesson 3.1.

Recording Interviews: While preparing the interview, a way to record the interview should be identified; recordings can be done by video, audio, or written means. Video recording is generally preferred because it can preserve non-verbal cues and help prevent the need for additional follow-up interviews, reducing additional trauma to the victim.²⁰ In some jurisdictions, a video recorded interview can be used as testimony during trial. Some victims may be reluctant to have the interview recorded using video because of a fear that their trafficker or exploiter will be able to identify them. Some victims also may present as hostile or not taking the interview seriously, which could be used to discredit them at trial, even if their demeanor was the result of Post-Traumatic Stress Disorder (PTSD) or fear of law enforcement. Audio recording

18. Inter-Agency Coordination Group against Trafficking in Persons, "The gender dimensions of human trafficking," Issue Brief, 4:1–3. <http://icat.network/sites/default/files/publications/documents/ICAT-IB-04-V.1.pdf>

19. "Module 8: Interviewing Victims of Trafficking in Persons who are Potential Witnesses" in Anti Human Trafficking Manual for Criminal Justice Practitioners. United Nations Office on Drugs and Crime (UNODC), 2009 pg. 13. https://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf

20. Module 8: Interviewing Victims of Trafficking in Persons who are Potential Witnesses" in Anti Human Trafficking Manual for Criminal Justice Practitioners. United Nations Office on Drugs and Crime (UNODC), 2009 pg. 18. https://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf

is less expensive and more widely available than a video recording of testimony. While it does not document body language, it can help preserve the identity of victims. Written records of interviews are accessible, but they can be time consuming, and it may be difficult to ensure that the record is accurate.

E: ENGAGE AND EXPLAIN

At the beginning of the session, the interview team should introduce themselves, explain the interview process, and inform the interviewee about what to expect. The potential victim should be asked how he/she would prefer to be addressed. Victims might not be used to being asked for their consent, which may lead to a sense of confusion or even anxiety. Similarly, victims may feel uncomfortable speaking openly about very intimate and painful matters they have been instructed or learned to keep to themselves. It is crucial that the interviewer is trained to understand these reactions and act adequately, for example, establishing a good rapport with the victim, respecting her pace, being sensitive and respectful. The interviewer shall also never ask unnecessary questions out of curiosity about the victim's past experience or for any other reason. Strategies to put the victim at ease should be put in place, for example, giving her the possibility to write some words or sentences that she may not feel comfortable speaking about.

EXPLAIN²¹: The interview team should explain the following:

- Who the team members are
- The positions they hold
- Their experience in this kind of work
- That they have met people in a similar situation several times before
- Check on the potential victim's basic needs (pain, thirst, hunger, if feeling cold)
- Explain what is happening

Inform²²: Interviewers should explain what they will be doing and what the person being interviewed can expect. This can be achieved by doing the following:

- **Clarify the purpose of the interview:** Explain the purpose of the interview and what the interview team is trying to achieve.
- **Explain the transfer to the police station if the interview will occur there:** Explain the reasons and procedure promptly after arrival at the police station. Explore any steps that can be taken to maintain privacy.
- **Explain the structure and the process of the interview:** Explain step-by-step how the interview will proceed.
- **Explain the role of an interpreter/cultural mediator/other persons involved:** Clarify what can/cannot be expected from the interview team.

During the interview, make sure to be culturally sensitive. In this regard, it may be helpful to be briefed on any national, religious, cultural, racial or ethnic issues, or specific terms or words that the victim would consider inappropriate. A positive, open, and non-threatening body language should be maintained. Before explaining the interview process and case-related issues, build a rapport with the potential victim. Use background questions on current welfare, interests, accommodation, and so forth to spark conversation, as well as unrelated questions to make the victim more accustomed to the environment and the persons in the interview room.²³

21. Toolkit to Combat Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC), p. 266, 2008. <https://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html>

22. Toolkit to Combat Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC), pp. 266-67, 2008. <https://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html>

23. Investigating Human Trafficking Cases Using a Victim-centered Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

A: ACCOUNT

This is the majority of the interview process. During the account phase, victims recount their stories in their own words in an uninterrupted manner. The interview team should selectively use very short prompts or words of encouragement, such as “go on” and “you are doing well,” to avoid the pauses/silence of the victims from becoming oppressive.

Objectives of the Interview: Each question that is asked should be linked to an objective of the interview. It is important to remember to be respectful of victims at all times when asking questions and listening to their responses. Objectives of victim interviews include:²⁴

- Establishing facts of the case and the order of events
- Using facts and evidence to corroborate the victim’s account and increase his or her credibility
- Identifying, arresting, and prosecuting perpetrators of child labor, forced labor, and human trafficking
- Evaluating the risk to the victim, the victim’s family, and other victims. If the risk is too great for the victim to participate, consider alternatives
- Identifying if a proactive or disruptive investigation is needed.



Photo Credit: Toastal, 2018, Thailand

To encourage free recall by a potential victim, the following questioning types should be used:

Open-ended questions: These questions allow for the narrative of the victim, not just a simple yes or no answer. Examples of open-ended questions are provided below:

- Can you tell me more about...?
- Can you explain that to me some more?
- Can you recall anything else about the (situation)?

Specific questions: These questions focus on specific events to secure additional information or clarify any ambiguities. Specific questions start with the words “where,” “when,” “what,” and “who.”

24. “Module 8: Interviewing Victims of Trafficking in Persons who are Potential Witnesses” in Anti Human Trafficking Manual for Criminal Justice Practitioners. United Nations Office on Drugs and Crime (UNODC), 2009 pg. 13-14. https://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf

Other kinds of questions should be avoided or used sparingly.

“Why” questions. Interviewers (officers especially) should avoid using “why,” as it can imply some degree of blame or accusation to the victim. Instead, questions should be reframed in a way that allows victims to explain what happened without feeling attacked. An example of a “why” question that implies blame is included below:

- “Why didn’t you escape when you had the opportunity?”
- Positive alternatives: “What prevented you from escaping?” or “Was there anything that prevented you from leaving?”²⁵

Closed questions: When open-ended or specific questions are unsuccessful at obtaining information, these questions call for yes or no answers. Interviewers must be careful, as closed questions may risk the victim trying to guess the answer or situation, and officers can be accused of coaching the victim.

Leading questions: These questions suggest an implied or assumed answer. Interviewers should avoid using this type. An example of a leading question is: “He took all your money, didn’t he?”

Tips for asking questions in an interview:

- Ask questions one at a time. Do not use compound questions.
- Keep questions short and simple
- Do not use jargon or terms that a victim may not understand.
- Ask questions in a supportive tone, do not use a stern voice.
- Ask victims to put events into chronological order.

C: CLOSURE

The interview process should end in a structured and timely manner, not abruptly. Summarize the victim’s key points, using the victim’s words and inviting the victim to correct any mistakes that may have been made. It is also good practice to allot time during closure for the victim to ask questions he/she may have of the interview team and for the interview team to explain in detail the plans for the next steps. It is recommended that law enforcement officers tasked with carrying out interviews have a good knowledge of their government’s national referral mechanism.²⁶

E: EVALUATION

In addition to evaluating the evidence and information gathered, it is important to evaluate the performance of the interviewers and interview. Interview evaluations should be done after each interview. The evaluation should cover the materials gathered and the performance.

Changing accounts: Interviews of victims, particularly those who have been subjected to trafficking and forced labor, often change their accounts over time.²⁷ Changing accounts for trafficking victims is a common occurrence globally. Due to trauma, the information provided by victims may not be sequential, and victims may remember different things at different times. It can be difficult for victims to convey information, particularly when the trauma is fresh. More information about trauma-informed care can be found in Lesson 3.2. In addition to PTSD, victims may have received threats or

25. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

26. Investigating Human Trafficking Cases Using a Victim-centered Approach: A Trainer’s Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

27. “Module 8: Interviewing Victims of Trafficking in Persons who are Potential Witnesses” in Anti Human Trafficking Manual for Criminal Justice Practitioners. United Nations Office on Drugs and Crime (UNODC), 2009 pg. 4. https://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf

otherwise feel intimidated or afraid to participate in a trial. Discrepancies in a victim's story should not be assumed to be lies. Changing accounts are something that defense attorneys are likely to focus on at trial, as the defense may try to portray the victim as a liar or otherwise unreliable. To help prevent counter-attacks on a victim's credibility, the prosecution should work to corroborate the victim's account with other evidence.

Interviewing Children ^{28, 29}

The effectiveness of interviewing any victims of child labor, forced labor, and human trafficking greatly depends on the interviewer's ability to allay fear, build rapport, and carefully ask relevant questions. This is especially important if the interviewer is a law enforcement official. When interviewing a child, additional considerations should be taken into account. Children who have experienced trauma may be embarrassed and not want to share their experiences with the interviewers. Children may also have blocked the experience out and not remember it or may not remember it sequentially. Children may also overextend (such as by referring to all vehicles as cars); it is also important to reduce confusion and misunderstanding by being specific about who you are referring to in questions and avoiding pronouns. By being respectful of the child and building a rapport, a child's comfort can be increased.

Before beginning the interview, the interview team should provide for the child's comfort and basic needs. The interview team should provide a safe location for the interview. The child should be given the right to participate and asked if he/she has a gender preference for interviewers. The interview team should provide specially trained professionals to conduct the interview. Allow only trained personnel to engage in the interview. The team should also plan for an interview of limited length and scope.

Tips for Interviewing Children:³⁰

- Questions should be adapted in consideration of the age and mental capacity of the child.
- Begin with open-ended questions, allowing the child to give her/his own account. Avoid leading questions, such as "Did the person abuse you?" and use more open-ended questions, such as "What did the person do?"
- For very young children who may not be fully verbal (or know the right words to use), trained interviewers can use dolls, coloring supplies, or other props for this purpose.
- The child should be given an opportunity to tell the story in his or her own way before being asked explicit questions.
- Do not pursue and press for details when there are signs that the child has told all he or she knows. However, also bear in mind that children may leave information out if the right question is not asked and may give the answer they believe the interviewer wants to hear.
- Interviews of minors should take place in the presence of a parent; in cases where this is not possible due to a parent not being present or where there is suspected or known family involvement in the trafficking or child labor, the interview should be done in the presence of a trained guardian, psychologist, or social worker.
- Interviews should not occur in the presence of a child laborer's supervisor, manager, or a child's trafficker.
- It is also helpful if snacks, toys, or other inviting items are available to create a child-friendly environment.
- Only staff trained in the special needs and rights of children should question child victims.
- Close the interview in a way that reassures the child that he or she has done well and that the interview team will be available whenever he or she needs to talk again.

28. AGIRE Training Manual. Save the Children, 2010. https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/agire_training_manual_en_1.pdf

29. Toolkit to Combat Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC), 2008. <https://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html> via

30. IOM Handbook on Direct Assistance for Victims of Trafficking. International Organization for Migration (IOM), 2007. <https://publications.iom.int/books/iom-handbook-direct-assistance-victims-trafficking-0>

- The security of the child being interviewed must always be a priority. If there are any doubts that an interview may bring harm to the child, it must be avoided.
- Tell the child being interviewed why the interview is happening and how the information being gathered will be used.
- Be sensitive to where the child is emotionally at any given time before, during, and after the interview; do not ask questions in a way that could retraumatize the child.
- No child victim should be left alone while in the care and protection of law enforcement officers.

Gender Considerations³¹

Gender issues can significantly affect interviewers' capacity to obtain information. Social and cultural issues should be taken into account as well as a victim's trauma. For example, often as a result of a previous experience in their home countries, many victims do not trust the police. It is essential that interviewers pay attention to gender-related needs and empower victims to regain control over their situation as much as possible.

Stereotyping, especially by law enforcement, hampers victims' credibility, hindering their access to identification, protection, support, and justice. For example, research shows that in the case of sexual assault, despite being more aware of the dynamics of victimization, criminal justice professionals expect victims to act according to gender and victim stereotypes.

Given that perpetrators are often closely connected to the victims, there is a possibility that during recruitment, the victim may have initially agreed to take the job, although the victim might not have been aware of the reality he or she was going into or the conditions that he or she would face. Evidence of an initial agreement between the trafficker and victim can lead to victim-blaming attitudes and discourse and might even affect the victim's credibility, especially if he or she does not fit an ideal victim stereotype.

Many victims of child labor, forced labor, and human trafficking have suffered from sexual abuse and violence. They may be reluctant to seek assistance due to shame and stigma from this abuse. All victims, particularly women and children, may be overwhelmed by fear and shame. Men may not want to disclose their experiences, particularly if they come from a culture that values masculine traits highly because they fear losing control of their lives and having their image reduced. Because of these concerns, men and women may prefer to speak with a service provider of the same gender.³²

It is a best practice to ask victims whether they have a preference regarding the gender of the investigating officers responsible for interviewing them and the service providers who will be assisting them. Do not assume that victims prefer persons of the same gender. The victim's preference should always be considered whenever possible. Assigned personnel should have received training on child labor, forced labor, and human trafficking issues, including a gender-sensitive approach.³³

Do not begin an interview by asking about abuse or trauma, but rather try to put the victim at ease by getting to know each other and having him or her discuss "neutral" topics such as hobbies and interests. During this part of the interview, do not ask about the victim's family or community as the victim may be concerned about being separated from family or worried about being stigmatized.³⁴ In some cases, the families of victims may have been involved in their child labor, forced labor, or human trafficking. In the next phase of the interview, have the victim describe the work they performed before asking about potential abuse. Try to avoid asking about details of abuse and trauma more than once.

31. Toolkit to Combat Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC), 2008. <https://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html>

32. Toolkit to Combat Trafficking in Persons. United Nations Office on Drugs and Crime (UNODC), p. 177, 2008. <https://www.unodc.org/unodc/en/human-trafficking/2008/electronic-toolkit/electronic-toolkit-to-combat-trafficking-in-persons---index.html>

33. Inter-Agency Coordination Group against Trafficking in Persons, "The gender dimensions of human trafficking," Issue Brief, 4:1-3. <http://icat.network/sites/default/files/publications/documents/ICAT-IB-04-V.1.pdf>

34. Module 8: Interviewing Victims of Trafficking in Persons who are Potential Witnesses" in Anti Human Trafficking Manual for Criminal Justice Practitioners. United Nations Office on Drugs and Crime (UNODC), 2009 pg. 28. https://www.unodc.org/documents/human-trafficking/TIP_module8_Ebook.pdf

Tool 2.5.2a: Guide for Interviewing Victims— Identifying Forced Labor or Human Trafficking

Work
Tell me about how you started working here
How long have you been working here?
Describe a typical workday
Recruitment
Did someone help you get this job? Did you or your family have to pay them for the job? What did he or she tell you about the job? Is the work you do here the same as what you were told? How is it different?
Did you have to take out a loan to get this job?
Do you have an employment contract? Do you have more than one? Do you have a copy of it? Can you tell me about what the contract says? Is it in a language that you understand?
Travel
Did you have to move for this job? Where did you move from? What route did you take?
Who did you travel with? How long did it take? Who purchased your tickets?
Were you responsible for any additional travel-related costs as part of your migration journey?
Health and Safety
What types of tasks do you do at work? What kinds of tools do you use?
What types of training did you receive at work?
What kinds of safety equipment do you use? Is the equipment provided by your employer? Did you have to purchase or rent the equipment? Do you feel safe doing your job when you use the equipment?
Have you or another employee gotten injured or sick at work? What happened? Were you (or they) able to get treatment?
Have you or others been punished at work? What were you punished for? What was the punishment? Is punishment common?
Have you been threatened? Can you describe the threat?
Wages and Hours
How often are you paid? How much are you paid? How are you paid? Are you paid the salary you were promised? Do you think your pay is fair?
Do you have to pay your employer for accommodation or expenses? How much do you have to pay?
Does your pay cover your expenses? What types of expenses do you have?
How many hours do you work in a day? How many days do you work a week? What time of day or night do you work? Do you have any time off? When do you have time off?
Conditions
Are you able to contact your family or friends? How often?
Are you able to socialize with your coworkers? With people outside of work?
Are you able to come and go freely? Do you have any time to yourself? What do you do for fun?
Do you have access to your identification documents and passport?
Describe your living conditions. Is your living environment safe? Clean? Well-ventilated?

Tool 2.5.2b: Assessing Whether it is a Case of Forced Labor or Human Trafficking

The following is a list of questions to determine whether the interviewee is a victim of forced labor or human trafficking and in need of assistance.

1. Is the person performing the job that they were promised?
2. Is the person receiving the wage they were promised?
3. Is the person working the hours they were promised?
4. Is the person working overtime? Are they being compensated for overtime?
5. Is the person free to come and go from the premises?
6. Is the person paid at least minimum wage?
7. Is the person able to contact his or her family and/or people outside of the work site?
8. Does the person have access to his or her personal documents?
9. Is the person in debt to his or her employer?
10. Is the person in debt to someone else because of recruitment fees?
11. Does the person have access to medical care?
12. Does the person have access to protective equipment (if needed for the job)?

Photo Credit: Fairphone, 2011, Democratic Republic of the Congo



Tool 2.5.4a Guide for Interviewing Children— Identifying Child Labor

Starting Employment
Tell me about how you started working here.
How long have you been working here?
Did someone help you get this job? Did you or your family have to pay them for the job? What did he or she tell you about the job? Is the work you do here the same as what you were told? How is it different?
How did you decide to take this job? Who did you discuss the decision with? Did anyone pressure you to take the job?
How did your family feel about your starting this job?
Did you have to move to take this job? Where did you move from? What route did you take?
Who did you travel with? How long did it take? Who purchased your tickets?
Education
Are you still attending school? How often do you attend school?
When did you stop attending school? Why did you stop attending school? What did you enjoy about school?
Health and Safety
What types of tasks do you do at work? What kinds of tools do you use? Are any of the tasks you do scary? Why are they scary? Are there any tasks that you are not allowed to do because you are not an adult? What tasks are those?
What types of training did you receive at work? Does someone supervise you?
What kinds of safety equipment do you use?
Have you or another child gotten injured or sick at work? What happened? Were you able to get treatment?
Have you or other children been punished at work? What were you punished for? What was the punishment? Is punishment common?
Wages and Hours
How often are you paid? How much are you paid? Do you think your pay is fair?
How many hours do you work in a day? How many days do you work a week? What time of day or night do you work?

Tool 2.5.4b: Assessing Whether it is a Case of Child Labor³⁵

The following is a list of questions to determine whether a child is engaged in child labor and in need of assistance.

1. Is the child engaged in a worst form of child labor?

- Slavery, trafficking, debt bondage, forced or compulsory labor, or armed conflict
- Prostitution, production of pornography, or pornographic performances
- Illicit activities such as the production of drugs
- Work that is likely to harm the health, safety, or morals of the child

2. Is the child below the minimum age of employment?

3. Is the child below the age of 18 and performing hazardous work?

- Consult the country's hazardous work list, if applicable

4. If the child is above the minimum age of employment, but under the age of 18, are the following standards being met (note that these may vary slightly by jurisdiction):

- No work at night
- No work in excess of hours permitted for children under law
- No work in hazardous conditions
- Must be paid at least minimum wage
- Work cannot interfere with the child's education
- Health and safety measures are in place
- Child's employment has been registered with authorities if required

5. Is the child performing light work and below the minimum age for light work?

35. Adapted from Nepal Labor Inspection Training on Child Labor Facilitator's Guide. Verité and Winrock International, p. M3 at 57, 2018. <https://www.verite.org/wp-content/uploads/2019/06/Nepal-LI-Curriculum-2nd-edition-ENGLISH.pdf>

Exercise 2.5.1: Victim Interview Discussion

Objective:

- To have participants begin thinking about special considerations for interviewing victims, including child victims.

Time:

 15 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- Ask participants the following questions and write down answers on the flip chart
- What advice would you give someone who is going to interview a victim?
- What special steps should be taken if a child is being interviewed?
 - 10 minutes
- Key messages
 - 3 minutes

Key Messages:

- There are many considerations when interviewing victims, but it is key to always treat the victims with respect and to let the victims tell their stories.
- When interviewing children, keep in mind that children may remember things differently than adults.
- More tips and advice will be addressed in the Lesson.

Exercise 2.5.2: Interviewing a Victim

Objective:

- To observe best practices for interviewing victims and then practice using those skills by conducting mock interviews based on scenarios.

Time:

 50 minutes

Materials and Preparation:

- Make 2 copies of Resource 2.5.1a Victim interview Script
- Make copies of Resource 2.5.1b Victim Interview Scenarios
- Make copies of Tool 2.5.2a: Guide for Interviewing Victims—Identifying Forced Labor or Human Trafficking and Tool 2.5.2b: Assessing Whether it is a Case of Forced Labor or Human Trafficking
- Identify a co-facilitator or participant who can play the role of the victim in the victim interview demonstration. Provide him or her with a copy of the script and try to practice once with that person if time permits.

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Divide participants into groups. Each group should have four to eight participants. Within each group, participants should be divided into pairs. In each pair, have one person designated as the interviewer and the other as interviewee. Give copies of the interview scenarios to each interviewee, making sure that within each group, only one copy of each scenario is distributed.
 - 5 minutes
- Ask the participants to conduct mock interviews of each other using the scenarios described in 2.5.1b Victim Interview Scenarios. Each pair should have 5–10 minutes to do the interview, with the rest of the group observing. The interviewer should not read the scenario beforehand. After each mock interview, the interviewer should tell their group whether they think the victim's situation qualifies as forced labor or human trafficking and why. Then, the group should discuss whether it agrees or disagrees with this conclusion. The group should also discuss which interview questions were effective or ineffective and which questions, if any, the interviewer forgot to ask.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- When interviewing victims, try to make them feel comfortable by introducing yourself and explaining the purpose of the interview. Ask how they are feeling and if they would like a glass of water.
- Allow victims to tell their story by asking open-ended questions, asking follow-up questions if clarification is needed.
- Do not pressure victims or imply that they are somehow at fault for being a victim.

RESOURCE 2.5.2A: VICTIM INTERVIEW SCRIPT

Interviewer: Hi [female victim's name], how are you?

Victim: Fine, a little nervous.

Interviewer: I completely understand that you feel that way and I want to let you know that we are here to help you and not judge you. Is there anything we can do to make you feel more comfortable? Do you want anything to drink or eat?

Victim: No, thank you.

Interviewer: Alright, then I will start by introducing myself and telling you a bit about what you can expect from this interview. My name is [female name] and I am investigating the working conditions at the mine you work at in Eritrea. I'm joined by Mary, who is a social worker, and I will be taking down a few notes during this interview so I can remember the things we talk about. I'm going to be asking you a bit about how you ended up working at the mine, the health and safety there, the wages and hours, and the conditions. Does that sound okay?

Victim: Yes

Interviewer: Okay, let's start with a few questions about you. Where are you from originally?

Victim: Here in Eritrea. About 200 kilometers from the mine I work at now.

Interviewer: Tell me about how you started working at the mine.

Victim: About two years ago I saw an advertisement. They needed cooks and domestic workers to provide food for the workers at the mine and keep the facilities in order.

Interviewer: Did you have to take out a loan or sign a contract to get the job?

Victim: No, there was no contract. It is a small mine, and the agreement was fairly informal. I did need to pay for my travel, but the mine gave me a loan. They said I needed to work 1 month to pay the loan back.

Interviewer: And when you arrived at the mine was the work what you expected.

Victim: At first yes, I did a lot of panning, mineral cleaning, and domestic work. But then, no it wasn't.

Interviewer: What changed?

Victim: A few days before I was to finish the first month of work and pay off my loan, my bosses—who were men—started making me do sexual favors for them. I did not want to, but I felt like I had to.

Interviewer: Can you tell me more about what they did to make you feel that way?

Victim: Well, I still had to pay back my loan and I felt like if I said no, they wouldn't forgive my debt. They would claim I stopped working and then I would owe them the whole loan and interest and I would have no way to pay it. The mine is also so far away from any towns, that I don't know how I would have gotten back if I had left, especially since I had no money.

Interviewer: I understand. In addition to all this, were you ever threatened by your bosses?

Victim: Yes, we were all threatened all the time. They said they would kill us if we did not cooperate. I never knew of anyone getting killed, but many of us were beaten. Many women walked around with bruises all the time.

Interviewer: Did this ever happen to you?

Victim: Yes, I was sick once from the fumes in the mine and I had to come out halfway through the day. My boss wanted me to do "special work" for him, but I was so lightheaded that I fainted. I woke up to him beating me and sexually abusing me.

Interviewer: Was there any medical treatment available for the fumes or abuse?

Victim: Not really, but one of the other mine workers had trained as a nurse when she was younger and was able to help. I'm really glad that she was there. I was able to recover from the fumes.

Interviewer: I am glad you were able to get some care and recover [victim's name]. Let us take a five-minute break so that we can go to the bathroom and get some food and water. Then, I'd like to talk to you a little bit more about what it is like working at the mine, is that alright?

Victim: Yes

[End demonstration]

Explain to the group: Typically, the interviewer would continue to ask a few more questions about the conditions of the abuse the victim suffered and the environment of the workplace. The interview would have finished with the interviewer:

1. Summarizing the key points the victim made;
2. Asking the victim to correct any mistakes in the summary;
3. Asking the victim if she had any questions; and
4. Explaining in detail the next steps.

RESOURCE 2.5.2B: VICTIM INTERVIEW SCENARIOS

If the interviewer asks a question and the information they seek is not provided in your biography, be creative, and invent some new facts.

Biography 1:

Your name is Fatimah. You are 24 years old and live in Dhaka, Bangladesh. You work at a large factory with 1000 other employees producing ready-made garments. You have been working at the factory since you were 15. You did not have to move for this job; you live in the city with your parents and siblings. You work 10 hours per day, 6 days a week. You are paid 5,300 taka per month, despite that in 2018, the minimum wage was increased from 5,300 to 8,000. If you get sick or injured, you do not get paid time off. You get a 30-minute break every day and can take bathroom breaks, but if you take more than two a day, you get scolded. You are worried because you just became pregnant, and the pregnant women who work with you do not get any additional breaks. If they take more breaks than allowed, they are usually fired, and it is so competitive to get a job at the factory that they are never rehired.

Biography 2:

Your name is Daw, and you work on a seasonal fishing boat in the Gulf of Thailand. You are originally from a small town in Burma but could not find work there, so you paid a broker to find you a job in construction in Thailand. You arrived at the broker's office after several days of travel, and the broker took your identification documents for safekeeping. He then told you the only job he could find was as a fisherman. You were hesitant but felt you could not go back home after coming all this way. You reluctantly agreed and have now been working on the boat for 6 months. You work 18 hours per day, 7 days a week. You should have gotten paid every 2 months but have not yet been paid. You owe the broker, and interest has been building up. Unless you get paid soon, you do not know how you will be able to pay him back. In addition to catching fish, you are also often asked to repair nets stuck in the water. This can be dangerous without proper equipment. You once got caught in the net while underwater, resulting in a huge cut on your leg. It was quickly wrapped with gauze, and you were put back to work, but without a doctor on the boat to provide proper cleaning and stitches, the wound soon became infected. You were not allowed to stop working and have been in pain for several weeks. You want to leave the boat to see a doctor but are worried that if you leave, you will not get paid for the work you have already done and will be trapped in even greater debt.

Biography 3:

Your name is Aman, and you have recently migrated from your home in Ethiopia to Saudi Arabia. You were promised by a broker that you would be given a well-paying construction job. You have a wife and two children back at home and had planned to send money back to them to pay for their living expenses and the children's education. You arrive at the construction site and are given no job training. You mostly work breaking up large boulders, which are then used in the building process. You work 12 hours per day, 5 days a week, and often suffer from heat sickness because of the lack of access to potable water. You sleep on-site on a mat on the floor along with fifty other workers. Conditions are uncomfortable and often unsanitary. You have been getting paid, but the construction company subtracts money to pay your recruiter and to pay for your food, accommodations, and the tools that you use. These incidental costs were not mentioned in your employment contract. You send back all the money you can to your wife and children, but it is barely enough to cover their living expenses and not enough to send your children to school. You still have your travel documents and theoretically could leave, but your contract says that you must stay for 4 more months. If you leave now, you will still owe the recruiter fees for the next 4 months, and you will have no money to get back home. You feel intimidated by your boss, who yells at employees for taking breaks and sometimes physically abuses them for speaking out. You do not know if you should leave or if you even can.

Biography 4:

Your name is Marcela. You are 14 years old. You used to attend school and received good marks on your exams, but now it seems like you never go to school because you have to help your parents with farm work. You started doing farm work a few years ago; you are not sure exactly when, but it started out during school breaks and a few mornings before school. Now you work almost every day to help your parents meet their quota. If they fail to meet the quota, they will not get paid. The work is hard, it can get very hot out, and you have to work for a long time. Sometimes you have to use tools; you got cut a few times, but at least you do not have to spray any of the chemicals. It seems like the boss knows that you are working at the farm because there are other kids working too, but not little kids. You would prefer to be in school, but now that your older brother moved away with his wife, you need to help out.



Photo Credit: MM, 2008, Herding Sheep in Bolivia

Exercise 2.5.3: Setting Up an Interview

Objective:

- Practice considering the needs of different victims during interviews.
- Think about the victim's needs before an interview to make the interviews productive and prevent re-traumatization.
- Revisit the Enforcement Training Program (ETP) case studies as the victims move through the case process.

Time:

 45 minutes

Materials and Preparation:

- Flip charts
- Markers
- Make copies of ETP case studies 1–4

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Split participants into four groups. Give each group copies of a different ETP case study. Instruct each group to review their case study and identify facts that could impact the best way to set up a victim-sensitive interview. Groups should consider different types of vulnerability such as gender and age, and each victim's child labor, forced labor, and/or human trafficking experience. Next, each group should identify how to address each of the identified facts or victim needs during the interview. Each group should then write a plan for setting up an interview with the victim in their case file, writing the key points on their flip chart.
 - 15 minutes
- Instruct the groups to reconvene and have each group present their interview plans, explaining why each key point was included. Allow time for questions and comments.
 - 20 minutes
- Key messages and Q&A.
 - 5 minutes

Key Messages:

- Thinking about victim needs before an interview and creating an interview plan can help prevent re-traumatization and ensure that the interview achieves its objectives, reducing the likelihood that another interview must take place.
- Planning can help ensure that a victim feels more comfortable and respected.
- By planning, issues can be addressed that would be hard to address once an interview is underway, such as ensuring that an interpreter is available or that a woman can help conduct the interview.

Exercise 2.5.4: Interviewing Children

Objective:

- To observe best practices for interviewing children and then practice using those skills by conducting mock interviews based on scenarios.

Time:



60 minutes

Materials and Preparation:

- Make copies of Tool 2.5.4a: Guide for Interviewing Children—Identifying Child Labor and Tool 2.5.4b: Assessing Whether it is a Case of Child Labor
- Make 2 copies of Resource 2.5.4a Child Interview Script
- Make copies of Resource 2.5.4b Child Interview Scenarios
- Identify a co-facilitator or participant who can play the role of the child in the child interview demonstration. Provide him or her with a copy of the script and try to practice once with that person if time permits.

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Perform victim interview demonstration using Resource 2.5.4a Child Interview Script
 - 15 minutes
- Divide participants into groups. Each group should have four to six participants. Within each group, participants should be divided into pairs. In each pair, have one person designated as the interviewer and the other as interviewee. Give copies of the interview scenarios to each interviewee, making sure that within each group, only one copy of each scenario is distributed.
 - 5 minutes
- Ask the participants to conduct mock interviews of each other using the scenarios described in 2.5.4b Child Interview Scenarios. Each pair should have 5–10 minutes to do the interview, with the rest of the group observing. The interviewer should not read the scenario beforehand. After each mock interview, the interviewer should tell their group whether or not they think the child's situation qualifies as forced labor or human trafficking and why. Then, the group should discuss whether it agrees or disagrees with this conclusion. The group should also discuss which interview questions were effective or ineffective and which questions, if any, the interviewer forgot to ask.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Help children feel comfortable by introducing yourself and making sure the children have water or snacks if needed. Engaging in small talk can help as well.
- Remember to take breaks when interviewing children.

RESOURCE 2.5.4A: CHILD INTERVIEW SCRIPT

Interviewer: Hi [child's name]— is it okay if I call you [child's name]?

Child: Yes.

Interviewer: Great. [Child's name], my name is [interviewer's name] and I work as an interviewer for the International Rights Organization. I am going to be asking you a few questions today. With me I have [common female name] from the Department of Special Investigations. She will just be listening and taking some notes while we talk. Before we get started, would you like anything to drink or eat? We have water and juice and some snacks right over here.

Child: Can I have a water please?

Interviewer: Of course, let me get that for you. And how is the temperature in here? Are you comfortable? [hands child water]

Child: [takes water] Thank you. Yes, the temperature is fine.

Interviewer: Okay, good. So, I will get started by telling you a little bit more about what I do and why we're here today. My job is to talk to children like you about their lives—about work, school, family, friends. My goal here is to learn from you and ultimately, to keep you safe. I've been doing this type of work for about three years now and have already talked to a lot of other children in the city of [current location] who are in a similar situation. Do you have any questions for me?

Child: Yes, why did you choose me? Am I in trouble?

Interviewer: You are certainly not in trouble and you won't get in trouble for anything you tell me today. I am here to help you and you do not have to worry. We asked to speak with you and a few other children from the factory because we want to know what it is like to work there.

Child: Okay.

Interviewer: Okay, let's start with a few questions about you. Where are you from originally?

Child: I am from a village nearby. It is about half of a day of travel away.

Interviewer: Do you have any family still living there?

Child: Yes, my mother and two sisters.

Interviewer: When did you come to the city?

Child: I came here about four years ago.

Interviewer: How old were you then?

Child: Eleven.

Interviewer: So, are you fifteen now?

Child: Yes.

Interviewer: And did your family know you were coming to the city? Did they help you arrange your travel?

Child: Yes, my uncle knows the factory's recruiter and when my father died, he helped me get a job here in the city. My mother helped arrange my travel.

Interviewer: Do you still see your mother or your sisters?

Child: No. But I send them money.

Interviewer: How much money do you make every week and how much money do you send them?

Child: I make about [1/4 of minimum wage] per hour and I send them half of what I make.

Interviewer: Did you know you would be making that much when you signed up?

Child: No, I thought I would be making [minimum wage], but I have to pay the recruiter and I have to pay for the building where I live.

Interviewer: Where do you live? What is it like there?

Child: I live in the building right next to the factory. The factory owner also owns the building. That is where a lot of the kids stay.

Interviewer: Can you tell me a little bit more about what it is like there?

Child: There are about a hundred of us who live there, and there are nine people in my room. I am the oldest in my room. Most of the children there are twelve or thirteen, but some are younger. We sleep on the floor on mats. It is not very nice and gets cold in the winter.

Interviewer: And can you tell me a bit more about its like working at the factory? What do you do and what do some of the other kids do?

Child: I sew clothes and most of the others do too. Some of them mostly sew buttons or zippers, some of them help dye the clothes, and some of them do transport, so they bring in the new materials and deliver the finished clothes when we are done. I mostly make pants.

Interviewer: How many hours a day do you work there?

Child: Usually ten or eleven.

Interviewer: Tell me a little bit about what you do in your free time. Do you go to school? Play with friends?

Child: I work doing chores for the recruiter to help pay back the recruiting fee. I don't go to school and I haven't gone since I moved here. I am usually too tired to spend time with friends.

Interviewer: Alright, thank you [child's name]. Let us take a five-minute break so that we can go to the bathroom and get some food and water. Then, I'd like to talk to you a little bit more about what it is like working at the factory, is that alright?

Child: Yes

[End demonstration]

Explain to the group: Typically, the interviewer would continue to ask a few more questions about the conditions of the workplace to find out whether it was hazardous. The interviewer would also ask questions related to the child's freedom of movement to find out whether there was some level of forced labor. The interview would have finished with the interviewer:

1. Summarizing the key points the child made;
2. Asking the child to correct any mistakes in the summary;
3. Asking the child if he had any questions; and
4. Explaining in detail the next steps.

RESOURCE 2.5.4B: CHILD INTERVIEW SCENARIOS

Biography 1:

Your name is Abishek, and you are 9 years old. You have worked at a brick kiln with your parents for the last 6 months. Your parents are working to repay a loan and need your help, so you work 10 hours per day alongside them. You work 5 days per week. On the weekends, you play soccer and cards with friends. You also go to a weekend school for 5 hours on the weekends with other children who work during the week. However, your parents say you will need to stop school when you turn 10 because the interest on the loan is getting higher, and they will need you to start working more. At work, you cannot take breaks other than to go to the bathroom once a day. You have not been physically abused, but you have seen older children beaten. Since starting work at the brick kiln, you have often felt dizzy and light-headed. You are often very tired. One time, when you were not paying attention, a brick fell on your hand and crushed your finger. It has healed, but it was painful for about 3 months.

Biography 2:

Your name is Juana, and you work in the home of a family friend. You are a migrant and moved to this city without a work visa or other documentation. You are 14 years old and work 8 hours per day, 6 days per week. You take care of the family's three children, the oldest of whom is ten. You don't have time to go to school, but you do get to sit in on the ten-year-old's classes for a few hours each day. Your duties mostly include cleaning and cooking. Your employer sometimes threatens you with physical and sexual violence and has sexually abused you on more than one occasion. You do not want to discuss the details. You want to leave but feel very isolated and are scared. You make slightly less than minimum wage, but you know you can't get a legitimate job anywhere else in the city because you do not have documentation.

Biography 3:

Your name is Jiyoan, and you work at your family's small farm growing beans. You are 13 years old and work about 7 hours per week, an average of 1 hour per day. You go to school during the day and help out in the field in the morning before you leave for school. You enjoy working with your family and do not feel it distracts from your schoolwork. On the weekends, you have plenty of time to play with friends, and you like to go to the market to help your family sell the food you have grown. You sometimes feel a bit tired from getting up early before school, but you think it is important to learn how to farm because it is a family tradition, and you want to help provide for your family.

Lesson 2.6 Interviewing Suspects

Objective:

Understand how to interview suspects in a way that respects and protects their rights and helps gain information that can help build a child labor, forced labor, or human trafficking case.

When interviewing a suspect, the police must inform the suspect of his or her rights, including the right to remain silent. Officers may be required to have a suspect sign a form indicating that he or she has been advised of his or her rights. In most jurisdictions, a suspect should be allowed to speak with his or her attorney if requested.

Interviews with suspects should be recorded in some fashion. Video or audio recording provides the clearest record but may discourage the interviewee from being candid. Written notes are less obtrusive. The date, time, location, and persons present must be recorded.

If a suspect confesses during an interview, the following information should be recorded precisely and in writing:

- What questions investigators asked and the responses of the accused
- Details of any oral statement made by the suspect
- A written statement (if made/required) and the time it was made
- Whether the suspect had been cautioned/informed of his/her rights and if so, the time of the cautioning and what his or her response was
- The start and end time of the interview and the time of any breaks during the interview

Time:

 95 minutes

Steps:

- Exercise 2.6.1: Interviewing Suspects Discussion
 - 15 minutes
- PowerPoint Presentation 2.6: Interviewing Suspects
 - 20 minutes
- Exercise 2.6.2: Interviewing Suspects
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.6: Interviewing Suspects
- Projector
- 2 copies of Resource 2.6.2a Suspect Interview Script
- Copies of Resource 2.6.2b: Suspect Interview Scenarios

Written statements: If a suspect wishes to write a written statement, he or she should be provided with writing materials and asked to write at the beginning of the statement information that he or she was advised about his or her rights. After completing the statement, the suspect should be asked to review the written statement and make any corrections or additions that are needed. The suspect should sign the statement and initial each page. If a suspect cannot read or refuses to read, the interviewing officer should read the statement aloud to the suspect and ask if he or she has any corrections. Once any corrections have been made, the suspect should sign the statement. If the suspect will not sign the statement, others present can sign, indicating that the statement is accurate.

When interviewing suspects, it is a best practice to use the PEACE method, which includes the following steps: Planning and preparation, Engage and explain, Account, Closure, and Evaluation. The PEACE method is explained further in Lesson 2.5.

When interviewing suspects, it is important to take breaks. There are several things to keep in mind when taking breaks during a suspect interview:

- Do not leave the suspect alone in the interview room
- During short breaks, it is not necessary to turn off any recording device, and everyone participating in the interview should remain in the room.
- For longer breaks, the suspect may be permitted to leave the interview room
- During longer breaks, the recording may be stopped if the interviewer announces that a break will be taken, along with the reason for the break and the time.
- After the break ends, the interviewer should begin by stating that the interview is continuing, the reason why the break was taken, and the time.
- It must be made clear that the suspect is still under caution and has been advised of his or her rights.

Interrogating a suspect: A law enforcement officer may need to interrogate a suspect, which is the next step in the process after an initial interview, during which a screening occurs. An interrogation should only occur after a suspect has been interviewed. During an interrogation, visual aids can be helpful, such as in detailing what occurred at different parts of a job site, the movement of victims, and any financial transactions. If other crimes are involved, make sure that other agencies are present such as labor, tax, and immigration. The suspect's contact and location information should be obtained.

Once the interrogation has been concluded, draft a brief interrogation report. If the suspect revealed additional crimes during the interrogation, they should be added to the charge sheet. Relevant information should be included in an interrogation report. **There may be local rules dictating what to include, but several things to consider including in the report are listed below:**

- Details about the child labor, forced labor, or human trafficking offense
- Relevant provisions of the law
- For human trafficking offenses, place of origin, transit, and destination
- Details about the child labor, forced labor, and human trafficking process
- Description of the crime scene and physical evidence
- Authority of the officer or investigator who conducted the investigation or rescue
- The full names of the social workers, CSO or NGO officers, and witnesses present at the rescue
- Observations of the physical injury or trauma of victims

Exercise 2.6.1: Interviewing Suspects Discussion

Objective:

- To have participants start thinking about interviewing suspects and how those interviews might be similar and different from interviewing a victim.

Time:

 15 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants the following questions, writing down the answers on the flip chart
- What special considerations are there when interviewing suspects?
- How are suspect interviews different from victim interviews?
 - 10 minutes
- Key messages
 - 3 minutes

Key Messages:

- Jurisdictions have different rules, but generally suspects have to be advised of their rights, sometimes referred to as being "cautioned."
- The rights of suspects must always be respected.
- Information is sought during both suspect and witness interviews, but accusatory questions should only be asked of suspects, not victims. Suspects should not be asked solely accusatory questions.

Exercise 2.6.2 Interviewing Suspects

Objective:

- To observe best practices for interviewing suspects. To practice interviewing suspects in a way that respects their rights and can help gain information useful to a child labor, forced labor, or human trafficking case.

Time:

 60 minutes

Materials and Preparation:

- Make 2 copies of Resource 2.6.2a Suspect Interview Script
- Identify a co-facilitator or participant who can play the role of the suspect in the suspect interview demonstration. Provide him or her with a copy of the script and try to practice once with that person if time permits.
- Make copies of Resource 2.6.2b: Suspect Interview Scenarios

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Perform a victim interview demonstration using Resource 2.6.2a Suspect Interview Script
 - 10 minutes
- Divide participants into groups. Each group should have four to six participants. Within each group, participants should be divided into pairs. In each pair, have one person designated as the interviewer and the other as the interviewee. Give copies of the interview scenarios to each interviewee, making sure that within each group, only one copy of each scenario is distributed.
 - 5 minutes
- Ask the participants to conduct mock interviews of each other using the scenarios described in 2.6.2b Suspect Interview Scenarios. Each pair should have 5–10 minutes to do the interview, with the rest of the group observing. The interviewer should not read the scenario beforehand. After each mock interview, the interviewer should tell their group whether they think the suspect appears to have committed a child labor, forced labor, or human trafficking offense and why. Then, the group should discuss whether it agrees or disagrees with this conclusion. The group should also discuss which interview questions were effective or ineffective and which questions, if any, the interviewer forgot to ask.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 10 minutes

Key Messages:

- When interviewing a suspect, make sure to caution/inform him or her of his or her rights.
- Always respect the rights of a suspect.
- Making a record of the interview will strengthen a case.

RESOURCE 2.6.2A: SUSPECT INTERVIEW SCRIPT

Interviewer: Hi [suspect's name], how are you?

Suspect: Fine, thanks.

Interviewer: Before we get started, I would like to advise you that this session is being recorded on [device, e.g., tape recorder] to ensure we have an accurate record of our conversation. I also need to advise you that you have the right to remain silent and [list other rights]. If you like, you have the right to speak with your attorney. Please sign this form to indicate you have been advised of your rights.

Suspect: [Signs form]

Interviewer: Thank you. My name is [interviewer's name] and I work as an interviewer for the International Rights Organization. With me I have [common female name] from the Department of Special Investigations, who will be listening to our conversation today. Today is [date of the interview] and we are at [location of the interview]. We are here today to ask you some questions about you, your work at the garment factory you manage in Quilmes, and about your employees and the working conditions at the factory.

Suspect: Alright.

Interviewer: Let's start with a few questions about you. Where are you from originally?

Suspect: I was born in Buenos Aires city and I still live there.

Interviewer: And how long have you been the manager of the Quilmes garment factory?

Suspect: Three years. Before that I managed a different factory in the city.

Interviewer: Can you describe for me specifically what you do in your role as manager there?

Suspect: I oversee the workers who piece together the finished products for clothing items that are exported to be sold in Brazil. I work on the factory floor 5 days a week from 8 am to 6 pm ensuring that the workers are doing their jobs and achieving their targets.

Interviewer: How many of them do you manage?

Suspect: There are thirty-eight women who work on the factory floor and I manage all of them. The women work on the weekends sometimes too, but a different manager oversees them then. I don't know anything about him.

Interviewer: Okay, let's talk a bit about the workers. Where are they from? Are they mostly women, or mostly men, or a mix of both?

Suspect: They are all women. Some of them are local, some of them are from Paraguay and Bolivia. I'm not really sure.

Interviewer: Ok, and how do you find and recruit workers? Do you post ads online and in the papers?

Suspect: No, I have a friend [friend's name] who I trust to find good workers who does the recruitment for me. He finds people who want jobs and sends them to me.

Interviewer: And who do the workers sign a contract with, you or [friend's name]?

Suspect: With me.

Interviewer: So do you pay [friend's name] a fee for all the employees he refers to you?

Suspect: No, the workers pay him directly. There is a line in their contracts that they must give their salary over to him until they have repaid what they owe.

Interviewer: And how do you calculate what they owe him?

Suspect: I don't get involved with that; it's between the workers and [friend's name].

Interviewer: Can you tell me about the workers' identity documents, and passports for the workers who are from Paraguay and Bolivia? Do the workers keep those themselves?

Suspect: No, I hold them for them until they repay their debts. It's for their own protection; if something happened to their papers, they wouldn't be able to work anymore.

Interviewer: Ok, and where do the workers live?

Suspect: [Friend's name] owns a few places where they stay. I don't know the details; he arranges that with them directly. The houses they live in are near the factory though.

Interviewer: Can you tell me about your relationship with the workers? Do you know them well? Do you get along well with them?

Suspect: I don't know them well. Most of them have worked here for a few years by now, we have very low turnover. I don't speak with them outside of work though. Our relationship is only professional. [Friend's name] knows them better because he recruits them and provides them a place to stay and takes care of them while they are working here.

Interviewer: Ok, thank you for all this information. Let's take a five-minute break. You can use the bathroom if you need to. When we come back, I'd like to talk more about [friend's name].

[End demonstration]

RESOURCE 2.6.2B: SUSPECT INTERVIEW SCENARIOS

Scenario 1: You were running a construction site that employs men and boys. During a labor inspection, the inspector noticed that there were boys working during school hours. Some of the boys were using welding equipment; others were on scaffolding. You make sure that everyone is trained for their work. Occasionally people get injured at the job site, but not too seriously. You think the boys are 16 years old but are not sure. Everyone who works at the construction site lives nearby. You are happy to be giving jobs to people in the community.

Scenario 2: You were found at a carpet weaving factory and appeared to be in charge. There were around 20 women and girls at the site. Conditions were cramped, and workers were hunched over at their workstations. The women and girls worked long hours, 10–12 hours per day, with a short break for lunch. The workers' food (three meals per day) and accommodation are deducted from their wages. You are not sure how old the girls are, but they were already out of school.

Scenario 3: You run a recruiting agency that places women in jobs in other countries. The women are promised jobs as maids in fancy hotels in a few countries in Asia. You charge the women a fee of two months' salary to secure the position. You do not follow up with the women after they arrive at their destinations. Once the women arrive at their destinations, they have to sign a new contract with their employers, so that the employers have a copy. You think they should be doing the same work and getting the same pay as in the contract you prepared, but you are not sure. The employers ensure you have a lot of business, so you do not ask too many questions. You heard once that a woman was unhappy. She said she was forced to work as a prostitute.

Lesson 2.7 Charging

Objectives:

- Understand the elements that make up child labor, forced labor and human trafficking offenses.
- Learn about charging child labor, forced labor, and human trafficking offenses and other related crimes.
- Learn about who may be exempt from prosecution.
- Using case studies, practice determining charges for offenders.

Time:

 90 minutes

Steps:

- Exercise 2.7.1: Charging Discussion
 - 10 minutes
- PowerPoint Presentation 2.7: Charging
 - 25 minutes
- Exercise 2.7.2: Charging Offenses in the Enforcement Training Program (ETP) Case Studies
 - 55 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 2.7: Charging
- Projector
- Copies of ETP Case Studies 1–4

Charging child labor, forced labor, and human trafficking offenses is an important part of bringing a case. To bring a successful case, the elements of the crime being charged must be proved. Understanding the elements of child labor, forced labor, and human trafficking offenses plays an important role in conducting a comprehensive investigation, which can help bring a successful prosecution. When labor inspectors and law enforcement officers understand what must be proven to bring a case, it can help inform how an investigation is conducted and the type of evidence that is identified and collected. Prosecutors can make sure that appropriate charges are filed based on the facts and evidence. The information detailed below covers international standards; local legislation should determine the elements of child labor, forced labor, and human offenses.

Charge sheets must be properly completed and filed; failure to do so may lead to a case being dismissed in many jurisdictions. Understanding local rules for charging and for specific offenses is necessary, so always make sure to consult local legislation. The responsibility for charging offenses can differ depending on the type of proceeding and on local rules, which may designate law enforcement officers or prosecutors as the responsible party. If the case is administrative, such as a child labor case, it could be charged by a labor inspector and heard in an administrative procedure in a labor office. If a case is to be heard in a criminal court, local legislation will dictate whether charges should be filed by a police officer or prosecutor.

Elements of Child Labor Offenses

The ILO has identified several child labor offenses in its Convention on Minimum Age, which are described below.

Minimum age for employment: ILO Convention 138 on Minimum Age requires that countries set a minimum age that “shall not be less than the age of completion of compulsory schooling and, in any case shall not be less than 15 years.”³⁶ “ Countries with developing economies may “initially specify an age of 14 years.”³⁷ “ A violation would occur if:

- a child who is under the minimum age for employment in a specific country
- is employed full time.

Hazardous work: ILO Convention 138 on Minimum Age requires that the minimum age for engaging in “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.”³⁸ This work is commonly known as “hazardous work.” The ILO requires countries to create hazardous work lists, which identify tasks that are likely to jeopardize the health, safety, or morals of children. To prove that hazardous work occurred, it would need to be shown that:

- a child under the age of 18
- performed a task on the hazardous work list or was otherwise engaged in task that jeopardized the child’s health, safety, or morals.

It should be noted that that the ILO permits exceptions to allow 16 and 17 year olds to perform work included on the hazardous work list if hazards of tasks are identified as being able to be mitigated in legislation or by a competent authority and:

- the health, safety, and morals of the 16 and 17 year olds are fully protected and
- they have received sufficient instructions and/or vocational training.³⁹

37. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) International Labour Organization (ILO) Art. 2(3). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

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40. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) International Labour

Light work: ILO Convention 138 on Minimum Age allows countries to “permit the employment or work of persons 13 to 15 years of age on light work.”⁴⁰ Countries with developing economies may “initially specify an age of 12 years.”⁴¹ Light work is defined as work that is not likely to harm a child’s health, development, or school attendance.⁴² The ILO recommends countries create light work lists to identify light work tasks that children can perform. A violation would occur if:

- a child who is under the minimum age for light work in a specific country
- is employed in work that harms a child’s health, development, or school attendance.

Elements of Forced Labor

ILO Convention 029 on Forced Labor identifies the following elements to be met:

- Work or service exacted from any person under the menace of any penalty
- The said person has not offered himself voluntarily⁴³

To bring a forced labor case, it is necessary to show that a person was forced to work under the threat of a penalty, either to themselves or their family, and that the person did not choose the work voluntarily. If a worker initially agreed to perform a job, but the job as performed is not the job that was agreed to, then the person has not offered him or herself voluntarily for the job.

Elements of Human Trafficking

Under the Palermo Protocol, human trafficking has three elements: Act, Means, and Purpose. The Act addresses “what” the trafficker did, the Means addresses “how” they were able to do it, and the Purpose is “why” the trafficker did it. The Palermo Protocol requires that the purpose be for exploitation. The Palermo Protocol defines Act, Means, and Purpose as follows:

Figure 4: Three Elements Required to Prove a Human Trafficking Case

Act	Means	Purpose
<ul style="list-style-type: none"> • Recruitment, • Transportation, • Transfer, • Harboring or • Receipt of persons 	<ul style="list-style-type: none"> • Threat or use of force or other forms of coercion, • Abduction, • Fraud, • Deception, • Abuse of power or of a position of vulnerability; or giving or receiving of payments or benefits to achieve the consent of a person having control over another person 	<ul style="list-style-type: none"> • Exploitation of the prostitution of others or other forms of sexual exploitation, • Forced labor or services, • Slavery or practices similar to slavery, • Servitude, or • Removal of organs

Organization (ILO) Art. 3(3). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
 41. Convention concerning Minimum Age for Admission to Employment, 1973 (No.138). (Entered into force June 19, 1976) International Labour Organization (ILO) Art. 7(1). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138
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All three elements must be proved to bring a successful human trafficking case. However, it should be noted that consent is not a defense to a trafficking charge if any of the “means” included in Article 3 (a) of the Palermo Protocol have been used.⁴⁴ This is because the person is not working voluntarily. Additionally, the “means” element does not have to be proved if the victim is a child, as children cannot consent to trafficking.⁴⁵

Charging Child Labor, Forced Labor, and Human Trafficking Offenses

When determining which charges to file, a law enforcement officer or prosecutor will need to examine the evidence and decide if the case is an instance of child labor, forced labor, or human trafficking. In some instances, the case may meet the standards for more than one offense; for example, a case could be charged as child labor and human trafficking. The police officer or prosecutor will need to consider the likelihood of success at trial when determining which charges to bring.

CHARGING EXEMPTIONS

In many jurisdictions, certain people may be exempt from charges in child labor, forced labor, and human trafficking cases. Often, human trafficking victims are immune from prosecution for crimes related to their being trafficked. This means that a trafficking victim cannot be charged for crimes a trafficker forced him or her to commit, such as smuggling drugs.

Other Related Crimes and Multiple Charges

Bringing multiple charges for child labor, forced labor, human trafficking, and related crimes can be beneficial because there is an increased likelihood of conviction and greater flexibility for penalties. Bringing multiple charges can be helpful, particularly if it will be difficult to prove a case of human trafficking or forced labor, but there is evidence that can prove the elements of other crimes, such as money laundering and wage and hour violations. There are many crimes that are related to child labor, forced labor, and human trafficking, as shown below⁴⁶:

45. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 3 (b). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>
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CHILD LABOR

- Child abuse: This could include offenses that involve injuring children or causing other types of harm, as identified by local legislation
- Child trafficking: In some jurisdictions, charging both child labor and child trafficking offenses may be possible; in others, this may require using two different types of courts.
- Child pornography: This may be a separate offense or included as an aggravating factor for child trafficking.
- Commercial sexual exploitation of children: This may be a separate offense or included as an aggravating factor for child trafficking.
- Wage and hour violations: This could include things such as pay being withheld, paying children less than minimum wage, working more hours than allowed by law, or not paying overtime.

FORCED LABOR AND HUMAN TRAFFICKING

- Document forgery: Documents could include identity cards, passports, visas, etc.
- Money laundering
- Kidnapping
- Immigration violations: This may include things such as a trafficker smuggling victims into the country, using false travel documents, and forcing victims to work without proper work documents
- Sexual assault
- Rape
- Aggravated Assault
- Theft
- Wage and hour violations
- Organized crime
- Tax evasion
- Commercial sexual exploitation of children: This may be a separate offense or included as an aggravating factor for child trafficking

Exercise 2.7.1: Charging Discussion

Objective:

- To have participants start thinking about different offenses that can be charged in child labor, forced labor, and human trafficking.

Time:

 15 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- Ask participants the following questions, and write down answers on the flip chart
- How do child labor, forced labor, and human trafficking cases tend to be charged?
- Which offices/departments are responsible for charging?
- Are other offenses charged with child labor, forced labor, and human trafficking? If yes, what types of offenses?
 - 10 minutes
- Key messages
 - 3 minutes

Key Messages:

- Child labor, forced labor, and/or human trafficking can often be charged for the same offense, the facts of the case can help determine charging decisions
- Charging multiple offenses can be beneficial, particularly if proving a trafficking offense is challenging, and can result in different penalties

Exercise 2.7.2: Charging Offenses in the ETP

Case Studies

Objective:

- To have participants practice identifying charges that can be brought in different scenarios
- Continue engaging with the Enforcement Training Program (ETP) case studies to see how the case process is continuing for the victims

Time:

 55 minutes

Materials and Preparation:

- Flip chart
- Markers
- Make copies of ETP case studies 1–4
- Identify relevant local legislation and make copies of relevant provisions for child labor, forced labor, human trafficking and related crimes

Steps:

- Explain the objectives of the exercise to the participants.
 - 5 minutes
- Have participants split into four groups. Provide each group copies of a different case study. Have each group review their case study and answer the following questions:
 - Can the case be charged as child labor, forced labor, and/or human trafficking? What charge does the group think should be brought? What facts in the case study support the charge?
 - What additional charges can be brought?
 - Are there other charges that may be relevant but lack sufficient evidence at this time? What evidence might help prove these additional offenses?
 - 20 minutes
- Have the group reconvene as a plenary and have each group present their answers. Allow time for comments and discussion.
 - 25 minutes
- Key messages and Q&A
 - 5 minutes

Key Messages:

- Child labor, forced labor, and/or human trafficking can often be charged for the same offense; the facts of the case can help determine charging decisions
- Identifying potential additional offenses can help direct an investigation and build a stronger case

Lesson 2.8 Investigation Reports

Objective:

- Learn about the types of information that should be included in a child labor, forced labor, or human trafficking investigation report made by a labor inspector or police officer.

Time:

 25 minutes

Steps:

- Exercise 2.7.1: Investigation Reports Discussion
 - 10 minutes
- PowerPoint Presentation 2.7: Investigation Reports
 - 15 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 1.3: Indicators of Child Labor, Forced Labor, and Human Trafficking
- Projector



Photo Credit: Alice Green, 2013, Thailand

The Role of Investigation Reports

Labor inspector reports and police reports play an important role in prosecuting child labor, forced labor, and human trafficking offenses. In most jurisdictions, these reports provide the grounds for charging suspects with child labor, forced labor, and human trafficking offenses. These reports present the findings of police and labor investigations, including evidence, statements, and information about the crime scene. Investigation reports are often what the prosecutor must rely on when trying a case, and because of this, it is crucial that information be presented in a clear and complete way. Additionally, should the police officer who compiled the report be asked to testify about his or her investigation, he or she can use the police report to refresh his or her memory prior to testifying.

A case file/investigation report should be started when an officer or investigator is first assigned a case. It should be kept up to date. A table of contents or index should be created and updated as material is added to the report.

Information to Include in Investigation Reports

Labor inspectors and police officers should note if specific forms are used for the reports in their areas or if there are guidelines on what must be included. In most jurisdictions, the following information is recommended for inclusion:

- Description of the evidence and list of logged evidence
- Description of the crime scene
- Witness statements
- Victim statements
- Suspect statement (more information about suspect statements can be found in Lesson 2.6)
- Information about the suspect
- Information about the alleged crime (date, location, etc.)
- Copies of photos, sketches, and notes

Labor inspectors and police officers should not include their own opinions or speculation.

Exercise 2.8.1: Investigation Report Discussion

Objective:

- To have participants start thinking about investigation reports and what should be included in them as well as their role in preparing the reports

Time:

 10 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 1 minute
- Ask participants the following questions, and write down answers on the flip chart
- What is the role of investigation reports?
- What should be included in investigation reports?
 - 7 minutes
- Key messages
 - 2 minutes

Key Messages:

- Investigation reports play an important role in cases, providing a base of evidence and facts
- Investigation reports should include information that may be needed to prove the charges at trial; the types of information will be described in more detail during the lesson

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MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

REFERRAL

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Introduction to Module 3

Module 3 of the Enforcement Training Program focuses on referrals. This Module contains information relevant for groups that make or receive referrals for victim services or that are part of the criminal justice process, including first responders, service providers (including non-governmental organizations and civil society organizations), law enforcement, labor inspectors, and prosecutors. Referrals play an important role during child labor, forced labor, and human trafficking cases in helping cases move forward and progress through identification, investigation, and prosecution and ensuring that victims receive needed services. The Module begins by discussing victim services and victim needs, which is followed by a lesson on trauma-informed care, which is critical for those who work with victims to use in their work in the provision of services or as part of the trial process. The Module explains the role and structure of referral mechanisms, including National Referral Mechanisms, which can help streamline the referral process. The module also describes the roles and responsibilities of the agencies, offices, and organizations that work on child labor, forced labor, and human trafficking cases, including those that provide victim services. The Module introduces mandatory reporting and the benefits and challenges it brings. The Module has nine interactive exercises, including discussions, energizers, and group activities.



Photo Credit: JJ, 2008, Uganda

Lesson 3.1: Victim Services

Objectives:

- Understand the impact of child labor, forced labor, and human trafficking on individuals and victims' need for assistance once rescued and identified as victims.
- Learn to identify the appropriate services necessary to meet those needs and how those services should be provided to assist the victims most effectively.
- Understand the specific needs and services needed by adult victims as well as child victims.

Time:



2 hours and 15 minutes

Steps:

- Exercise 3.1.1: Victim Services Case Study Energizer
 - 25 minutes
- Present PowerPoint Presentation 3.1: Victim Services
 - 1 hour
- Exercise 3.1.2: Determining the Needs of Victims
 - 50 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 3.1: Victim Services
- Projector
- Note cards
- Pens/pencils
- Copies of Enforcement Training Program Case Study
- Copies of Handout 3.1.2: *Case Study on Victim Needs*

When providing assistance and protection to child labor, forced labor, and human trafficking victims, law enforcement officers and service providers must be careful to respect the victim's fundamental human rights. Individuals should always be treated with dignity and respect for their humanity. Although victims may have been involved in illegal or criminal activities while subject to trafficking, they should not be treated as criminals. For child victims, special care should be taken to ensure that the best interests of the child are considered and realized. When using a victim-centered approach, the assistance should be based on the best interest of the victim, and the victim should make decisions regarding the services he or she receives rather than having a third party initiate the services without the consent of or input from the victim. Officers, agencies, and organizations should use this principle as a guide when assisting victims.

Victims of child labor, forced labor, and human trafficking have complex, multifaceted needs that likely cannot be met by one organization. Additionally, the law enforcement agency that identifies the victim may not have the ability to provide

the comprehensive services needed. Therefore, law enforcement agencies need to build relationships with organizations they can refer victims to, such as non-governmental organizations (NGOs), civil society organizations (CSOs), and local service providers.

Collaboration is needed between multiple agencies and types of services that address different aspects of victim needs, such as physical health, mental and emotional health, legal, shelter, educational, and basic needs to ensure the victim receives services for all aspects of life so they can recover. Creating a successful coordinated response team for victims will require collaboration between organizations, health care providers, criminal justice officials, housing and food assistance programs, lawyers, community social workers, and possibly immigration experts.

Victim Needs

Many child labor, forced labor, and human trafficking victims have faced violence and threats from traffickers and exploiters. Every situation is different, so it is important to communicate with each victim to understand their situation and needs to provide them with safety assistance in the most appropriate way. Victims of child labor, forced labor, and human trafficking may need protection from harm or threats as well as access to services and assistance that will help them regain their safety and security. To avoid punishment, perpetrators often try to intimidate or threaten the victims to stay quiet. For this reason, when working with organizations providing victim services, the identities of victims and their information must be kept confidential.

Victims need to know all their options and information about their situation to make an informed decision about their safety and their future. Therefore, individuals must give their full and informed consent before being provided with any assistance, and information should be conveyed in a language the individual understands.¹ Not all victims have experienced the same conditions or have the same needs; therefore, special care should be taken to ensure each individual is assisted based on individual needs, to the extent possible. After an individual is identified as a child labor, forced labor, or human trafficking victim, law enforcement officers and inspectors should immediately assess the victim's most urgent needs.

For victims to recover fully, start new lives, and even assist in the investigation and prosecution process of suspected offenders, they must gain a sense of security and safety. The victim should be an active part of creating a plan for his or her recovery and safety. Building trust with victims, so they feel comfortable sharing their needs with law enforcement officers and labor inspectors, is crucial to effectively helping them find and receive the support they need to recover.²

Victims require support in many areas of life, including physical, psychological, and social assistance, and they have the right to support in these areas of recovery. Under the Palermo Protocol,³ when providing victims with recovery services and assistance, a trafficking victim's age, gender, and special needs, including appropriate housing, education, and care, must be considered. This standard should be applied to child labor and forced labor victims. **The following should be provided:**

- Safe and appropriate housing that meets the needs of the victim
- Legal counseling and clear information regarding the legal process, provided in a language the victim understands
- Medical and psychological care
- Material assistance
- Employment, educational, and training opportunities

1. Handbook on Initial Victim Identification and Assistance. The Hong Kong SAR Civil Society Anti-Trafficking Task Force, 2018. <http://www.respect.international/handbook-on-initial-victim-identification-and-assistance-for-trafficked-persons/>

2. The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation. The International Association of Chiefs of Police, 2007. <https://www.theiacp.org/resources/document/the-crime-of-human-trafficking-a-law-enforcement-guide-to-identification-and>

3. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 6. <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

A victim's needs and the support he or she requires will differ depending on whether or not the victim intends to testify as a witness and assist in the prosecution process. Law enforcement agencies should not force a victim to testify, as the victim may have legitimate reasons for wishing to remain out of the legal process. For example, victims may be reluctant to testify because of traumatization, fear of authorities, fear of retaliation from traffickers or exploiters, or fear of mental and emotional stress.

Reflection period: It is important to recognize that victims of child labor, forced labor, and human trafficking have faced extended periods of trauma and stress, and their understanding of how the world operates is influenced by the people who trafficked or exploited them. When the victim's only information comes from a person engaged in criminal activity, it is likely that the victim has been warned not to trust law enforcement and told that if he or she goes to the authorities, he or she will be deported because they lack proper immigration papers or identification; this is particularly relevant for victims who were trafficked internationally or subjected to forced labor internationally. Therefore, once rescued, victims will need, and should be granted, a reflection period, or a period of time to process their situation and decide whether they want to cooperate with law enforcement and criminal justice officials as a witness or to provide information.

During the reflection period, it is crucial that victims are properly informed of their rights and have correct information about the criminal justice process and the role of law enforcement officers. Even if the reflection period corresponds with the time when law enforcement is collecting evidence and could use the victim's assistance in the investigation and prosecution preparations, the reflection period should be respected. The victim should not be pressured to assist in any way; this may mean that the evidence will have to exclude the victim until the victim agrees to participate.⁴

The reflection period ensures that victims have time to reflect on their needs and have access to secure housing, psychological counseling, medical and social services, and legal consultation. The reflection period gives victims time to make an informed decision about whether they will assist in the prosecution process and confidence in their decision. When victims have access to the appropriate services and assistance from the initial stages of their recovery process, they are more likely to trust the government and are often more willing to cooperate with law enforcement and criminal justice officials during investigation and prosecution. The recommended time period for the initial reflection period is thirty days.

Gender and victim needs: It is important to consider gender-specific concerns when addressing victim needs. There are many common misunderstandings about child labor, forced labor, and human trafficking linked to gender. The assumption that trafficking only affects women is false, as men and boys are also trafficked. Trafficking does not only include sex trafficking; this is a common misconception and leads to the assumption that trafficking victims are predominately women and that women are only trafficked for sexual exploitation. Therefore, a comprehensive approach to victim services for victims of child labor, forced labor, and human trafficking must take into account the experiences of men and boys.

When assisting victims of child labor, forced labor, and human trafficking, service providers should be sensitive to the needs of different genders in all forms of trafficking and exploitation; gender-sensitive services should be included for both men and women. Women and girls may have different needs due to increased vulnerabilities. **When considering the differing needs of male and female victims, service providers should be mindful of the following⁵:**

- Men are trafficked and subjected to forced labor in plain sight. Male victims are often overlooked because they are forced into labor in public, visible locations, such as construction sites or fishing boats, which makes the work appear normal, even though it is illegal. Victims of this type of forced labor may experience extensive periods of victimization before being rescued, resulting in mental and emotional strain and feelings of hopelessness that may require psychological attention during recovery.
- Many men are trafficked in fisheries, mines, forests, and construction sites, all of which are dangerous and expose victims to harsh environmental conditions, hazardous machinery, and long hours of work without breaks. These con-

4. Anti-Trafficking Training Material for Judges and Prosecutors Handbook. International Centre for Migration Policy Development, 2006. http://lastradinternational.org/lsidocs/540%20AGIS_JUD_Handbook.pdf

5. "The Gender Dimensions of Human Trafficking." The Inter-Agency Coordination Group against Trafficking in Persons, 2017. <https://icat.network/sites/default/files/publications/documents/ICAT-IB-04-V.1.pdf>

ditions could cause severe health conditions and injuries, for which victims will need medical services to help them recover.

- Men may experience heightened feelings of shame for being victims of human trafficking, making them less likely to utilize therapy and psychological counseling; men need victim support and access and encouragement to use these services.
- Female victims of sex trafficking can face female health issues, such as unsafe abortions, injury to their reproductive system, and exposure to sexually transmitted diseases. As a result, they will need appropriate, specialized healthcare services to address needs and concerns.
- Many women are hesitant to report cases because they fear what their traffickers could do to them if they are found, especially if they are weak and unable to physically protect themselves. Therefore, female victims will need immediate protection, secure shelter accommodations, and safety protection during the legal process if they choose to participate as witnesses.
- Women may also have been afraid to seek services and help because of social and cultural reasons, such as fear of shame from their family members or stigmatization from their communities for working in the sex industry. Therefore, female victims may wish to hide their identity if they do report their situation.
- When women are exploited in forms other than sexual exploitation, such as forced labor, begging, and domestic servitude, their traffickers and exploiters often use sexual violence to coerce and control the women into working. Therefore, all female victims should be given access to specialized healthcare support for female health issues and psychological support for sexual trauma.



Photo Credit: Fairphone, 2014, Rwanda

Types of Services

After being identified as a victim of child labor, forced labor, or human trafficking, the individual should be given access to appropriate services to assist in their recovery. The first step may simply be to remove the victim from his or her environment and place him or her in a safe and secure space until access to additional services are available. At that time, the victim may need to be referred to appropriate services such as medical assistance, psychological assistance, shelter, education, vocational training, legal assistance, and reintegration services.^{6,7}

Medical: Victims of child labor, forced labor, and human trafficking should have access to primary healthcare. While it may seem logical for victims to receive a physical examination to assess their health needs, victims should never be required to accept medical care. Additionally, victims should never be forced into disease testing, including sexually transmitted diseases, such as HIV/AIDS.

After a victim of child labor, forced labor, or human trafficking is identified and rescued, law enforcement officers' most immediate concern should be to address the victim's medical needs. Victims may be malnourished, exposed to disease, or have physical injuries. Trafficking victims may also have sexual health issues that they are unaware of, but that need to be addressed. As always, confidentiality should be respected, but it is especially important when addressing sexual health issues to which the victim may be sensitive and less comfortable discussing. All medical assistance should be provided in a manner the victim is comfortable with and that is sensitive to cultural practices.

Psychological: Victims of child labor, forced labor, and human trafficking face psychological challenges due to the trauma faced at the hands of traffickers and exploiters. **The most common psychological reactions include:**

- Fear of being alone or being found by trafficker or offender while alone
- Fear for their families' safety and worry that their family may be punished
- Fear of being deported because of illegal immigration status
- Anxiety about being considered criminals
- Anger about how their lives have progressed
- Lack of trust and fear of forming new relationships
- Feelings of helplessness

Post-traumatic stress disorder is common among victims of child labor, forced labor, and human trafficking due to the cruel nature of their experience and the violent and coercive way traffickers and exploiters may have treated them.

Victims will likely need both immediate and long-term psychological counseling to recover fully and successfully and ensure that their psychological needs are addressed. For child victims, psychological care should come from professionals who specialize in childcare and child trauma. Psychological assistance and counseling services should focus on addressing the unique mental and emotional challenges victims face. Counselors and professionals must understand the victims' experiences and accompanying stressors and fears and be prepared to assist the victims through a potentially long road to recovery. At the most fundamental level, psychological assistance should provide the victim with someone with whom they can build a trusting and caring relationship and work through mental and emotional challenges.

The following are basic goals of effective victim counseling:

- Restoring the victim's sense of safety.
- Restoring the victim's sense of control over his or her life and decisions.
- Restoring the victim's interpersonal connections and encouraging attachment to others.
- Restoring the victim's sense of confidence, self-respect, purpose, and dignity.

6. Handbook on Initial Victim Identification and Assistance. The Hong Kong SAR Civil Society Anti-Trafficking Task Force, 2018. <http://www.respect.international/handbook-on-initial-victim-identification-and-assistance-for-trafficked-persons/>

7. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

Shelters: Government agencies should work with NGOs, social workers, and CSOs to provide shelter for victims. Shelters should have appropriate accommodations that meet the needs of child labor, forced labor, and human trafficking victims. Additionally, the victim's willingness to participate in the criminal justice process should not influence whether he or she receives adequate shelter, and provision of shelter should never be made contingent on the victim serving as a witness. After the victim's immediate medical needs are addressed, the next step is to find a safe and secure shelter for the victim where he or she can be out of reach of traffickers and exploiters. Without assistance in finding shelter, many victims will return to suspected offenders because they have nowhere else to go, know of no other options or resources, and fear violence and retaliation from the trafficker or exploiter. Therefore, victims need practical shelter options that they feel are safe.

Depending on whether victims plan to stay in the destination country or return to their home countries, they will need assistance finding short- and long-term shelter throughout their recovery process. Various shelter options may include:

- **Short-term shelter**, which the victim will need immediately after contacting or being rescued by law enforcement officers or an assisting agency. The shelter must provide the victim with security from suspected offenders and ideally, would include medical care, psychological counseling, legal assistance, and even financial resources.
- **Temporary shelter**, which will facilitate the recovery process after the victim's immediate needs are met. The victim always needs security. They will also need other assistance such as long-term medical and psychological care and reintegration support; they will also need assistance in the legal process should they choose to assist with investigation and prosecution.
- **Transitional housing and assisted living arrangements**, which will provide longer-term shelter if the victim chooses to remain in the country and has secured a temporary visa or immigration relief. Often these types of shelters are available through support programs or partnerships with governments and immigration authorities. Victims who require this type of housing may be facing challenges in the recovery process, so it is crucial that they have access to community services during their stay, are in a supportive environment, and are provided with information about how they can continue to get any assistance they need.
- **Independent living facilities**, which provide a permanent housing arrangement for victims who have serious mental or psychological conditions as a result of child labor, forced labor, and human trafficking; this includes victims with mental illnesses, diseases such as HIV/AIDS, or who have been rejected by their families or communities. With little opportunity for housing or employment on their own, these victims need help from the government and NGOs to provide specialized care.

Figure 1: Victim Participation in a Prosecution



- **Other types of shelters:**

- **Drop-in shelters and counseling centers.** These types of shelters do not provide overnight care but are resource centers for initial counseling; assessment of social, medical, and psychological needs; and referrals to other shelters and available social services.
- **Confidential Shelters.** These shelters are necessary for victims who need to protect their privacy and require security. The shelter should have a secret address for victims to use when they are in danger of being found or hurt by traffickers and exploiters. Instead of a central building, confidential shelters are often discrete apartments scattered around a city, so they are not easy to identify as victim shelters. These apartments may be rented by victims for as long as they need security, but ideally, victims are not in the same place for extended periods of time to decrease the risk of being located.

Education and vocational training: Education and skills training are necessary for child labor, forced labor, and human trafficking victims during recovery if they hope to reintegrate into society and start a new life with prospects of a job and financial security. For child victims, this may include reenrolling the child in the school system, which is discussed further below. Reentering the education system is difficult and may be even more challenging if the victim is older or has never had formal education. The government should work with assistance organizations to facilitate the transition into schooling to ensure there is robust support and funding for education.

Vocational training is typically offered by NGOs, CSOs, charities, or educational institutions. When victims receive vocational training, they are more likely to integrate successfully into society with confidence, independence, and employment prospects. However, because employment can be a stressful aspect of life for victims who have only known work in the form of exploitation and trafficking, it is important to help victims set realistic employment goals that align with their skills and abilities, so they can more easily imagine themselves finding success in a future job. For vocational and skills training programs, it's ideal to have partnerships between organizations and local companies to provide victims with training and an opportunity to gain experience working in a real working environment through an internship or apprenticeship.

Legal: During the criminal justice process, including investigation, pre-trial, and trial, the victim's wishes, circumstances, age, gender, and well-being should all be considered, and support should be tailored to those factors. Victims have many rights during the legal proceedings and have multiple options, including remaining silent, seeking compensation, serving as witnesses, and providing confidential information.⁸

Victims of child labor, forced labor, and human trafficking are often hesitant to trust law enforcement and criminal justice officials. They fear they will be punished by their exploiters or traffickers for reporting their situation or will be rejected by family or society when they return home. They may also believe they will have a better life if they continue to work or simply lack correct information about how law enforcement and other organizations can assist them. These misconceptions often stem from what traffickers and exploiters, to avoid being caught, tell their victims to keep them under their control.

Because of the potential for an initial lack of trust between law enforcement officers and victims, it is crucial for victims to receive assistance and protection once they are working with law enforcement. This is particularly important when victims agree to cooperate with law enforcement and serve as witnesses, as witnesses will need additional protection throughout the prosecution process.

The key victim protections during the legal process include:

- Protecting the identity and privacy of victims, which could include allowing the victim witness to testify anonymously.
- Ensuring the physical safety of victims, which may include relocating the victim; allowing the victim witness to testify virtually via video link; providing police escorts for victim witnesses to and from court; keeping the victim and accused offender separated in the courthouse; or holding accused offenders in custody before the final court hearing.

8. Investigating Human Trafficking Cases Using a Victim-centred Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

- Providing psychological protection, including allowing counselors to accompany the victim to court, ensuring the victim is completely informed of what to expect in the courtroom when serving as a witness, and keeping separate waiting rooms for witnesses and defendants.
- For child victim witnesses, in particular, additional accommodations should be made such as prohibiting the defendant from cross-examining the child, using an intermediary to assist the child in providing evidence, closing the court to the public, banning the media during the child's testimony, and reducing the formality of the courtroom where possible.

Regarding the legal process, victims who choose to participate in the prosecutorial process as witnesses need additional protection services. Lawyers must inform victims of their rights and role in the criminal proceedings, help them assert their procedural rights, and assist them throughout the entire process. Article 6 of the Palermo Protocol outlines some recommended protection measures that governments should implement for victims of trafficking while they are participating in prosecutorial efforts. **These include:**⁹

- Protecting the privacy and identity of victims.
- Providing victims with information on relevant court and administrative proceedings.
- Providing victims with appropriate reintegration assistance to aid their recovery.
- Considering age, gender, and special needs of victims when providing assistance such as housing, education, and care.
- Providing for the physical safety of victims.
- Ensuring national legislation allows victims to obtain compensation for damage suffered.

Legal assistance and advice should be available to victims of child labor, forced labor, and human trafficking, regardless of whether they agree to serve as witnesses in the prosecution of their suspected offenders. Many victims are fearful of and do not trust the government and authorities because of a lack of information or misinformation; therefore, it is crucial that professional legal assistance is available to victims, so they have access to correct information. Victims should be made aware of their rights as individuals and as victims of child labor, forced labor, and human trafficking. Victims likely will not have the finances to pay for legal services, so government-funded services must be available. It is in the government's interest to provide victims with legal counseling because it will help ensure they understand their role in the prosecution and prepare them to testify, resulting in more helpful and coherent witness statements.

Victims who have been transported across international borders are entitled to diplomatic and consular representatives from their home country. To ensure control over victims, traffickers and exploiters may have confiscated victims' documentation. In these cases, victims will need help securing the appropriate replacement travel documents from relevant

9. Investigating Human Trafficking Cases Using a Victim-centred Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combat-ing> see the corresponding language in the Palermo Protocol: 1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
 2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defense.
 3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
 6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 6(1)-(3), (6). <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

government agencies. However, to protect the victim's identity and privacy, only the minimum required information should be handed over to the government agencies when applying for necessary documentation.

Victims of forced labor and human trafficking may need access to legal residence status, either permanently or temporarily, through obtaining a visa or stay of removal. This is both to protect the victim's rights and to help law enforcement agencies prosecute suspected forced labor and human trafficking offenders with the assistance of the victim as a witness and source of information during the investigation. It is in the interest of the country in which the forced labor or human trafficking occurred to help the victim secure a visa because if the country is prosecuting the offender or investigating the situation, having the victim in the country to serve as a witness or assist in the legal process is crucial to the prosecution process. The visa process differs in each country, so be sure to consult local immigration laws. In some countries, if the victim does not have the appropriate legal status to secure a visa, it may be possible for the victim to apply for temporary immigration relief to stay in the country to assist in the legal process. This may also give the victim more time to apply for other visas during the investigation and prosecution process if they wish to stay in the country longer.¹⁰

Psychological support is essential to assisting victims in their recovery process, especially as part of legal support services for victims who choose to participate in legal proceedings as a witness.

During the legal process, victims should be offered the following methods of support:

- Victims should be informed of what to expect in the courtroom.
- Victims should have the option of being accompanied by expert counselors to court.
- Judges, prosecutors, and police who are specifically trained and aware of the special needs of victim witnesses should be used when possible.
- Witnesses should have access to a separate waiting room to avoid being confronted by the defendant or associates of the defendant outside of the courtroom.¹¹

Reintegration: Victims of forced labor and human trafficking who have been transported across international borders may choose to return to their home country voluntarily, or they may want to stay either temporarily or permanently in the country to which they were transported; victims should have either option available to them to make an individualized determination. For trafficking victims, the ability to remain in the destination country is governed by Article 7 of the Palermo Protocol. Article 8 discusses the home country's obligation to accept and ensure the safety of a human trafficking victim who chooses to return home.¹²

Returning to one's country of origin can be challenging, so victims returning home will likely need assistance from programs and organizations upon their return for reintegration to be successful. Without reintegration support, upon returning to their home countries, child labor, forced labor, and human trafficking victims could face safety risks that hinder their recovery and put them in danger of falling back into the hands of traffickers and exploiters. Victims will need programs offering psychological, social, and financial support to successfully return and reintegrate to their home countries.

Before the individual is repatriated, law enforcement officers should conduct a safety assessment of the home environment. Due to unfamiliarity with the home country's culture, available victim services, and language, the law enforcement officers conducting the assessment may need to coordinate with agencies, NGOs, and other organizations in the home country. The assessment should evaluate the conditions and services available in the victim's home country because the victim will need access to adequate support services once home if they are to make a full recovery. The assessment should also evaluate the risks, vulnerabilities, or stigmatization the victim might face that could hinder safety and recovery.

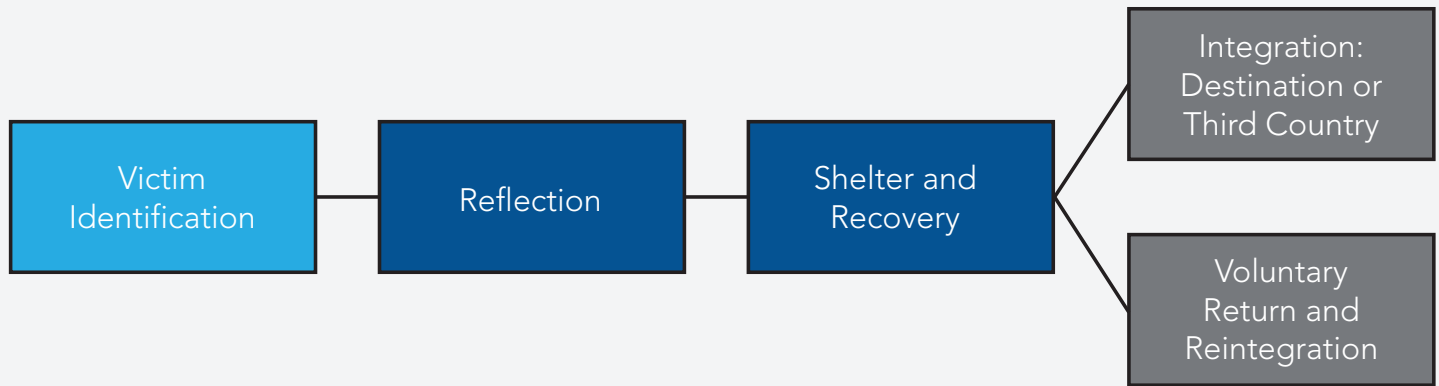
10. The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation. The International Association of Chiefs of Police, 2007. <https://www.theiacp.org/resources/document/the-crime-of-human-trafficking-a-law-enforcement-guide-to-identification-and>

11. Investigating Human Trafficking Cases Using a Victim-centred Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

12. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. (Entered into force 25 December 2003), Art. 8. <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

Adult victims should have the autonomy to make decisions regarding the services they receive and options for their future, especially with regard to the legal process and reintegration.

Figure 2: Process for Rescuing Child Victims



Children: When children are rescued, it is important that they have a safe place to go and that their immediate and most urgent needs are met, including food, health care, and counseling. Less immediate needs should be addressed secondarily but not overlooked. This will likely require coordinating with appropriate governmental and non-governmental organizations.

When assessing how to assist with a child victim's recovery, it is essential to consider the unique needs of child victims. Article 6 of the Palermo Protocol makes particular note of child trafficking victims' special needs. If the child's age is uncertain, but there is reason to believe the victim is a child, countries should treat the victim as a child until his or her age is verified, in accordance with the Convention on the Rights of the Child. **For child victims of child labor, forced labor, and human trafficking, special accommodations for victims when providing victim support services include:**¹³

- Appointing a guardian for the child
- Keeping the child separated from his or her suspected offender during the prosecution and trial process, when feasible
- Providing special protection for the child
- Finding appropriate shelter that accommodates the child's age and needs
- Considering the best interest of the child before taking actions to return the child to his or her home country, and finding the child long-term care and housing if the home country is not safe for the child

Psychological services for children: Psychosocial counseling and support for children is different than for adults because being a child adds an additional layer of vulnerability and often exacerbates the negative effects of trauma.

Therapy services for children should:

- Always consider the child's best interest first
- Focus on treating each individual child and his or her particular circumstances
- Ensure the child's safety and security
- Avoid re-victimization or punishment of the child
- Provide a safe space for the child and potentially provide housing or shelter
- Aim to build trust between the counselor and the child

13. Anti-Trafficking Training Material for Judges and Prosecutors Handbook. International Centre for Migration Policy Development, 2006. http://las-tradainternational.org/lisdocs/540%20AGIS_JUD_Handbook.pdf

- Respect the child's confidentiality and privacy
- Promote growth and reintegration into society

Shelters for children: Shelters for children must address different needs than shelters for adults; therefore, separate shelters should be available to child victims. Children may need either temporary or medium-term accommodations depending on the legal process, the length and intensity of the recovery process, the need to be close to counseling services, health needs, or when there is a lack of alternative shelter options. However, because children are more vulnerable because of their age, lack of experience providing for themselves, and lack of protection from family, they likely will need more secure shelters that they can stay at for longer periods of time than required by adult victims because the recovery period for children is often longer. It may be challenging to find adequate accommodations because children need not only shelter but also food, clothing, education, and healthcare, as well as staff to provide these services.



Photo Credit: World Bank, 120512, Herat Carpet Weaving, 2012 AREDP, 2014, Afghanistan

Education and life skills: Children who have been exploited have likely missed valuable years of education and experiences that would have taught them life and social skills. Missing fundamental years of education could make it challenging for the child to go back to school and build necessary skills. The child's educational level should be tested by a professional to assess the child's grade level so the child can either directly enter school or take transitional classes before entering. If reentering school is not possible because of the amount of time missed or if the child is too old to enroll in the level-appropriate grade, alternatives to traditional schooling could be that the child receives individualized lessons, follows a non-formal education plan, or receives vocational training so he or she can acquire the necessary skills for a proper job.¹⁴

Reunification with family and reintegration; Reintegration will look different for children than adults. Repatriation is challenging in itself, but for children, they cannot simply return on their own like adult victims; first, they will need an adequate guardian. When child victims are not accompanied by family members or relatives, the government should immediately attempt to identify and locate family members. If located, the child should be reunified with his or her family if it is in the child's best interest. If the family needs assistance to allow for the child's successful reintegration, the family should be offered support or directed to resources. More specifically, the family may need help creating a safe environment for the child where traffickers or exploiters cannot reach the child again. Victims, especially children, face a large risk of being re-targeted for trafficking and child labor; this vulnerability should be noted, and special efforts made to ensure the child remains out of harm's way. This may mean that the child needs to stay in the shelter until it is established that there is a safe environment in the home community. The family may also need help providing the child with basic needs, such as dental and medical care, food and nutrients for a balanced diet, childhood education, and life-skills training. A service plan should be put in place to provide the family with access to services that will accommodate all these needs.¹⁵

If returning the child to his or her family is not in the child's best interest, adequate care arrangements and efforts to find an appropriate guardian should be made. If the family pushed the child into child labor, forced labor, or human trafficking, reunification might not be appropriate without additional interventions for the family. Regarding reunification with family, if the child has strong opinions on and preferences for whether he or she returns to his or her family, those concerns should be considered when making the decision. However, the age and maturity of the child should be kept in mind, and as always, acting in the best interest of the child is the most important.

If the child needs to be appointed a guardian, the guardian should be a trained professional who can walk the child through each step of the reintegration process. Aside from reintegration assistance, the guardian will likely need to assist the child through all stages of the recovery process until the child is the age of majority.

The guardian will need to:

- Advocate for the child
- Ensure decisions made for child align with the child's best interest
- Ensure the child is receiving appropriate care, legal assistance, and legal rights
- Connect the child to resources and agencies
- Accompany the child through the process

14. Training manual to fight trafficking in children for labour, sexual and other forms of exploitation - Textbook 2: Action against child trafficking at policy and outreach levels. International Labour Organization (ILO), 2009. https://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_10772/lang-en/index.htm

15. Training manual to fight trafficking in children for labour, sexual and other forms of exploitation - Textbook 2: Action against child trafficking at policy and outreach levels. International Labour Organization (ILO), 2009. https://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_10772/lang-en/index.htm

Non-Criminalization of Victims

Victims should not be subject to criminalization or punishment because of his or her role in the worst forms of child labor (WFCL), forced labor, or human trafficking. Victims are not perpetrators and should not be treated as such and should not be re-victimized by law enforcement agencies. It is a best practice to include this in national legislation. In countries where this is not written into national legislation, judges and prosecutors should still be mindful of the importance of not prosecuting victims. The non-punishment clause should apply to acts that victims committed that are related to the WFCL, forced labor, or human trafficking or which were committed because they were coerced into the act by their traffickers or exploiters. For example, victims should not be prosecuted and detained because of illegal migration or lack of appropriate labor status. If possible, national legislation should go further to grant immunity to victims of WFCL, forced labor, or human trafficking under certain conditions.¹⁶

Non-criminalization is also important because if a country does not ensure non-criminalization, immigration services might deport victims to their home country, which could be detrimental to the individual because their home country may prosecute the victim for reasons such as using false documentation, leaving the country illegally, or working in the sex industry. Whether prosecuted in the country where the WFCL, forced labor, or trafficking occurred or in the home country, victims who are criminalized will have no access to the recovery assistance or protection they deserve and are entitled to as victims of a serious crime.

Victims of WFCL, forced labor, and human trafficking already fear for their safety at the hands of their traffickers and exploiters. The additional fear of prosecution and punishment only exacerbates their trauma, discouraging victims from seeking protection and assistance and disincentivizing victims from coming forward and assisting law enforcement officers.

Because victims of child labor, forced labor, and human trafficking are victims and not criminal offenders, law enforcement officers should treat victims as victims by doing the following:¹⁷

- Rescue victims from perpetrators of child labor, forced labor, and human trafficking.
- Provide victims with protection.
- Conduct a criminal investigation.
- Refer victims to appropriate victim services.
- Check the victims' documents related to immigration and work.
- Inspect places of employment.
- Conduct raids and patrol areas where suspected criminal activities occur.
- Offer assistance throughout the legal process.
- Keep victims updated and informed.

Aside from the need to ensure that, from a legal standpoint, victims of child labor, forced labor, and human trafficking are not punished for being involved in the trafficking or exploitation, governments should work to ensure victims are not revictimized in the eyes of the public and society. Victims should not be victimized by institutions and individuals in the community, as it is detrimental to victims' recovery and will prolong their trauma. Initially, law enforcement officers often play a large role in potential revictimization. Law enforcement officers should be trained to treat victims as victims, and not as criminals. This is especially important in the initial stages after the victims are rescued because victims may not recognize they are victims of a serious crime until law enforcement respects their rights to security and justice and shows the victims that they have such rights.

16. Anti-Trafficking Training Material for Judges and Prosecutors Handbook. International Centre for Migration Policy Development, 2006. http://las-tradainternational.org/lisidocs/540%20AGIS_JUD_Handbook.pdf

17. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

Exercise 3.1.1: Victim Services Case Study Energizer

Objective:

- To start thinking about the needs of child labor, forced labor, and human trafficking victims by using an Enforcement Training Program (ETP) Case Study.

Time:

 25 minutes

Materials and Preparation:

- Flip chart
- Markers
- Note cards
- Pens/pencils
- Copies of one ETP Case Study (facilitator can select the case study that is most relevant for the training)

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- Give each participant one note card. Read one of the ETP case studies aloud, or have the participants read the case study independently if they have their own copies. Have each participant write down one need they think the victim has.
 - 5 minutes
- Have participants get out of their seats and group themselves with people who have the same answers (they will need to ask each other what their answers are). Once everyone is in their groups, have each group identify a service that could help address the need they have identified.
 - 5 minutes
- Have each group present the need they have identified, why they think it is important, and what service they feel could address that need.
 - 5 minutes
- Ask participants if, while they were finding their groups, they learned about other needs they had not initially identified.
 - 5 minutes
- Wrap up with key messages below.
 - 2 minutes

Key Messages:

- Victims have a variety of needs that can be immediate or more long term.
- Not all victims have the same needs; it is important to create individualized plans for each victim of child labor, forced labor, and human trafficking.
- By learning about the needs that victims may have and services that are available, more needs can be recognized and addressed, helping victims recover.

Exercise 3.1.2: Determining the Needs of Victims¹⁸

Objective:

- To identify the needs of victims of trafficking and the potential risks that create those needs.

Time:

 50 minutes

Materials and Preparation:

- Locate and make copies of Handout 3.4.2: *Case Study on Victim Needs* for each group.
- Pens or pencils.
- Flip chart with the following questions written on it:
 - Who may be facing risks in terms of safety and security?
 - What are the risks?
 - What is the source of the risk?
 - What events could increase the risk level?

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to list and explain trafficking victims' most common needs.
 - 10 minutes
- Ask participants to name some needs they think most trafficking victims will have. Answers might include protection from harm or threats; physical, mental, and social assistance; legal aid; confidentiality protection; information explained in the victim's native language; housing; material assistance; employment and educational assistance, etc. Ask participants to explain why victims may have these needs.
- Divide participants into small groups of 4–5 people and provide each group with a copy of Handout 3.4.2: *Case Study on Victim Needs*.
- Ask participants to read the case study and then work with their group to identify the victim needs they think may be present and mark the part of the case study that indicates each need. Participants should also indicate at which stage different victim needs arise (emergency response, transitional support, long term support).
- Instruct participants to respond to the discussion questions at the end of the case study, which are also on the flip chart at the front of the room.
 - 25 minutes
- Reconvene participants and ask each group to share their thoughts on the case study and their answers to each of the discussion questions. Encourage questions and comments.
 - 10 minutes
- Wrap up with Q&A and the key messages below.

18. Adapted from Investigating Human Trafficking Cases Using a Victim-centred Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), pg. 54, 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

Key Messages:

- Victims of child labor, forced labor, and human trafficking have faced violence and threats from traffickers and exploiters. Each situation is different, so it is important to communicate with the victim to understand their situation and needs to provide safety assistance in the most appropriate way.
- Needs should be assessed in an individualized manner, as each victim has faced different challenges or could have reacted to situations differently. However, there are common needs that all victims will have, such as physical, psychological, or social assistance, even though they may manifest in different ways. A victim's need for these types of assistance should be assumed and addressed immediately.
- Needs may differ depending on the stage the victim is at in the recovery and reintegration process.
- Victims need protection from harm or threats as well as access to services and assistance to help them regain their safety, security, privacy, and legal rights.
- Victims need to know all of their options and information about their situation. Therefore, information should be conveyed in a language the individual understands.



Photo Credit: Nelhel7, 2014, Tanzania

HANDOUT 3.1.2: CASE STUDY ON VICTIM NEEDS

Read the case study below and then answer the questions that follow.

CASE STUDY:

March 28, 2018, 11:30 p.m.

Due to the presumed age of one of the women living in the house, one of the police officers—Inspector Michaels—has advised that this is a possible case of human trafficking. The women appear to be traumatized and are afraid of the police officers. Inspector Michaels, who is attached to the Anti-Trafficking in Persons Unit within the police force, advises that it is best to treat all 15 women as presumed victims and as such, they should be taken to the shelter Women’s Aid, which is managed by an NGO. The shelter manager welcomes the women and advises the officers that she will need to ensure they are okay and mentally able to withstand interactions with law enforcement prior to the police returning to carry out interviews.

The police detain for questioning the man who was participating in the live act along with Blocker; the two women thought to be staff (identified as Veronica Machata, an irregular Petrolandian national, and Beatrice Carmen, a national of Country A); the six men who were receiving massages at the time of the raid; and the 15 male audience members of the live show. While the raid was ongoing, other police officers simultaneously visited the homes of Regina Maile and her brother Bernard Maile who were also taken to the police station. Previous investigations have revealed that the Mailes all have dual citizenship in Country A and Petroland.

March 28, 2018

Dr. Morrison calls the officers at approximately 10 a.m. and advises that, by her estimation, all the women currently in her care who arrived at Women’s Aid three days ago are vulnerable and in need of the State’s special protection. Her evaluation is that they have all been victimized and will need continuous care and counseling to increase the likelihood of recovery. She reports that the two women who arrived on the night of March 23 (Lisa Diego and Alicia Moreno) are a little bit hesitant to speak to the police, as they fear they will be prosecuted for entering the country illegally. She further advises that only nine of the women are recommended to speak with the police; however, not all nine are likely to cooperate. She reports that the other six are in an extremely vulnerable state and participating in an interview at this time might result in irreversible damage. She then provides brief accounts of the women in her care who she recommends for interviews with the police.

Lisa Diego, 24 years old, from Canne, Petroland: *Lisa was recruited in Petroland to work as an entertainer “dancer” in Country A. She was advised that this was legal and that the company she would be working for would arrange for her work permit and work visa. Due to the length of time it would take for the visa to be processed, she agreed to take a boat at night to Country A, especially because she was assured that it would be easier for her status to be regularized once she was in the country. She was also advised that it would be easier for her work permit to be processed once she arrived in Country A. Her future employees covered all the related costs for her travel. She arrived by boat in Country A on March 23 with three other women. Only one of the women was taken to the house with her the night before the police raid. They were both in the room watching the live shows along with a few “clients” when the raid took place. She was told she would not be paid until she repaid her debt in full, but, as an option, she could offer special services to clients as a way to repay her debt sooner. Even though she had not yet made a decision, she was beginning to consider the second option. Lisa indicated that Alicia, her boat companion, was really annoying and was crying all night since they arrived as well as during the live shows.*

Alicia Moreno, 20 years old, from Merida, Petroland: At a bar in Merida, Petroland, Alicia was introduced to the man who owned and operated a boat that smuggled people into Country A. She told him of her desire to go to Country A, where her sister currently resided, as things were really bad financially and she was tired of struggling, being hungry, and not being able to buy toiletries as the stores were always out. He told her he could take her to Country A for a fee of \$100 and that the next trip was the following day. She told him she did not have the money available and that it would take her a few weeks to put the money together. He advised her that he knew of a man in Country A who loaned people the money for the trip at a small interest rate. She agreed as she was desperate to leave and did not ask any questions. Once she arrived in Country A, she and one of the other females on the boat were introduced to their benefactor, Bernard. She wanted to contact her sister, but Bernard advised her that she would be allowed to call the next day after they worked out the payment details for her loan. They were taken from the port in a black van and ushered to a house that smelled of smoke and men who leered at them. The next day, Bernard informed Alicia that to repay her loan, she would be required to participate in live shows. Alicia did not know what this meant, but a woman named Victoria took her to a room to watch as part of her orientation. She was supposed to participate in the second show, but the police officers stopped that from happening. She is afraid of going to jail.

Bianca Flores, 17 years old, from Canne, Petroland: Bianca is from a large family; she is fourth in a family of six children. Her father is not in the picture, and her mother is blind as a result of untreated cataracts. Bianca heard about an au pair job in Country A at a career fair at her school on June 15, 2017, and applied. The company contacted her in January 2018 and helped her get a passport and a visa for Country A. She arrived in Country A via a boat on February 14, 2018. On arrival, she was advised that her job was to be an exotic masseuse and a dancer. Bianca did not want to do it, but after a few days, she gave in as this was the only way she could repay her debt and return home.

Ana Rodriguez, 16 years old, from Canne, Petroland: Ana heard about the job as an au pair in Country A at a career fair in her school on June 15, 2017; she applied for the job as it would offer the opportunity to learn English and some independence from her parents. The company contacted her in January 2018 and offered her the job. The employer assisted her with all the relevant documentation for her travel and even covered the airfare. Ana arrived in Country A via plane on February 14, 2018. On arrival, she was advised that her job was to be an exotic masseuse and a dancer. At first, she did not want to do the job, but she had no choice but to perform after a few days as she was hungry, and the traffickers threatened to tell her very religious parents that she was a prostitute and had knowingly agreed to this job before leaving Canne.

Rosa Fernandez, 23 years old, homeless, from Merida, Petroland: At 16, Rosa decided to leave her hometown on her own as she was being molested by her father, and her mother refused to believe her. She started working as a prostitute five months after leaving home because she was homeless. Her work as a prostitute provided her shelter at night. After three years of working as a prostitute and living on the street, she met a man named Bernard. He told her he could get her into Country A, where he operates an agency that can grant her asylum status. However, in return, she would have to work as a prostitute for five years. All her living expenses would be taken care of, according to Bernard. At the house where she is staying, she says she is treated well and does not have to worry about what she will eat or where she will sleep. She wishes she would at least get some of the money being collected for the work she does. She is extremely annoyed by the other women who complain all the time; after all, things could be much worse.

Ping Wu, 40 years old, from Beiling, Chinta: Ping, a native of Chinta, has been living in Country A for the past 10 years. She had been working as a cook in a Chintanese restaurant since arriving in Country A; however, in June 2017, the restaurant was closed down by the authorities. Her co-workers began to blame her for this as she was “too friendly” with the locals, particularly government workers. They believed that she was the one who talked too much and caused the restaurant to be closed. Since then, Ping had been having trouble finding a job in another Chintanese-owned restaurant. She was happy when Damien, who used to visit every Wednesday at the restaurant where she worked, told her about a job at his workplace. Upon starting her new job, she finds out that the job is not what she expected. She is not allowed to leave, nor is she paid. Ping now cooks for 11 hours a day for the girls, guests, and the staff at the brothel.

Jenna Dyson, 25 years old, from San Fernando, Panland: Jenna had always dreamed of being a successful model and had done a few minor jobs for local retail stores in Panland. She was invited to a shoot in Port of Spain in December 2017, and soon after, she was offered an opportunity in Country A. A few of her friends tried to dissuade her from going. However, she thought they were just jealous and left without even giving them any contact information. Once in Country A, she was taken to a house and told she was really there to work as a prostitute. She refused initially, but after threats and a beating, she decided to do the job. Jenna stated that Errol Thomas, who was taken away by the police with Blocker and the other women, were in the same situation as she and the other girls. Errol is from St. Catherine, Reggae Rock, and had been recruited for a job opportunity in Dubai. He flew to Country A “in transit,” and his documents were taken. Errol was forced to participate in the live acts at the brothel with the women and was beaten if he did not comply.

Naomi John, 22 years old, from a rural area in Country A: Naomi recently received her degree in mathematics from the University of the Westside. While trying to find a job, she is also trying to find love as most of her friends from university are in “serious” relationships. On December 11, 2017, she found the love of her life, Declan, on Caribbean Connect, a dating site. After communicating via telephone every day for two weeks, she shared some very risqué photos with Declan. After two months, she met Declan at a bar on Valentine’s Day, and, despite reservations, she left the bar with him. She was taken to a house where she was forced to work as a prostitute, performing any act that the client desires. She keeps asking if she can get a few of the white pills to take the edge off this experience.

1. Who may be facing risks in terms of safety and security?
2. What are the risks?
3. What is the source of the risk?
4. What events could increase the risk level?

Lesson 3.2: Trauma-Informed Care

Objective:

- Understand the differences between stress and trauma
- Understand the impact of child labor, forced labor, and human trafficking on the mental health of victims
- Understand how to empower victims and to avoid re-traumatization

Time

 80 minutes

Steps:

- Exercise 3.2.1: Trauma Discussion
 - 15 minutes
- Present PowerPoint Presentation 3.2: Trauma-Informed Care
 - 20 minutes
- Exercise 3.2.2: Using the Enforcement Training Program (ETP) Case Studies to Provide Trauma-Informed Care
 - 45 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 3.2: Trauma-Informed Care
- Projector
- Copies of ETP Case Studies 1–4

Many victims of child labor, forced labor, and human trafficking have undergone trauma. It is important to understand the distinction between stress and trauma when working with victims.

Key differences between trauma and stress are:¹⁹

- Traumatic events are more extreme versions of stressful events
- Effects of stress are reduced when the stressor is removed
- Effects of trauma continue long after the traumatic events have passed
- The memory of traumatic events linger, affecting the body and mind of the victim

Trauma can impact victims of child labor, forced labor, and human trafficking in different ways, including physically, psychologically, spiritually, emotionally, and socially.

Using a victim-centered approach can help victims feel empowered and more in control of their lives, which plays an important role in overcoming trauma.

¹⁹. BC/TIP Trauma Counseling for Survivors Module, Winrock International, 2020, pg. 18.

Impact of Child Labor, Forced Labor, and Human Trafficking on Mental Health

Mental health is a person's psychological and emotional wellbeing. For victims of child labor, forced labor, and human trafficking, impacts to mental health can occur after being removed from the exploitative situation, impacting how they think, feel, and act. Common symptoms experienced by victims of WFCL, forced labor, and human trafficking include:²⁰

- Anxiety and depression: Feeling nervous, anxious, hopeless, sad, worthless, overwhelmed, and restless.
- Guilt, shame, fear, anger, worry, and inability to trust others.
- Bad memories, nightmares, flashbacks, avoidance, jumpiness, and edginess.
- Dissociation: memory loss, feeling of being disconnected from oneself and/or the rest of the world.



Photo Credit: Creative Commons Attribution-NonCommercial-NoDerivs 3.0 IGO License, 2013, Mongolia

20. BC/TIP Trauma Counseling for Survivors Module, Winrock International, 2020, p. 20.

Victim Assessment

A victim assessment is typically done by a counselor, often from an NGO specializing in working with victims of child labor, forced labor, and/or human trafficking. The counselor's assessment will play an important role in the victim's recovery and may also help plan for the victim's role in the trial process.

During the assessment, the counselor will work to identify the victim's strengths and get to know the victim as a person, not just as a victim of child labor, forced labor, and/or human trafficking. Focusing on the victim's strengths and good qualities can help empower the victim. It is a best practice to focus on the victims as a whole, not solely viewing him or her based on the situation that happened to him or her.

Empowering Victims

A key component of empowering victims of child labor, forced labor, and human trafficking is to think of them as survivors instead of victims. Instead of viewing them as passive people who had something bad happen to them, think of the victims as people who were strong enough to survive the experience and ultimately become victors. An empowerment approach focuses on the strengths of an individual victim and works to validate his or her feelings by acknowledging his or her thoughts, feelings, emotions, experiences, and beliefs.

To help empower victims, it can be helpful to ask strength-based questions such as those listed below:²¹

- Given all of the challenges you have faced, how were you able to survive?
- What have you learned about yourself during the struggles you have faced?
- What people or groups have been able to support you when you were struggling?
- What organizations have been able to support you?
- Do you think you can rely on these people, groups, and organizations in the future?
- What incidents in your life have given you hope?
- What do you want out of life?
- What are your special talents or abilities?
- What do you enjoy?
- What have you done that you are most proud of?
- What people do you enjoy being with?
- How do you think your life might change?
- What gives you a sense of purpose beyond yourself?

Sharing the Trauma Story

It is important for victims of child labor, forced labor, and human trafficking to be able to share the story of what happened to them. It can be difficult for a victim to remember exactly what happened and in what order, and a victim's story may change over time due to trauma, but that does not mean the victim's description of events is untrue. The victim's counselor will work to help the individual share his or her story, which can help the victim during the interview process. In some jurisdictions, counselors can be present during victim interviews with law enforcement and prosecutors as well as during the trial, if the victim is a witness. To enable victims to tell their story such as during interviews and trials, counselors work with victims to help them control their memories, how they react to them, and understand their feelings and reactions.

21. Guiding Principles for Agencies Serving Victims of Human Trafficking, Office on Trafficking in Persons, September 2018. <https://www.acf.hhs.gov/otip/news/region4guidingprinciples>

Memories of traumatic experience can be overwhelming for many victims, so initially it can be helpful for victims to tell the story of what happened to them in small increments. Recording victim interviews can help reduce the number of times a victim has to tell his or her story during the investigation and prosecution process, helping to reduce the risk of re-traumatization. The counselor, and others hearing the victim's story, should make it clear that the victim will not be blamed, judged, or stigmatized. Some victims, particularly children, may benefit from using pictures or props to help tell their story, such as by pointing on a drawing where they were injured.

Reintegration

When helping a victim during the reintegration, it is important to be mindful of the impact trauma can have during that process, as well as concerns a victim may have about returning to his or her family and community. The victim may fear being rejected by his or her family or community. The victim may fear retaliation by his or her trafficker/exploiter or network after returning to his or her community. Victims may also be worried about stigma and his or her future.

When preparing for reintegration, remember that return and reintegration is voluntary and needs to respect the rights of the victim. Risks and safety concerns need to be discussed with the victim. Reintegration should be conducted on an individualized basis, with the victim aware of all important information. Safety of the victim and his or her family should be factored into the reintegration plan, along with the risks the trafficker may pose.

Exercise 3.2.1: Trauma Discussion

Objective:

- To begin thinking about trauma and its impacts on victims.

Time:

 15 minutes

Materials and Preparation:

- Flip chart
- Markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flip chart:
- How do you define trauma? Can you give examples?
- What impacts does trauma have on people? How long do these impacts last?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- Trauma can be an intense form of stress.
- Trauma can be brought about by many things, such as violence, abuse, war, natural disasters.
- Trauma can have many impacts on people, which will be discussed in the lesson.
- The impacts of trauma can last long after the traumatic event has ended.

Exercise 3.2.2: Trauma-Informed Care Using ETP Case Studies

Objective:

- To incorporate trauma-informed care principles into interactions with and plans for a victim.

Time:

 45 minutes

Materials and Preparation:

- Flip chart and markers for each group
- Copies of Enforcement Training Program (ETP) Case Studies

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Split the participants into four groups, give each group copies of a different case study. Instruct each group to review their case study and identify the following:
 - Trauma-informed approaches for interviewing the victim
 - Trauma-informed approaches for preparing a victim to testify and for trial
 - Trauma-informed approaches for reintegration
 - 15 minutes
- Reconvene the groups and have each group present their plans. Allow time for comments and discussion.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Using trauma-informed approaches can help a victim recover and tell his or her story. It's important to remember that a victim's story may change over time due to trauma.
- Using empowering language can help a victim regain confidence.
- Make sure to include the victim in discussions about services and reintegration; always being mindful of the victim's safety.

Lesson 3.3: Referral Mechanisms

Objective:

- Learn about the role of National Referral Mechanisms and sub-national referral mechanisms and how they operate.

Time:

 1 hour and 40 minutes

Steps:

- Exercise 3.3.1: Referral Mechanisms Discussion
 - 15 minutes
- Present PowerPoint Presentation 3.3: Referral Mechanisms
 - 30 minutes
- Exercise 3.3.2: Using the Referral Mechanism with the Enforcement Training Program (ETP) Case Studies
 - 55 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 3.3: Referral Mechanisms
- Projector
- Copies of ETP Case Studies 1–4
- Copies of national referral mechanism or sub-national referral mechanism (if such a mechanism exists)

Many countries have National Referral Mechanisms (NRM) and/or sub-national referral mechanisms for child labor, forced labor, and/or human trafficking. These referral mechanisms provide a process and framework for victim identification and support in a way that increases the ability of government agencies and service providers to work together.²² In some countries, there are formal memorandums of understanding (MOUs) between government agencies, as often NRMs and sub-national referral mechanisms are established through a cooperative agreement. Referral mechanisms rely on civil society and the services that NGOs are able to offer. Because referral mechanisms are dependent on the child labor, forced labor, and human trafficking situations in a specific country or locality and the actors involved in service provision, referral mechanisms are not uniform. Some countries have separate referral mechanisms for child labor, forced labor, and human trafficking because the responsible government agencies are different for child labor and trafficking cases. In instances where the reporting mechanisms are independent, it can be beneficial to ensure that the responsible ministries have regular contact with each other to help make sure that cases are properly identified, and best practices are shared.

22. Victims of Modern Slavery – frontline staff guidance. Version 3.0, UK Home Office, p. 46, 2016. <https://www.antislaverycommissioner.co.uk/media/1057/victims-of-modern-slavery-frontline-staff-guidance-v3.pdf>

Role of Referral Mechanisms

Referral mechanisms help protect the rights of victims while simultaneously providing them with access to needed services. These mechanisms can help implement national policy and may allow governments to better track data. NRMs and other referral mechanisms help streamline the process for identifying potential child labor, forced labor, and human trafficking victims and coordinating victim service. Referral mechanisms can also help keep information about victims confidential by ensuring that identifying information is only shared with those working on the individual case. Referral mechanisms help governments coordinate with NGOs, which are able to provide services that governments often cannot.

NRMs and Sub-National Referral Mechanisms

NRMs can have challenges, indicating that victims can benefit from a more localized approach, such as at the state, provincial, county, or municipal level. Even if there is an overarching national program, those programs are not always able to deliver what the victim requires without a multi-agency approach to the coordination and delivery of support at the local level. The United Kingdom (UK) found that building local links with government departments, local authorities, housing associations, local health providers, and NGOs can provide more holistic support for the victim.²³

There are benefits to using a national-level approach. Lack of funding and specific local agencies that have the training and connections to address victim's needs can make it challenging for local referral mechanisms to fully protect victims. Additionally, with an NRM in place, the larger organization can reach out to the local organizations and departments after first assessing what the victims need and where to refer them. A centralized effort allows the government to tap into all necessary resources, which can be more efficient than a smaller, local organization trying to find necessary resources and reaching out to other local organizations if they do not have what they need. Because human trafficking often involves people subject to immigration control, which is typically addressed by the national government, there is a benefit to having the national government playing a role in victim referral so that immigration issues do not hinder the assistance process.

If the local referral agencies do not have the capacity or resources, it is possible that victims will not be identified. There is some concern that workers employed by local authority child protection services may not be aware of human trafficking. To combat this lack of knowledge, local authorities need to determine how their staff is trained and supervised to respond to this issue; this includes understanding the function of the NRM if there is one, and the need to collaborate with other organizations to address unique victim needs.

Components of Referral Mechanisms

Before conducting outreach, safety and service protocols should be in place with law enforcement and social service providers.²⁴ When conducting direct outreach, the goal should be to provide an implicit promise to potential victims that help will be available when needed. Providing appropriate follow-through helps build trust.

A single agency or program may be able to meet some of the needs of a child labor, forced labor, or human trafficking victim, but it is best to work with a network of service providers. A multidisciplinary team using a comprehensive services model is an evidence-based practice that has been shown to improve outcomes for victims. It is crucial to develop relationships with a variety of service providers such as health clinics, refugee service agencies, labor rights networks, and culturally specific organizations that can help serve the needs of foreign national victims. Training should be provided for service providers working with victims of child labor, forced labor, or human trafficking.

In addition to developing relationships with service providers and law enforcement, relationships should be developed with organizations familiar with the ethnic group or language of the target population. For example, when conducting outreach to potential child labor, forced labor, or human trafficking victims in agricultural settings, partnering with a

23. Review of the National Referral Mechanism for victims of human trafficking, UK Home Office, 2014. https://www.antislaverycommissioner.co.uk/media/1062/review_of_the_national_referral_mechanism_for_victims_of_human_trafficking.pdf

24. "Guidelines for Building a Response/Referral Mechanism." Ohio Human Trafficking Task Force. <https://humantrafficking.ohio.gov/tool-kit-building.html>

migrant farmworker outreach program can help build trust with the target population and should inform how the outreach is conducted. Critical partners could include health outreach programs, community legal programs, sexual assault response teams, educational programs, churches, immigration assistance programs, and culturally specific organizations.

Referral mechanisms should include the following components:²⁵

- Identification of victims and how to appropriately treat and provide services to victims while respecting their rights and allowing them to make decisions
- A system for referring victims to service providers
- A formal mechanism designed to harmonize victim assistance with investigations and prosecutions
- A multidisciplinary framework with participants from a range of sectors that can respond to victim needs and conduct monitoring and evaluation

Referral mechanisms can also be centered around centralizing contact information for service providers and maintaining relationships with those service providers. **The service directory should include:²⁶**

- Who: Name of the organization or service provider and their contact information
- What: Type of assistance or services that they provide
- Where: Location(s) where their services can be accessed



Photo Credit: Shawn Harquail, 2014, Peru

25. National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. Organization for Security and Co-operation in Europe (OSCE), p. 16, 2004. <https://www.osce.org/odihr/13967>

26. Trafficking in Persons Victim Identification and Assistance. International Organization for Migration (IOM), p. 45, 2020. <https://publications.iom.int/books/trafficking-persons-victim-identification-and-assistance-training-guide>

To make the best use of a service directory, developing standard operating procedures (SOPs,) guidelines, or MOUs regarding coordination and service provision can be helpful. Additionally, creating a referral form can help streamline the process. **In establishing and using an NRM, these best practices should be followed:**²⁷

- Protecting victims should be the first priority of all anti- child labor, forced labor, and human trafficking efforts
- The framework or infrastructure to address child labor, forced labor, and/or human trafficking should consider these issues broadly, considering all types of child labor, forced labor, and human trafficking and how they may evolve. Being flexible and open to change is important.
- Support and protection should be available to all victims, regardless of the type of child labor, forced labor, or human trafficking they were subjected to.
- The NRM should include a broad range of services, which should be used to address each victim's specific needs
- Human rights based victim protection mechanisms can help prosecutions succeed
- Government and civil society should both be included to achieve a multidisciplinary, cross-sector structure
- The structure should assess and build on national capacity to create a sustainable framework
- The NRM should be transparent and should assign clear roles and responsibilities based on the capabilities and mandates of organizations and offices involved
- NRMs should engage in regional and international cooperation
- Implementation of the NRM should help ensure accountability and legitimacy

Examples of NRMs and Sub-National Referral Mechanisms

The United Kingdom has an NRM for modern slavery, which includes human trafficking, forced labor, and some of the WFCL. In the United Kingdom, only first responders can refer cases to the NRM.²⁸ If someone other than a first responder wants to make a report, they have to refer the case to one of the designated first responders, who can then make referrals through the NRM. To use the NRM, first responders must complete a form that provides information about the victim. There are separate forms for children and adults, and while consent is required to report adult victims, it is not required to report child victims.

In addition to the UK's NRM, London has a one-page online referral mechanism developed by the Metropolitan Police.²⁹ The online referral mechanism can be accessed by 60 different organizations in London, making it easier for partners to identify and refer victims of human trafficking. The online referral mechanism has resulted in more trafficking victims being identified and more trafficking investigations being conducted by the police.

In Colombia, suspected cases of human trafficking must be reported to the Human Trafficking Task Force of the Ministry of the Interior.³⁰ The Ministry determines if the case is a human trafficking case and makes referrals for services.

In the Netherlands, referrals for sex trafficking victims are coordinated by the Dutch Foundation against Trafficking in Women (STV). **Its help desk has four key tasks:**³¹

27. National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. Organization for Security and Co-operation in Europe (OSCE), pp. 23-28, 2004. <https://www.osce.org/odihr/13967>

28. Victims of Modern Slavery – frontline staff guidance. Version 3.0, UK Home Office, p. 46, 2016. <https://www.antislaverycommissioner.co.uk/media/1057/victims-of-modern-slavery-frontline-staff-guidance-v3.pdf>

29. Van Dyke, Ruth, "Monitoring and Evaluation of Human Trafficking Partnerships in England and Wales," Anti Trafficking Review, issue 8, 2017, pp. 131–146. <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/230/220>

30. Manual de abordaje, orientación y asistencia a víctimas de trata de personas con enfoque de género y derechos. International Organization for Migration (IOM), p. 61, 2012. <https://publications.iom.int/books/manual-de-abordaje-orientacion-y-asistencia-victim-as-de-trata-de-personas-con-enfoque-de> There is a sample reporting form (for international human trafficking) on page 65

31. Protocol for Identification and Assistance to Trafficked Persons. Anti-Slavery International, p. 82, 2005. <http://www.antislavery.org/wp-content/uploads/2017/01/protocoltraffickedpersonskit2005.pdf>

- Arranging shelter
- Keeping in touch with services providers who are assisting victims
- Maintaining regional support networks and setting up new support networks
- Recording data about victims and sharing data with the National Rapporteur

The STV does not run shelters but instead coordinates shelter with NGOs who can provide services. Cases are referred to the regional support networks, but if no regional support network covers the area a victim is located in, the national STV will coordinate services. The STV help desk ensures that an individualized plan for services is developed for each victim, which includes addressing immediate and long-term needs. The plan identifies the needed service providers, who are kept informed.

The NRM in Georgia is widely considered the best in the region in terms of how the mechanism is structured and the implementation of the framework. Potential victims are identified mainly by task forces and mobile units and referred to either the national police or the Permanent Group, a five-member board comprising NGOs and international organizations.³² Both authorities can grant official victim status and full state services and support. This approach creates a much-needed alternative to law enforcement controlled identification procedures for victims who do not want to work with state authorities. It also alleviates many law enforcement controlled identification issues like forced cooperation in investigations, penalization, and re-traumatization.

Moldova has an NRM for human trafficking victims, which is designed to provide possible trafficking victims with access to services from a network of service providers.³³ To improve the NRM's implementation, there are regional offices in each region of the country that work with local law enforcement, service providers, and schools to coordinate rehabilitation efforts.

In the U.S., many states have state referral mechanisms. In the state of New York, any law enforcement officer, social services, or legal services provider can make referrals for a person believed to be a trafficking victim.³⁴ The state of New York uses an electronic submission process. The Division of Criminal Justice Services, in consultation with the Office of Temporary and Disability Assistance, review referrals to determine eligibility. New York State funds the Response to Human Trafficking Program, which provides case management and referral services to confirmed human trafficking victims in New York. The program focuses on victims who cannot otherwise access services, such as those who have not yet been certified by the federal government. Services provided to the victims include things such as shelter/rental assistance, medical services, mental health counseling, legal services, food assistance, and other needs identified on an individual basis.

32. 2018 Trafficking in Persons Report, U.S. Department of State, 2018 p. 195. <https://www.justice.gov/eoir/page/file/1078096/download>

33. An Assessment of Referral Practices to Assist and Protect Trafficked Persons in Moldova, United Nations Office on Drugs and Crime (UNODC), 2007. https://lastradainternational.org/lsidocs/721%20unodc_07_assem_ref_protect_0408.pdf

34. "Division of Criminal Justice Services: Human Trafficking," New York State. <https://www.criminaljustice.ny.gov/pio/humantrafficking/humantrafficking.htm>

Exercise 3.3.1: Referral Mechanism Discussion

Objective:

- Discuss experiences with and perceptions of referral mechanisms to begin thinking about child labor, forced labor, and human trafficking mechanisms.

Time:

 15 minutes

Materials and Preparation:

- Locate and make copies of the local/national referral mechanism if there is a local mechanism for child labor, forced labor, or human trafficking
- Flip chart
- Flip chart markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- If there is a local/national referral mechanism, lead a discussion asking the following questions, recording answers on the flip chart:
 - Has anyone used the referral mechanism? What was that experience like?
 - Have there been efforts to increase the use of the referral mechanism? If so, what types of efforts?
 - What are your perceptions of the referral mechanism if you have not used it?
- If there is not a local/national referral mechanism, lead a discussion asking the following questions, record answers on the flipchart:
 - Are you familiar with other types of referral mechanisms or with referral mechanisms used in other countries? If yes, can you explain a bit about how they work?
 - Would a referral mechanism be helpful for child labor, forced labor, and/or human trafficking cases? How would it be helpful?
- 10 minutes
- Wrap up with the key messages below.
 - 3 minutes

Key Messages:

- Referral mechanisms help enforcement and service providers work together to identify victims and increase their access to services

Exercise 3.3.2: Using the Referral Mechanism with the ETP Case Studies

Objective:

- To understand how to use the local/national child labor, forced labor, and/or human trafficking referral mechanism (if one exists)
- Practice using the referral mechanism
- Discuss how to improve the use of a referral mechanism
- Discuss the benefits and challenges of a referral mechanism

Time:

 55 minutes

Materials and Preparation:

- Locate and make copies of the local/national referral mechanism if there is a local mechanism for child labor, forced labor, or human trafficking
- Flip chart
- Flip chart markers
- Make copies of Enforcement Training Protocol (ETP) Case Studies 1–4

Steps:

- Explain to the participants the objectives of the exercise. Identify the scope of the exercise (child labor, forced labor, and/or human trafficking)
 - 5 minutes
- If there is a local/national referral mechanism, split the participants into four groups, giving each group copies of a different ETP Case Study. Then have each group do the following:
 - Identify the services needed by the victim in their case study.
 - Talk through the process of referring the case and providing referrals for victim services. Track the process on the flip chart paper. After the process has been mapped, have participants reconvene.
 - Have each group present its use of the referral mechanism. Then ask the participants the following questions, recording answers on the flip chart paper:
 - What does the referral mechanism do well?
 - What could be improved about the referral mechanism and its implementation?
- If there is not a local/national referral mechanism, split the participants into four groups, giving each group copies of a different ETP Case Study. Then have each group identify the services needed by the victim in their case study. Once this has been finished, have the groups reconvene.
 - Have each group present the services needed by the victim in their case study. Then ask the participants the following questions, recording answers on the flip chart paper:
 - Would a referral mechanism be helpful for child labor, forced labor, and/or human trafficking cases? How would it be helpful?
 - What challenges are likely to be faced in creating and implementing a referral mechanism? How can these

challenges be overcome?

- What do you think should be included in a referral mechanism?
- Which agencies/offices are well placed to help design or implement a referral mechanism?
- 40 minutes
- Wrap up with Q&A and the key messages below.
- 10 minutes

Key Messages:

- Referral mechanisms can help streamline referrals, improving the ability of victims to access services.
- Referral mechanisms can encourage a holistic approach to victim services, ensuring that a variety of needs are met and that a comprehensive care plan is developed.
- Referral mechanisms can help ensure that cases are properly identified and are investigated.



Photo Credit: Denish C, 2012, Sri Lanka

Lesson 3.4: Process and Roles

Objectives:

- Learn about the roles and responsibilities of the different agencies, offices, and organizations that play a role in building child labor, forced labor, and human trafficking cases, including providing services to victims
- Learn how to map the coordination and referral process

Time:



1 hour and 38 minutes

Steps:

- Exercise 3.4.1: Telephone Energizer
 - 23 minutes
- Present PowerPoint Presentation 3.4: Process and Roles
 - 20 minutes
- Exercise 3.4.2: Referral Mapping
 - 55 minutes

Supplies:

- Flip chart
- Markers
- Handout 3.4.1: *Telephone Tip*
- PowerPoint Presentation 3.4: Process and Roles
- Projector

Roles and Responsibilities

Roles and responsibilities can vary by country. In many jurisdictions, there are hotlines that can be used to report cases of child labor, forced labor, and human trafficking. These hotlines can be operated by a government agency or NGO. Often there are separate hotlines for human trafficking and child labor. Common roles and responsibilities for government agencies, NGOs, and CSOs are described below.

Labor inspectors: Labor inspectors are typically authorized to inspect workplaces either in response to a tip or as routine inspections. In many jurisdictions, labor inspectors are authorized to investigate child labor cases and issue on-the-spot fines for labor violations. Labor inspectors can often work with employers to help them comply with local rules and regulations and do outreach about child labor, forced labor, and human trafficking. Labor inspectors often are responsible for bringing child labor cases to an administrative hearing at a Labor Office or Labor Court.

Police: Police officers are typically responsible for investigating forced labor and human trafficking cases. In some jurisdictions, they are also responsible for investigating child labor cases. Police often do the initial screening and often are the ones to identify victims.³⁵ Police are typically involved in initial victim interviews and may need to make referrals for victim services. Often there are specialized units of police who investigate human trafficking cases and cases involving children. These officers receive special training about victim needs and how to conduct interviews of victims and children.

Prosecutors: Prosecutors are responsible for prosecuting human trafficking cases. In many jurisdictions, they are also responsible for prosecuting forced labor and child labor cases. Often there is a dedicated unit of prosecutors who specialize in human trafficking cases. In some jurisdictions, prosecutors are also responsible for investigating cases. Prosecutors are responsible for ensuring victims are prepared for the court process and securing available protections for victims during the trial.

Judges: Judges are responsible for hearing human trafficking cases and often forced labor cases. In some jurisdictions, they may hear child labor cases either in the first instance or on appeal. Judges will often hear cases of WFCL. Judges are responsible for helping to create a victim-sensitive trial.

Immigration and border officers: Immigration and border officers are typically responsible for screening people arriving in and departing from the country, which may include screening for potential trafficking cases. Should a possible case be identified, officers should conduct interviews if needed and make an initial referral.

Other government agencies: In many jurisdictions, there are several other government agencies that assist with child labor, forced labor, and human trafficking cases. Often social services assist by providing social workers who help provide counseling, develop victim assistance plans, and are present at victim interviews. Child welfare agencies may provide services for child victims, such as being present at interviews, assisting with treatment plans, and identifying a guardian and housing if needed. The Ministry of Education will often help to assist in reenrolling children in school.

35. Investigating Human Trafficking Cases Using a Victim-centred Approach: A Trainer's Manual on Combating Trafficking in Persons for Capacity-building of Law Enforcement Officers in Antigua and Barbuda, Belize, Jamaica, and Trinidad and Tobago. International Organization for Migration (IOM), p. 55, 2018. <https://publications.iom.int/books/investigating-human-trafficking-cases-using-victim-centred-approach-trainers-manual-combating>

NGOs and CSOs: NGOs and CSOs are often well placed to provide victim services. These organizations may also be able to assist with reintegration. NGOs and CSOs may do many things, including providing services like those listed below:³⁶

- Medical and psychological examinations, treatment, and counseling to victims
- Family mediation and counseling
- Monitoring the victim's reintegration process
- Monitoring children once they have been placed in a shelter
- Help re-enroll children in school
- Provide or help coordinate vocational training programs
- Help with job placement and career counseling
- Assistance in obtaining copies of documents such as birth certificates, passports, and other forms of identification
- Legal assistance in civil and criminal cases
- Assistance in obtaining visas
- Managing telephone hotlines that provide information and emergency support to victims
- Providing safe transportation

For more information about the services provided by CSOs and NGOs, refer to Lesson 3.4: Victim Services.

Mapping the Referral Process:

Referral mapping, also known as coordination mapping, is an important process in identifying how victim needs can and should be met. Mapping the referral process for child labor, forced labor, and human trafficking cases can be a useful process to understand the process within a country. To map the referral process for child labor, forced labor, or human trafficking cases, the first step is to map the stages of the case process for victims and identify their needs at each stage.

Next, the agencies, offices, and organizations that are mandated to address each phase of the case process, and each of the victims' needs should be identified. The mapping process should include identifying who will provide assistance to victims at each stage and building a child labor, forced labor, or human trafficking referral system, as identified during the initial process mapping. **The referral process could include the following stages:**

- Identification, or who may receive tips or observe instances of child labor, forced labor, and/or human trafficking
- Investigation
- Victims services for emergency/immediate needs such as immediate housing, emergency medical treatment, and a security assessment
- Victim services for intermediate needs such as short-term housing arrangements and additional medical and psycho-social services, including counseling, reentry into education, and legal support
- Interviewing victims
- Victim services for long-term needs such as education and employment support, additional legal assistance, and reintegration
- Preparing a victim to testify in court
- Assisting a victim during a trial
- Post-trial and follow-up

36. The IOM Handbook on Direct Assistance for Victims of Trafficking. International Organization for Migration (IOM), p.86, 2007. <https://publications.iom.int/books/iom-handbook-direct-assistance-victims-trafficking-0>

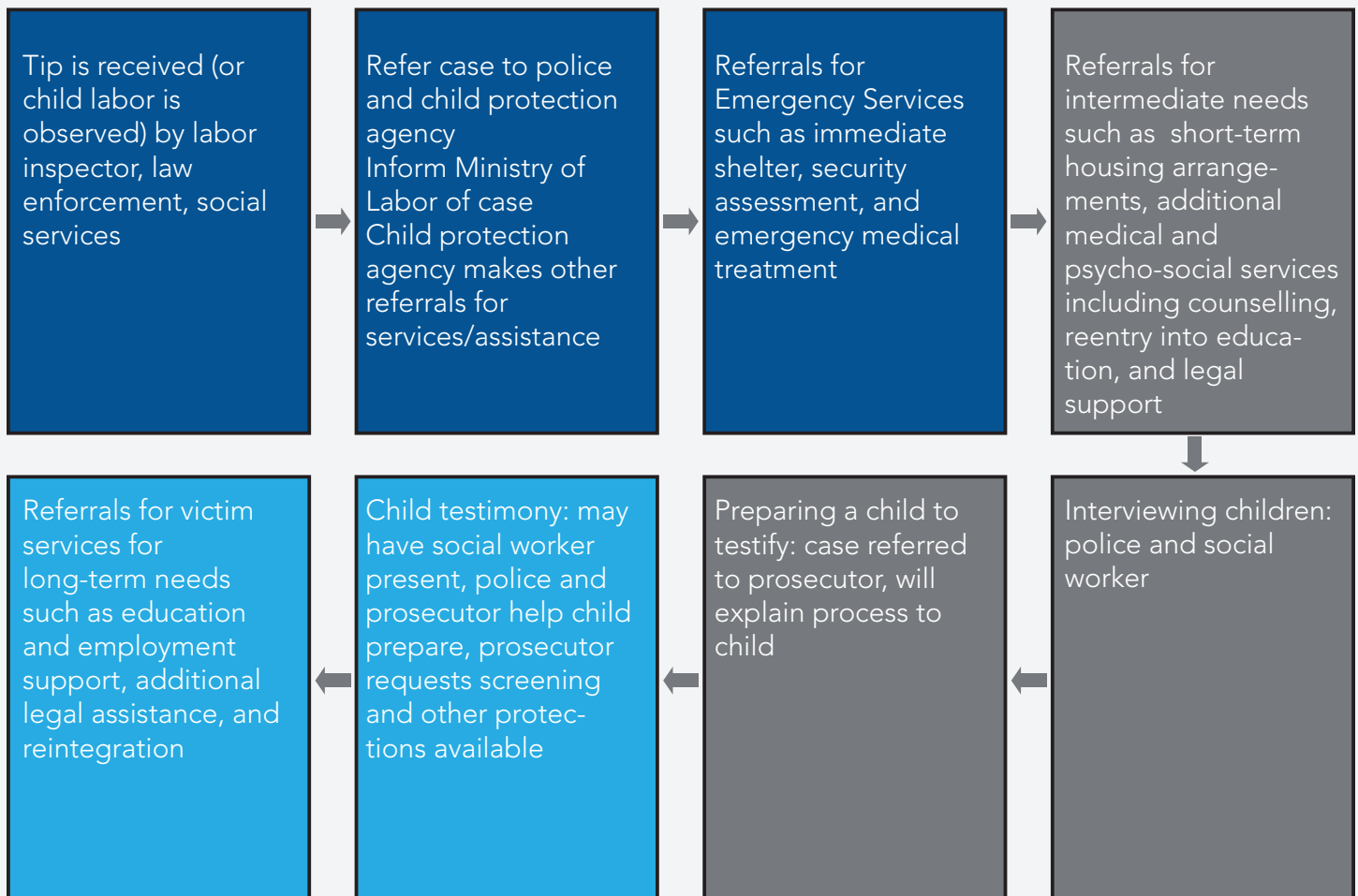
Once the roles and responsibilities have been identified, the groups in charge of the various stages listed above should be identified. Additionally, if there is a reporting hotline and/or agency responsible for coordinating referrals, that agency should be identified.

A process map should then be created. A flow chart is a good way to this. The sample flow chart below provides an example of what it might look like. The flow chart should identify roles and responsibilities at each stage of the child labor, forced labor, or human trafficking case, and when referrals should be made.

Sample Flow Chart

The chart below is a sample flow chart for child labor cases. It identifies roles and responsibilities, and when in the process referrals should be made to different offices, agencies, and service providers. The chart will not apply directly to all countries but is intended to demonstrate a possible product of referral mapping.

Figure 3: Sample Flow Chart for Child Labor Cases



Exercise 3.4.1: Telephone Energizer

Objective:

- Begin thinking about the importance of ensuring information is properly recorded and referred.

Time:

 23 minutes

Materials and Preparation:

- Copies of Handout 3.4.1: *Telephone Tip*
- Flip chart
- Flip chart markers

Steps:

- Explain the objectives of the exercise to the participants.
 - 2 minutes
- Instruct participants to get out of their seats and stand in a large circle. The facilitator should turn to his or her right and whisper the script on Handout 3.4.1: *Telephone Tip* into the ear of the person standing next to the facilitator, which is:
 - A suspected trafficking victim needs assistance. A 17-year-old boy was rescued from a fishing vessel and needs immediate medical attention for an injury to his arm. He also needs housing and other services.
- 3 minutes
- Instruct the person who received the message to whisper it in the ear of the person next to him or her, continuing the process until the message makes it all the way around the circle. The final person to receive the message should repeat what they have heard out loud. Ask participants if the message is the same as what they were told.
 - 10 minutes
- Hand the copies of Handout 3.4.1: *Telephone Tip* to the person on the facilitator's right. Tell the participants you are referring a case to the agency/office in charge of coordinating victim services. Instruct the person holding the copies Handout 3.4.1: *Telephone Tip* to keep one copy and give the other copies to participants in the circle to refer the case to other service providers. Have the person who made the referrals read aloud what is on his or her sheet. Ask participants if the information they received is accurate.
 - 5 minutes
- Wrap up with the key messages below.
 - 3 minutes

Key Messages:

- Writing down information when it is received, and with the intention of sharing it, can help ensure that victims receive the services they need. This information must be kept confidential and only shared with those assisting the victim or investigating or prosecuting the case.
- Coordinating referrals for victim services through a central office or agency can be more efficient and ensure that victims receive needed services in a timely manner.

Exercise 3.4.2: Referral Mapping

Objective:

- To map the referral process for child labor, forced labor, and/or human trafficking cases.

Time:

 55 minutes

Materials and Preparation:

- Locate and make copies of Handout 3.2.1: *Referral Mapping Template* for each participant
- Pens or pencils
- Flip chart pages with the following titles:
 - Identification
 - Investigation
 - Victim Services: Immediate Needs
 - Victim Services: Intermediate Needs
 - Interviewing Victims
 - Preparing Victims to Testify
 - Assisting Victims During a Trial
 - Victim Services: Long-Term Needs
- Flip chart markers

Steps:

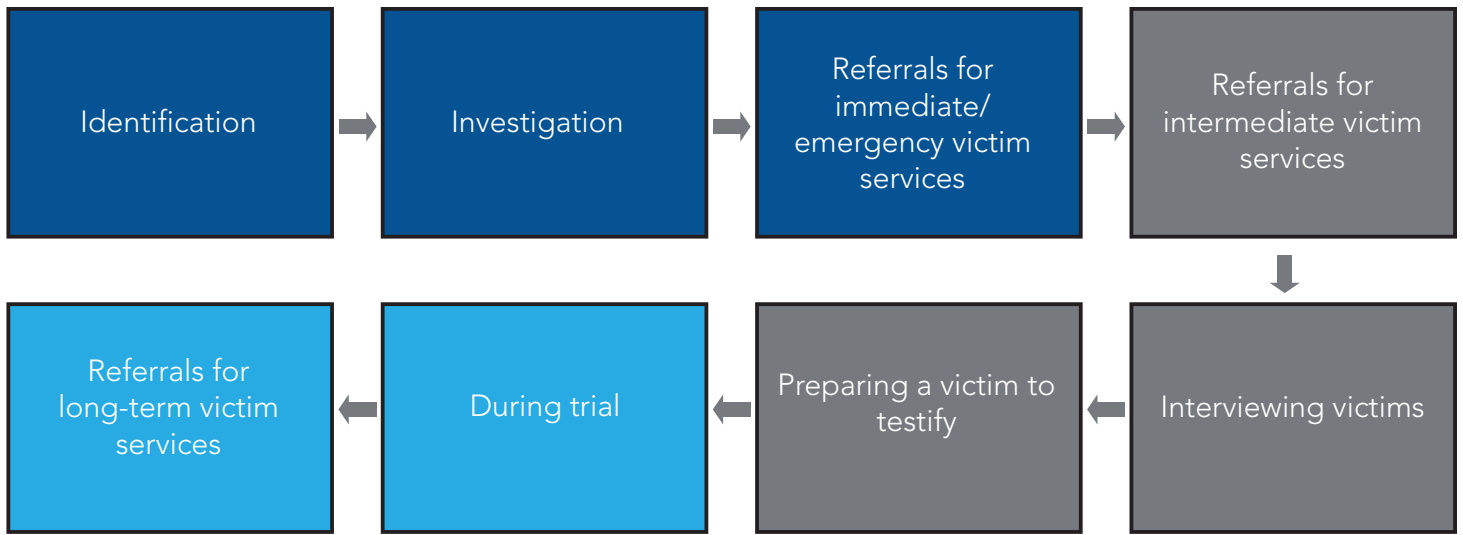
- Explain to the participants the objectives of the exercise. Identify the scope of the exercise (child labor, forced labor, and/or human trafficking)
 - 5 minutes
- Ask participants to introduce themselves, giving their names, their office/agency/organizations, and its role and responsibilities in child labor, forced labor, and/or human trafficking cases (if participants are from multiple offices and agencies). You can also have participants from the same agency/office/organization provide one brief overview of their agency/office/organization. The facilitator should take notes on a flip chart page noting each agency/office/organization present and its roles and responsibilities.
 - 20 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for identification or who may receive tips or observe instances of child labor, forced labor, and/or human trafficking.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for the investigation.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for victim services for immediate or emergency needs.
 - 5 minutes

- Ask participants to brainstorm the offices/agencies/organizations responsible for victim services for intermediate needs.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for interviewing victims.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for preparing a victim to testify.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for assisting a victim during a trial.
 - 5 minutes
- Ask participants to brainstorm the offices/agencies/organizations responsible for long-term victim services.
 - 5 minutes
- Working as a group, have participants identify which agency, office, or organization is responsible for each stage of the process and when referrals should be made and to whom, using a flow chart. If there is a central office responsible for handling referrals, make sure it is identified as well.
 - 10 minutes
- Wrap up with Q&A and the key messages below.
 - 5 minutes

Key Messages:

- There are many agencies, offices, and organizations that play a role in assisting child labor, forced labor, and human trafficking. Knowing the roles and responsibilities of these groups can help ensure that victims receive needed services.
- Knowing when to make referrals and who to refer cases to helps ensure that victims receive the services they need and in a timely manner.

HANDOUT 3.4.1: REFERRAL MAPPING TEMPLATE



Lesson 3.5: Mandatory Reporting

Objective:

- Understand the benefits and challenges of mandatory reporting
- Understand how mandatory reporting can work in practice

Time:

 25 minutes

Steps:

- Exercise 3.5.1: Mandatory Reporting Discussion
 - 10 minutes
- PowerPoint Presentation 3.5: Mandatory Reporting
 - 15 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 3.5: Mandatory Reporting
- Projector

Mandatory reporting creates a duty to report suspected child labor, forced labor, or human trafficking cases. Mandatory reporting can help countries to identify more victims; help identified victims gain access to services; and can increase child labor, forced labor, and human trafficking investigations. However, mandatory reporting may also make victims less likely to seek assistance if they believe their case will be reported to law enforcement.

Mandatory reporting is a legal requirement that certain individuals (often medical professionals or those who work with children) notify a designated agency when they suspect that someone may be a child labor, forced labor, or human trafficking victim. In some jurisdictions, consent may be required to report suspected adult victims. Consent is typically not required to report cases involving child victims.

In many jurisdictions, there is a mandatory requirement for medical practitioners and people working with children (such as teachers or social workers) to report suspected cases of child abuse. In most jurisdictions, this obligation covers child trafficking and WFCL and may include all cases of child labor. Reports are often made to law enforcement and child welfare/social services.

The obligation to report may vary within a jurisdiction. In the state of New York, for example, law enforcement and prosecutors are required to report suspected human trafficking cases, while social services and legal services must obtain consent to report adult cases.³⁷ Service providers and child welfare workers in New York are required to report suspected child sex trafficking cases to law enforcement.³⁸

37. Responding to Commercially Sexually Exploited and Trafficked Youth: A Handbook for Child Service Professionals. New York State Office of Children and Family Services, p. 34, 2016. <https://ocfs.ny.gov/programs/human-trafficking/assets/docs/OCFS-Handbook-for-Office-print.pdf>

38. Responding to Commercially Sexually Exploited and Trafficked Youth: A Handbook for Child Service Professionals. New York State Office of Children and Family Services, p. 37, 2016. <https://ocfs.ny.gov/programs/human-trafficking/assets/docs/OCFS-Handbook-for-Office-print.pdf>

Benefits of Mandatory Reporting

There are several benefits to mandatory reporting. The first is that there may be an increase in reported cases, allowing more victims to receive assistance and enabling the scope and nature of child labor, forced labor, and human trafficking in the country to be better understood. Mandatory reporting also encourages those who are required to report to learn how to identify child labor, forced labor, and human trafficking.³⁹ Medical professionals are often the only people who can interact with child victims in a way that is confidential enough for children to be identified as victims.

Challenges of Mandatory Reporting

Mandatory reporting conflicts with the strict confidentiality requirements of the medical profession. If child labor, forced labor, or human trafficking victims become aware of mandatory reporting requirements, it may cause them to delay seeking medical treatment or not disclose information because of a fear of reprisals by their traffickers or employers, prosecution for crimes related to trafficking, or deportation.⁴⁰ If victims are given access to services and are not prosecuted for crimes related to trafficking, it may be possible to begin countering these fears. Medical practitioners, teachers, and others who are required to report may need training to identify child labor, forced labor, and human trafficking. Some jurisdictions have developed training materials and tools for practitioners, such as lists of indicators. There are also concerns about penalties for failing to report cases and whether mandatory reporting creates an undue burden on those working with children. A final challenge in some jurisdictions is that the definition used to identify a victim of human trafficking and/or forced labor is very narrow, which means foreigners who are not initially identified as victims during screening can be quickly deported without recourse or appeal.

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Exercise 3.5.1: Mandatory Reporting Discussion

Objective:

- Discuss the benefits and challenges of mandatory reporting

Time:

 30 minutes

Materials and Preparation:

- Locate and make copies of the local/national mandatory reporting requirements, if there are requirements for child labor, forced labor, or human trafficking
- Flip chart
- Flip chart markers

Steps:

- Explain to the participants the objectives of the exercise. Identify the scope of the exercise (child labor, forced labor, and/or human trafficking)
 - 5 minutes
- If there is a local/national mandatory reporting requirement, lead a discussion asking the following questions, recording answers on the flip chart:
 - Has anyone used the mandatory reporting mechanism or received a tip from it? How did it work? Did it increase your ability to identify, investigate, or prosecute cases?
 - What are the benefits of mandatory reporting?
 - What are the challenges of mandatory reporting?
 - What kinds of education and outreach have been done about mandatory reporting? Are additional efforts needed? If so, what types of efforts do you think would be successful?
- If there is not a local/national mandatory reporting requirement, lead a discussion asking the following questions, recording answers on the flip chart:
 - Would a mandatory reporting requirement be helpful? Why or why not?
 - What types of professions/offices/groups of people do you think should be included in mandatory reporting? Why? Do you think there will be challenges in including any of these groups? If so, what types of challenges?
 - What types of outreach or education would be needed to implement mandatory reporting?
- 20 minutes
- Wrap up with Q&A and the key messages below.
 - 5 minutes

Key Messages:

- Mandatory reporting can help identify cases of child labor, forced labor, and human trafficking, increasing the number of investigations and prosecutions.
- Mandatory reporting can pose challenges if victims fear being reported and decline to seek medical or other services as a result.

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MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

PROSECUTION

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Introduction to Module 4

After an instance of child labor, forced labor, or human trafficking is identified, investigated, and referred to the proper authorities, the next step is to ensure the effective prosecution of these crimes. This module will cover all of the aspects of a successful prosecution, including how to evaluate a case, issues relating to bail for those accused of a crime, considerations for victims during the trial process, all aspects of trial practice, using evidence during trial, and mutual legal assistance. This module includes discussion questions and interactive excises that allow participants to practice using the skills they have learned.



Photo Credit: Kevin Doncaster, 2017, India

Lesson 4.1: Case Evaluation

Objective:

- To learn how to evaluate a case, including whether or not to bring child labor, forced labor, or human trafficking charges.

Time:



90 minutes

Steps:

- Exercise 4.1.1: Case Evaluation Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.1: Case Evaluation
 - 20 minutes
- Exercise 4.1.2: Case Evaluation Scenarios
 - 55 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: Case Evaluation Scenario
- Projector
- Handout 4.1.2: *Case Evaluation Scenario*

For a prosecutor, the most consequential decision he or she may make in any case is whether or not to bring charges. In deciding to bring charges, the prosecutor must determine that the existing evidence is sufficient to convict a suspect. This is a very serious matter because at stake may be the life, liberty and/or property of the accused, and the safety and well-being of the public.

Deciding whether to bring charges requires an objective, independent analysis of a case. The standard for making a decision to charge is *whether, based on the existing evidence, there is a reasonable prospect of conviction*. In other words, is there sufficient evidence to establish *each element of the proposed offense* with respect to the person to be charged?

Such evidence may come from one or more of a variety of sources.

First, there will likely be statements from various persons, such as statements from:

- Witnesses
- Police, labor inspectors, or other investigating officers
- Relevant experts
- Victims
- The accused

There will also likely be documents, in paper or electronic form, as well as physical evidence and perhaps medical evidence.

A proper evaluation of the case should include consideration of four key areas.

- the factual theory of the case,
- the legal theory of the case,
- an evaluation of the evidence, and
- public interest considerations.

The factual theory of the case focuses on what happened. This inquiry should answer the questions of what really happened, what are the key facts, what is the best evidence, and what were the motives of the suspect/potential defendant.

Once the facts of the case have been evaluated, the prosecutor should consider the legal theory of the case. Here, a prosecutor needs to apply the factual analysis to the law. Questions to answer include: What are the potential charges? What are the elements that must be proved? What state of mind must be proved? What facts can be used to prove those elements? And, what are the sources for those facts?

Next, the prosecutor must evaluate the evidence. Consider whether the evidence provides reasonable grounds to believe that the suspect committed the offense. The available evidence should be evaluated according to its relevance, admissibility, credibility, whether it is reliable and accurate, and the strength of any rebuttal evidence. It can be helpful to create an evidence table like the one provided below (which includes sample charges and sample evidence).

Element to prove	Evidence	Source of evidence	Counter-evidence	Comments
Charge 1: Human Trafficking				
Element 1: The recruitment, transportation, transfer, harboring or receipt of persons	<ul style="list-style-type: none"> • Falsified passport • Car used in transporting victim • Victim statement 	<ul style="list-style-type: none"> • Found at job site during rescue operation • Found parked at job site during raid • Victim interview 	<ul style="list-style-type: none"> • Statement of the accused 	
Element 2: By means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person	<p>Use and threat of force:</p> <ul style="list-style-type: none"> • Medical records documenting victim injuries • Text messages threatening violence • Victim statement 	<ul style="list-style-type: none"> • Medical exam conducted after rescue • Victim's mobile phone • Victim interview 	<ul style="list-style-type: none"> • Accused says he did not send the text messages, 	<ul style="list-style-type: none"> • Need corroborating evidence tying him to the messages

Element 3: For the purpose of exploitation	Exploitation- Prostitution <ul style="list-style-type: none"> Website advertising sexual services Victim statement 	<ul style="list-style-type: none"> Public website Victim interview 	<ul style="list-style-type: none"> Accused claims the website is not his 	<ul style="list-style-type: none"> Need to tie the website to the employer
Charge 2: Hazardous Child Labor				
Element 1: Child under the age of 18	<ul style="list-style-type: none"> Birth certificate Victim statement 	<ul style="list-style-type: none"> Family of the victim 	<ul style="list-style-type: none"> False documents claim the victim is 20 years old 	
Element 2: Work likely to harm health, safety, or morals (includes work on the Hazardous Work List, which includes prostitution)	Prostitution <ul style="list-style-type: none"> Website advertising sexual services Victim statement 	<ul style="list-style-type: none"> Public website Victim interview 	<ul style="list-style-type: none"> Accused claims the website is not his 	<ul style="list-style-type: none"> Need to tie the website to the employer

Finally, the prosecutor should consider the *public interest aspects of the case*. For example, it can be important to take into account the culpability of the suspect, the harm done to the victim and/or community, the status of the victim (e.g., age, vulnerability), the suspect's age at the time of the offense, and whether sources of information need protecting. The prosecutor must also decide if the proposed charges are a proportionate response to the alleged crime.

Exercise 4.1.1: Case Evaluation Discussion

Objective:

- To begin thinking about how to evaluate child labor, forced labor, and human trafficking cases.

Time:

 15 minutes

Materials And Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
- What factors should be considered when determining whether a case should be prosecuted?
- What makes a strong case?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When evaluating a case it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.
- Evaluating cases will be discussed further in the lesson.

Exercise 4.1.2: Case Evaluation Scenario

Objective:

- To familiarize participants with the concepts relevant to case evaluation.

Time:

 55 minutes

Materials And Preparation:

- Text of relevant statutes
- Flipchart and markers
- Make copies of Handout 4.1.2: *Case Evaluation Scenario*
- Write the following questions on the flipchart (or white board/chalk board):

Forced Labor

- Does there seem to be a sufficient case that the employees had been forced to work for Otero?
 - What are the strong points of the case?
 - What are the weak points of the case?
- Should you recommend that a forced labor action be brought against Otero absent additional evidence?
- What additional evidence would be sufficient to bring an action against Otero on forced labor charges?

Child Labor

- Is there enough evidence to bring child labor charges?
- What additional evidence could make the child labor case stronger?
- Absent additional evidence, should a child labor case be brought against Otero?
 - Should that be in addition to or instead of forced labor charges?
 - What additional evidence could make the child labor case stronger?
- Does the injured 14-year old former employee have any way to recover damages relating to his injury suffered while working for Otero?

Steps:

- Split the participants into small groups.
- Ask the participants review the scenario in Handout 4.1.2: *Case Evaluation Scenario*.
 - 5 minutes
- Each group should discuss amongst themselves the questions written on the flip chart paper. Participants should consider the questions from the point of view of a prosecutor considering charges against Otero.
 - 30 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present the conclusions made by their group. Other participants may ask questions or add comments.
 - 15 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key Messages:

- In order to properly evaluate a potential case, one must consider the following:
 - What charges can properly be supported by the evidence?
 - Are the potential sanctions appropriate for the defendant in the event of conviction?
 - Are there other charges that would be more appropriate?
 - Is there a reasonable prospect of conviction on these charges?
 - Can the existing evidence be strengthened by further investigation?



Photo Credit: Barb Mayer, 2007, Cambodia

HANDOUT 4.1.2: CASE EVALUATION SCENARIO

Luis Otero owns and operates a cattle farm 40 miles outside a small city in the Chaco. Two of Otero's former employees have come forward to say that they were being forced to provide labor on his farm.

The two former employees say that Otero recruited them to work for him and took them to his farm, where they lived in a wooden structure along with five or six other men. They say that although they were "free" to leave the farm, they couldn't really go anywhere and had no way to get leave or to go anywhere. Otero says that the men worked for him voluntarily and that they were always free to leave.

The former employees say that they were paid for their work weekly, but that they had to pay the landlord for their living quarters, and pay the foreman for their meals provided. There was usually nothing left for them to send back home to their families – or worse yet, they fell short and owed the money to Otero or his foreman. These debts accumulated over time.

The employees say that they were told that they could not leave the Otero farm before they paid off all of the money owed.

Five other workers on Otero's farm have refused to speak with the authorities. Another current employee says that he is happy with the living arrangements and is grateful to have the job.

One other former employee has been identified – a 14-year old boy who had fed and watered the cattle. He is currently at his parents' home recovering from a severe leg injury resulting from his being kicked by a bull.

The former employees say that the current employees are too frightened to make statements against Otero.

Lesson 4.2: Pre-Trial and Bail

Objective:

- Learn the basics about the right to bail and considerations for whether it is granted.

Time:

 1 hour and 45 minutes

Steps:

- Exercise 4.2.1: Bail Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.2: Pre-Trial and Bail
 - 20 minutes
- Exercise 4.2.2: Bail Scenarios
 - 70 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: Pre-Trial and Bail
- Projector
- Handout 4.2.2: *Bail Scenarios*

The term “bail” refers to the conditions under which a defendant detained by the authorities can be released pending trial. Bail generally involves a deposit of money or other property with the court to guarantee the defendant’s later appearance. The purpose of bail is to provide assurance that the defendant will appear in court when required.

Everyone ordinarily has the right to liberty and to be presumed innocent unless convicted by a court. In many countries, individuals have the right to bail unless there are compelling reasons not to grant bail. In some extremely serious cases, there may be a presumption against granting bail, such as with certain very violent crimes, sexual crimes, crimes relating to terrorism, or crimes punishable by death. Thus, there may be a presumption against granting bail in some human trafficking, child labor, and forced labor cases.

Restrictions on the Right to Bail

The right to bail may be subject to reasonable restrictions. A court will determine whether to grant bail, and under what circumstances, **based upon its evaluation of the following factors:**

- The gravity of the charge against the defendant
- The strength of the case against the defendant
- The seriousness of the punishment that may be imposed if the defendant is found guilty
- The risk that the accused will commit further crimes
- The risk that the accused will seek to intimidate or harm the alleged victim or potential witnesses
- The risk that the accused will flee to another jurisdiction and not return to face trial voluntarily

In evaluating these factors, the court will also consider the background and circumstances of the accused, the accused's ties to the local community, and the health of the accused. For example, a business owner charged with child labor may be more likely to be granted bail if he or she has ties to the local community such as his or her business or family, since this lessens the chance that the accused will flee to another jurisdiction and not return to face trial. The conditions imposed by the court may not be "excessive" or the failure to grant bail will be tantamount to imprisonment without any conviction of a crime.

Bail does not always require or only require the deposit of money. Bail may also be granted subject to other conditions when appropriate, such as the surrender of the accused's passport, periodic check-ins by the accused with the police or other authorities, and/or confinement to the accused's home, enforced by some form of location monitoring. In all cases, the conditions placed on bail should be appropriate to the circumstances of the defendant and the public interest.

Bail Pending Appeal

A person convicted of a crime may seek to be released on bail pending an appeal of the conviction, but the court's consideration of this request will look to very different factors than for pre-trial bail. Having been convicted at trial, the accused is no longer entitled to a presumption of innocence, and the accused will normally bear the burden of establishing why bail should be granted. In this regard, the court will consider, among other things, the likelihood of success of the appeal as well as the risk that the full sentence could be served by the time the appeal is heard. Depending on the weight of these factors, bail pending appeal may be an appropriate action and can be subject to the same conditions on the defendant as pre-trial bail.

Exercise 4.2.1: Bail Discussion

Objective:

- To begin thinking about bail in child labor, forced labor, and human trafficking cases.

Time:

 15 minutes

Materials And Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
- What factors should be considered when determining bail?
- Are there circumstances in which bail should not be granted? If yes, what types of circumstances?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When determining bail the circumstances of the accused and charges against him or her should be considered. Bail can vary for the same offense if one accused trafficker has more financial resources than the other.
- The presumption should be to grant bail, however in some cases this may not be appropriate if the accused is deemed too great a flight risk or the risk to victims or the public is too high.

Exercise 4.2.2: Bail Scenarios

Objective:

- To become familiar with the considerations relevant to determinations as to whether to grant bail to a defendant before trial.

Time:

 70 minutes

Materials And Preparation:

- One flipchart for each group and one for the facilitator
- Markers
- Make copies of Handout 4.2.2: *Bail Scenarios* for each group
- Facilitator should identify local bail rules and review them with participants
- Facilitator should prepare a flipchart in advance with the following questions to be exhibited at the front of the room as a guide for the group discussions:
 1. Under local law, a defendant is entitled to be released on bail unless _____.
 2. What are the main considerations relevant to granting pre-trial bail?
 - Defendant's right to liberty prior to having been convicted of any crime.
 - Potential that the defendant will flee and not return for trial.
 - Public's right to safety.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to form three groups.
- Instruct each group to review the scenarios found in Handout 4.2.2: *Bail Scenarios*.
- Each group should prepare to argue (or listen to arguments) for each case based on the following assignments:
- Scenario #1:
 - Group 1 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 2 will represent the state and argue against the grant of bail under the circumstances proposed, and propose different bail terms if appropriate.
 - Group 3 will hear these arguments and render a decision in each case.
- Scenario #2:
 - Group 2 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 3 will represent the state and argue against the grant of bail under the circumstances proposed, and propose different bail terms if appropriate.
 - Group 1 will hear these arguments and render a decision in each case.

- Scenario #3:
 - Group 3 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 1 will represent the state and argue against the grant of bail under the circumstances proposed, and propose different bail terms if appropriate.
 - Group 2 will hear these arguments and render a decision in each case.
- Each group should choose a spokesperson who will address each case on behalf of the group.
 - 30 minutes
- Participants should act out the arguments for each scenario in front of the large group.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

KEY MESSAGES:

- While defendants are entitled to bail under most circumstances, the purpose of bail is to permit a defendant to remain free while at the same time balancing that against the prospect that the defendant will flee and not return for trial or the defendant will commit additional crimes or intimidate or harm potential witnesses against him/her.



Photo Credit: Marcel Corzet/LLO, 2010, Bolivia

HANDOUT 4.2.2: BAIL SCENARIOS

1. Defendant Stefan Lopez is accused of forced labor offenses in connection with his cattle farm. He is alleged to have forced 19 men to work for no wages.
 - a. Lopez allegedly kept his workers in locked buildings and directed his men to administer beatings to those who tried to leave.
 - b. Lopez is a major local employer and his farm is one of the largest in the province.
 - c. Lopez was originally investigated after one of his former workers came forward and made allegations that he had been held prisoner. That worker was later found severely beaten and no longer willing to cooperate with authorities.
 - d. Lopez is now in poor health and confined to a wheelchair as a result of an accident last year.
 - e. Should Lopez be released on bail? If yes, should the amount be high or low?
2. Defendant Maria Sanchez is accused of child labor offenses in connection with a 12-year old girl who lives with her and perform housework full time.
 - a. Prosecution asks that bail be set at a large amount given the serious nature of the alleged offense.
 - b. Defense requests that Sanchez be released without bail.
 - i. Sanchez is a single parent with two young daughters of her own at home.
 - ii. Sanchez has no prior offenses.
 - iii. Sanchez was born and raised in this area and has never travelled beyond it.
 - c. Should Sanchez be released on bail? If yes, should the amount be high or low?
3. Defendant Stephen Cortez is accused of human trafficking in connection with seven Chilean women who work in a local hair salon.
 - a. Cortez denies the charges and says that he was not aware that the women had been trafficked.
 - b. Cortez is originally from Chile and often travels there. His two sons and his ex-wife now live in Chile.
 - c. Cortez was previously convicted of violating child labor laws and of various assault charges.
 - d. Should Cortez be granted bail? If yes, should the amount be high or low?

Additional topics for discussion:

1. Defendant Alberto Mondragon is accused of operating a scheme that recruited young women for what were said to be waitressing jobs in the UAE. The jobs turned out to be for employment as sex workers. Mondragon is a citizen of Argentina and frequently travels between there and Paraguay.
 - a. Should Mondragon be granted bail? Should the amount be high or low?
2. Soccer star Ronaldinho Assis and his brother Roberto were arrested for trying to enter Paraguay on false passports.¹
 - b. A judge has rejected a proposal for bail at 1.5 million Euros in light of the pair's considerable wealth.

1. "Ronaldinho: Paraguayan judge rejects seven-figure bail bond." AS, 16 March 2020. https://en.as.com/en/2020/03/16/foot-ball/1584361168_089023.html

Lesson 4.3: Considerations for Victims in the Trial Process

Objective:

- Understand the things about the trial process that may be especially important to victims of child labor, forced labor, or human trafficking. This may include providing information to victims, protecting victims' rights, and using victim impact statements.

Time:

 1 hour minutes

Steps:

- Exercise 4.3.1: ETP Victims' Needs in the Trial Process
 - 15 minutes
- Present PowerPoint Presentation 4.3: Considerations for Victims in the Trial Process
 - 30 minutes
- Exercise 4.3.2: Victims' Rights Scenario
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.3: Considerations for Victims in the Trial Process
- Projector
- ETP Case Study

In prosecuting cases of child labor, forced labor, or human trafficking the participation of victims can be particularly important. With regard to any such situation, the participation of the victim must be carefully evaluated, along with extensive preparation to ensure that this does not further traumatize the victim.

Children: Special Considerations

There are a host of additional considerations when working with child victims or witnesses, such as different rules for corroboration, voir dire, and the role of parents and guardians. For more information about voir dire, refer to Lesson 4.5: Evidence.

To start, in many countries child witnesses in court have special rights. For example, in many jurisdictions, persons under the age of 18 are entitled to special rights or accommodations. Everything in the court process must be calibrated to accommodate **the best interests of the child**. Additionally, children have a right to be heard and to express their views, to be treated with dignity and compassion, to protection from hardship during the judicial process, and to information on the status of the case.

Like all witnesses, children need to be prepared in advance for court and the justice process. Prosecutors need to provide adequate information to parents/guardians and child, including what services are available, what are the court procedures, what time and place will the hearing occur, and what is the progress of the case. In some countries, orientation sessions regarding court procedure are provided by victim support or other relevant units. When working with a child to prepare, be sure to take the age of the child into account when providing information, and have an open attitude and answer questions whenever possible.

If you decide to call a child as a witness, you will need to prepare them for the stand. Consider a multi-agency approach, using the resources and expertise of victim support staff, parents, social workers, and other professionals. When possible, try to schedule the hearing in the morning at time that is compatible with the school schedule. Provide a child-friendly room where the child can wait during trial until testimony, and provide them with water and snacks if appropriate.

When a child takes the stand, the rules may be quite different than the rules for adults. For example, some countries do not require oaths for children below a certain age, and many allow for special measures for any person under 18, such as video recorded evidence, testifying from behind a screen, or in-camera testimony. To determine whether such an accommodation is appropriate, the court will generally take several factors into account, such as the age and maturity of the child and the ability of the child to understand the situation.

Questioning a child is different from questioning an adult. The language you use should be clear, simple, and age-appropriate. Be protective of the child on the stand and ensure that the questioning on both sides is carried out in a respectful manner. Do NOT ask repetitive questions or speak too quickly, ask for unrealistically specific details or times, or shout or be aggressive or impatient. DO ask the judge to enforce breaks should the child request one, let the child explain in his or her own words, and have patience.

Parents are entitled to attend their child's testimony and the court can order their attendance or their removal dependent on the best interests of the child. If the parent's presence appears to cause the child stress or fear, it may be better to have a social worker present instead. Finally, try to have the child excused from proceedings at which his or her attendance is not important. It is best for the child to instead attend school and achieve some normalcy during this time.

Before Trial

It is important to keep in mind that child labor, forced labor, and human trafficking victims have been through a very difficult experience, sometimes over the course of many years, and they may be hesitant to work with law enforcement to prosecute alleged wrongdoers. Before any trial, victims must be well informed of their rights and the processes that are involved so they can make an informed decision about their participation, and feel more comfortable regarding their role.

Prior to participating in any trial, victims should be informed about their own rights, and about the legal and procedural aspects of the trial. It is important to inform the victim of the charges against the accused and the possible outcomes, including the potential sentence/penalty and, in particular, the possibility of acquittal. The victim should be informed about

the evidence that is expected to be relied upon by both sides, and made aware of any potentially painful or upsetting testimony or exhibits.

Most victims are not familiar with court proceedings, and do not know things that you may take for granted, such as where the defendant will sit in the court room, or who will ask them questions, or what it means to be under oath. Helping them understand the process at a detailed level make a victim more confident about appearing at trial.

Finally, lawyers must inform a victim of their own rights regarding the trial process.

- In some jurisdictions, if the victim wishes to attend the trial in person, they can invite support persons (i.e. family and friends) to accompany them to trial.
- In some cases/courtrooms, there may be additional protection mechanisms available, such a video/teleconferencing for testimony so the victim does not have to be in the same room as the defendant.
- Where the victim may not be able to understand the language of the trial, the prosecution should arrange for the victim to be provided with an interpreter.
- Be sure to work closely with the victim to avoid, to the extent possible, any retraumatization.

Sometimes there may not be any trial. This may due to the fact that no perpetrators have been identified, or because a rule of legal procedure, no trial is required. In such situations, victims should be provided with information about the investigation and the reason why no trial will be held. Similarly, victims should be informed in a timely manner of any plea bargain or deferred prosecution agreement. Generally, a victim has the right to give their views about a plea bargain, but cannot override a prosecutor’s final decision. It is important to make that clear to victims at the start of the plea bargaining process that they can inform but not control the outcome.

During and Post-Trial

Victims have rights during the trial process, including but not limited to the right to be present and to be heard. They must be able to attend court free from intimidation or harassment.

If there is a risk of intimidation or harassment, either from the defendant, his or her associates, or the public, prosecutors should consider using special security measures, such as:

- Ensuring security in court (for example, by using armed guards or metal detectors)
- Providing law enforcement transport to and from court for victims
- Allowing victims to use separate exits and entrances to the court
- Redaction of the victim’s name and address from statements provided pre-trial or read out in trial
- Closing the court to the public for portions of the hearings
- Allowing the victim to appear in a concealed manner (for example, with face covered or testifying from behind a screen) or via videoconference
- Allowing the victim to read their victim impact statement accompanied by a support person

A prosecutor’s obligation to the victim does not end with the issuance of a verdict. Victims should be kept updated after the trial regarding appeals, sentencing, parole, and release. Immediately post-trial, victims should be informed of potential or actual appeals (if filled) and should be given the right to speak at post-conviction proceedings such as sentencing hearings. Further, if the perpetrator is granted a custodial sentence, victims should receive prior notice of any parole

hearings or possible release. They are entitled to express their opinion about possible release, such as via written statement submitted to any hearings. Keeping victims informed during these processes helps to ensure their fair treatment and consideration.

Considering the Needs of the Victim

Victims must not be discriminated against on the basis of race, color, gender, age, language, creed, religion, nationality, political or other opinion, cultural belief or practices, property, birth or family status, ethnic or social origin, disability, or any other grounds. Victims must also be treated in a manner which takes into account his or her cultural values of beliefs.

Victims of child labor, forced labor and/or human trafficking often require special gender considerations of some kind, depending upon their particular experiences.

Most (but not all) victims of sex trafficking are female, and many of these victims are likely to have suffered extreme forms of trauma, generally at the hands of males. For this reason, a female victim may be reluctant to openly discuss her experiences with male interviewers, and a female interviewer should be used.

These kinds of issues are not limited to female victims. Males may be particularly reluctant to admit that they have been victims of child labor/forced labor/human trafficking, as this may conflict with their personal concept of masculinity. To identify as a victim may be particularly unpalatable to males because victimhood strongly implies weakness and vulnerability. This may be particularly uncomfortable for a male to acknowledge in front of a female. For this reason, a male victim may be reluctant to openly discuss his experiences with a female interviewer, and a male interviewer should be used.

These dynamics will be present even more strongly at a trial. Both male and female victims are likely to have even greater fear and/or embarrassment about discussing their experiences in court, and potentially in front of the very person who has previously inflicted trauma upon them. There is no magic solution to these difficulties, but the best outcomes can be obtained by remaining aware of this dynamic and trying to address it.

Whenever possible, inquire whether the victim would prefer to speak to a male or female officer, and consider plain clothes officers when possible to avoid intimidating already traumatized victims.

If the victim would be more comfortable conversing in a language other than the dominant language used in court, an interpreter should be provided to permit the victim to speak in a language of their choice.

Child labor, forced labor, and human trafficking victims may have been seriously injured as a result of their experiences, and they have the right to be supported properly. In addition to physical harm, victims may suffer from emotional and mental harm, such as Post-Traumatic Stress Disorder (PTSD).

To ensure that interviewing a victim does not aggravate his or her injuries, there are several best practices that officers should follow:

- Location: Choose the most private room available
- Volume: Ensure the room is quiet, free from disruption, loud noises, and interruptions
- Basic Comfort: Ensure the victim is comfortable and has access to refreshments, tissues, and breaks
- Irritants: Avoid exposing victims to unpleasant stimuli, such as smoking
- Safety: Ensure that victims do not feel more at risk; this may mean separating male and female victims and accompanying minors.

Safeguarding the Victim's Right to Dignity: Child labor, forced labor, and human trafficking victims have already experienced considerable forms of indignity during the crime. It is important to do what is possible afterward to preserve their dignity and help them heal from the trauma of their experiences. It is important to allow vulnerable victims to contact their family or a caregiver, and in the case of a child determine whether a parent or guardian or, in the case of suspected

involvement of same, a social worker, should be present. Be sure to address each victim in a manner appropriate to his or her age and intellectual development.

Communicating with Victims: Key Tips:

1. DO attempt to communicate trust, support, and confidence
 2. DO calm and comfort victims. Ask "How are you doing?"
 3. DO allow victims to tell their stories in their own words
 4. DO reassure them their feelings are natural
 5. DO be willing to listen and validate their experience with empathy and support
 6. DO be encouraging but not unrealistic
 7. DO treat each victim and their experiences as unique
 8. DO understand that many victims have extreme difficulty reconstructing their life after a violent crime
-
1. DON'T be judgmental or blame the victim
 2. DON'T make promises to the victim
 3. DON'T try to frame the victim's experience to any possibly similar experiences, including your own
 4. DON'T make decisions or choices for victims
 5. DON'T make references to any religious platitude
 6. DON'T take sides with or against a victim

Victim Impact Statements

Depending on the jurisdiction, a child labor, forced labor, or human trafficking victim may have the right to present a victim impact statement at the time of sentencing. The court may consider such a statement in determining the perpetrator's sentence.

A victim impact statement is a statement made by the victim, or where incapacitated, the victim's representative. It outlines the psychological, emotional, physical, economic or social impact of the offence committed against the victim.

The victim impact statement can be written or oral and should include information on the impact of the offence on the victim's life and any concerns the victim may have about their safety. Such a statement gives a victim an opportunity to describe the effects of the crime on them, and is a way of implementing the right to be heard.

If a victim expresses a wish to make a victim impact statement, he or she should be referred to an appropriate victims' service agency for assistance in preparing the victim impact statement. The making of a victim impact statement is not mandatory.

As with other interactions between prosecutors and victims, it is important to inform the victim about the role of the victim impact statement and who may see it, such as prosecution, defense counsel, the accused, and the judge or magistrate.

Structure of a Victim Impact Statement: The information provided should be relevant to the victim and their family's experience only. Typically, a victim impact statement includes a description of the type of harm experienced by the victim. This can be financial (lost wages, medical or treatment expenses, transportation costs); social/lifestyle (changes to social commitments, impact to accommodation, employment, or education); and/or physical (injuries, details of physical

effects). Victim impact statements can also include emotional or psychological trauma, such as its lasting impact.

If the crime has resulted in death, the victim's representative may want to write about the loved one who was killed, their importance, relationship to the victim, and the life that they led.

Note that victims can withdraw their participation in a case at any time. Victim impact statements can be used at any time including post-trial proceedings such as parole.



Photo Credit: Solidarity Center, Bill E. Diggs, 2014, Liberia

Exercise 4.3.1: ETP Victim Needs in the Trial Process

Objectives:

- To begin thinking about victim needs during the trial process of child labor, forced labor, and/or human trafficking cases.
- Revisit the etp case studies to think about the experience for victims during the next stage of the trial process.

Time:

 15 Minutes

Materials and preparation:

- One flipchart and markers for the facilitator
- ETP case studies 1-4

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to review the etp case studies in a large group. For each of the case studies, have the group discuss the following:
 - What needs do you think this victim may have during a child labor, forced labor, and/or human trafficking trial?
 - How can those needs be addressed?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key messages:

- When evaluating a case it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.

Exercise 4.3.2: Victims' Rights Scenario

Objective:

- To familiarize participants with the victims' rights concepts.

Time:

 40 Minutes

Materials and preparation:

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Read aloud the following scenario:

Teresa is ten years old. A year ago, she was sent to live with her "aunt" in the capital, where she was to have access to a better education than that available where her parents live.

Teresa's aunt has not allowed her to attend school, but instead has insisted that teresa do chores around the house. Even though she is only 10, she has become very good at doing the cleaning and the laundry, and has been learning to cook the family's meals. She doesn't play with other children, and reportedly has marks that look like cigarette burns on her arms.

One of the aunt's neighbors contacted the authorities after noticing that teresa never went to school like the other children. Social services personnel also notices signs that teresa may have been sexually abused by the "aunt's" husband.

- As a group, discuss the following questions from the perspective of a worker with the child welfare agency who needs to understand what has happened to teresa:
 1. Teresa's aunt demands that she be present if you are going to talk with teresa. She says that you have no right to talk with teresa without her permission.
 - a. Should the aunt be present for your interview?
 - b. What about the aunt's husband?
 2. Teresa has not been communicative since authorities arrived. Carlos, who is a man about 45 years of age, is one of your most best interviewers, and he would like to do the speak with teresa. Who should conduct the interview?
 3. Teresa begins to describe her life with the aunt, and it quickly becomes clear that she is very unwilling to trust middle-aged women. Should you reconsider having carlos talk with her? If carlos does the interview, should a female be present as well?
 4. You offer to contact teresa's parents, but she reacts forcefully that she does not want you to do this. Should you be in contact with her parents anyway? Must you be in contact with them?
 5. Teresa expresses a desire to go to school like other children her age. She has never previously attended school. How can she best be re-integrated into the educational system? Should she be sent to school with children her age, or should you seek help trying to determine the appropriate grade level for her to begin?
- 30 minutes
- Wrap up with q&a and key messages below.
 - 5 minutes

Key messages:

- Children have rights that we need to take into consideration.
- It is critical to take the victim's feelings and needs into account.
- A victim-centered approach may be both most appropriate and most effective.
- Trauma may make it difficult to communicate with a victim.
- Some kinds of interviewers may be more likely to establish meaningful communication with a victim.

Lesson 4.4: Trial Practice

Objective:

- To learn skills related to each part of a trial, including opening statements, direct examination, cross-examination, expert witnesses, impeachment, and closing arguments, to ensure successful prosecution of child labor, forced labor, and human trafficking cases.

Time:

 2 hours and 50 minutes

Steps:

- Begin presenting PowerPoint Presentation 4.4: Trial Practice (stop at slide titled Open and Closed Questions Exercise)
 - 15 minutes
 - Exercise 4.4.1: Open and Closed Questions
30 minutes
- Finish presenting PowerPoint Presentation 4.4: Trial Practice
 - 30 minutes
- Exercise 4.4.2: Opening and Closing Statements
 - 95 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.4: Trial Practice
- Projector

Opening Statements

The opening statement is a prosecutor's first opportunity to explain their child labor, forced labor, or human trafficking case to the court. Opening statements help judges, magistrates, and juries quickly understand the facts and law at issue. Opening statements serve to fulfill several important purposes, including stating what the evidence and witnesses will prove, previewing the merits of the case, and serving as a high-level road map for the judge, magistrate, and/or jury.

Key elements to a successful opening statement include the theme, the legal theory of the case, and persuasive organization of the facts.

- The theme should provide a short, easy-to-remember explanation of why justice or moral reason compels a judge or jury to rule in your favour.
- The legal theory of the case states why the law and facts support a ruling in the prosecution's favour.
- Finally, key facts of the case must be organized in a manner that will persuade the judge or jury.

In developing the content of an opening statement, there are several important considerations. Everything stated must be true, and the prosecutor must be able to prove it. The opening statement should focus on the prosecution's big ideas, and the central evidence and witnesses of the case. Depending on the case, the prosecutor may also decide to present the weaknesses or "bad evidence" in their case in order to address them before the defense has a chance to frame them. While an opening statement should aim to outline the evidence and key points of the case in a persuasive manner, an opening statement should avoid being argumentative.

It is essential to structure the opening statement in a simple, logical manner. The following is one way to structure an opening statement:

1. Theme/ theory of the case
2. Brief outline of the opening
3. Introduction to key actors, places, and things
4. Key issues in contention
5. The "story"- a concise narrative of the facts. Depending on the case, it might be best to order the story chronologically or based upon the elements of the case.
6. Key pieces of evidence/witnesses and what they will prove
7. Weaknesses in the prosecution's case
8. Conclusion and request for a verdict

Additional Tips

- Start strong and end strong
- Know your audience
- Use visual aids
- Avoid repetition and rhetorical questions
- Use simple language
- Be professional and courteous
- Talk, do not read, to your audience

- Practice voice level, tone, and pace
- Be concise

Direct Examination (Examination-in-Chief)

The purpose of direct examination is to get the witnesses to tell the story of the case and to obtain oral evidence for the prosecution's case.

During direct examination, the witness is the storyteller and the focus of attention in the courtroom. The prosecutor's job is to guide the witness's story by using open-ended questions. The prosecutor's tone should be conversational and inquiring, though the prosecutor should already know the answers that the witness will give as a result of prior preparation. The prosecutor should also use direct examination to introduce exhibits on behalf of the prosecution's case.

In organizing a direct examination, the prosecutor should first introduce and accredit the witness – that is, the prosecutor should ask questions that will help the fact finder understand how the witness knows what they know and why the fact finder should believe the witness. Next, the prosecutor should ask relevant questions to set the scene. The prosecutor can then proceed to the core aspect of the direct examination, in which the witness describes the actions that occurred. Questions should typically follow the chronological order of events. It may be helpful to think about the direct examination as a story that is split into different chapters; each set of questions should have its own title or heading, and the prosecutor should use transitions between each. For example:

Prosecutor: "You've been telling us about the promises made to you by Defendant, now I would like to move on to the actual working conditions you experienced."

Formulating Questions for Direct Examination

The manner of questioning is important for a successful direct examination. On direct examination, prosecutors should use open-ended questions, which are those questions that require elaboration rather than a simple "yes" or "no" answer. Open-ended questions allow the witness to tell their story. Open-ended questions often begin with:

- "Who?" "What?" "When?" "Where?" "Why?" "How?"
- "Describe"
- "Explain for me"
- "Tell me about"

Prosecutors should not ask leading questions during direct examination. A leading question is one that suggests the answer that the questioner hopes or expects to receive. For example:

- Leading: "The weapon was owned by your cousin, correct?"
- Non-leading: "Who owned the weapon?"

If a prosecutor asks a leading question, defense counsel may object on that basis. Exceptions to the leading questions rule may be made for matters which are introductory or undisputed.

All questions should be simple and short. Only ask one question at a time- do not ask compound questions. For example:

- Compound Question X: "How many hours per day were you working, and did work cause you to miss school?"
- Instead, break the question into two, ✓: "How many hours per day were you working?" [Witness answers.] "Did work cause you to miss school?"

Additional Tips

Make the story interesting:

- Humanize the witness
- Practice your pace, inflection, tone
- Use exhibits, diagrams, and physical evidence
- Simplify the story; eliminate clutter; and use plain language

Listen actively and ask follow up questions:

- Prosecutor: "What were your job duties at the garment factory?"
- Witness: "My job was to operate the machinery."
- Prosecutor: "You said you operated the machinery. Can you tell us more about what that entails?"

Anticipate cross-examination:

- Seek to bring out critical weaknesses during your examination-in-chief
- Weave responses to weaknesses of your case into your presentation

Cross-Examination

Cross-examination is the questioning of a witness called by the other party. The purpose of the cross-examination may be to obtain favorable evidence that supports the prosecution's case; to discredit unfavorable evidence and/or the witness who gave it; to test the veracity of a witness; or to test the accuracy and completeness of the witness' story. Cross-examination can also be used to introduce additional exhibits, though waiting to introduce exhibits during cross can be risky if there is a chance that the witness will not be called by opposing counsel.

When planning for cross-examination, prosecutors should first determine their goal for cross-examining the witness. Lawyers are not required to cross-examine every witness, and they should cross-examine only if there is some sort of advantage or effect to be gained. When considering the potential advantages of cross-examining a witness, the prosecutor should consider what might be needed from the witness and whether that evidence can realistically be obtained from that witness. When thinking about the potential effect of cross-examining a witness, the prosecutor should ask themselves whether the cross-examination will affect the opinions of the judge or jury. If a lawyer decides there is no advantage or effect to be gained, the prosecutor should probably decline to cross-examine.

After formulating the goal for the cross-examination, the prosecutor should plan potential questions that will permit them to achieve that goal. Cross-examination is often organized by topic, rather than chronologically like direct examination. While it is important to plan questions ahead of time, it is also essential to be able to reassess the questions both during and after the direct examination of the witness, particularly when new statements are made by the witness. Also note that in many jurisdictions, cross-examination is **limited** to matters raised during direct examination. In other words, a prosecutor cannot cross-examine a witness on a topic that was not raised by the defense or the witness during the direct examination.

Formulating Questions for Cross-Examination: During cross-examination, the lawyer should be the storyteller (rather than the witness, as in direct examination). This will require the lawyer to maintain control of the story as it is told by the witness, and to do this, the prosecutor should only ask questions that they already know the answer to. Prosecutors should also use leading questions, which are permitted during cross-examination. As discussed above, a leading

question is one that suggests the answer within the question. By asking leading questions, the prosecutor can limit the witness to simple “yes” or “no” answers and prevent the witness from further explanation that might not fit with the prosecutor’s story. As with direct examination, questions on cross should use simple language and should focus on one fact per question. For example:

- Prosecutor: You are a factory supervisor?
- Witness: Yes.
- Prosecutor: You have worked as a supervisor for 15 years?
- Witness: Yes.
- Prosecutor: And you have worked as a supervisor for XYZ Corp for 10 years?
- Witness: Yes.
- Prosecutor: And you start work at 9:00am every day?
- Witness: Yes.

Techniques for Managing Difficult Witnesses: During cross-examination, prosecutors may have to deal with difficult or uncooperative witnesses. Below are some tips for managing various types of witnesses on cross:

Difficult Witness	Tips
Evasive witness	<ul style="list-style-type: none"> • Repeat question until answered • Reword question • Refer to evasiveness in closing arguments
Argumentative witness	<ul style="list-style-type: none"> • Ask only yes/no questions • Move quickly to next question • Do not argue with the witness
Talkative witness	<ul style="list-style-type: none"> • Cut witness off by asking next question • Ask witness to answer with only a yes/no
Dishonest witness	<ul style="list-style-type: none"> • Ask for more details about the point in question • Repeat question later in cross-examination

It is important not to become argumentative with witnesses and to maintain control of the conversation. It is also important to know when to end the cross-examination; once you have gotten what you wanted from your questioning, or have gotten as close as you believe you will, close the cross-examination.

Expert Witnesses

An expert witness is a person engaged to give an opinion based on their experience, knowledge, and expertise in a given field. An expert witness should provide independent, impartial, and unbiased evidence to the court. An expert witness should assist the court in understanding the evidence or determining a fact in issue.

There are various types of expert witnesses. Some experts are called to testify based on their given training, personal

observation, and experience, while other experts are called to provide testimony on scientific tests and methods. **Examples of expert witnesses include:**

- Forensic scientists- Can provide evidence in order to help determine whether a crime has occurred or to connect the suspect to the crime, etc. They may use and testify as to a variety of forensic sciences, such as:
 - DNA and fingerprint analysis
 - Ballistics
 - Drug testing
- Forensic accountants- Can testify regarding financial accounts, records, fraud, etc.
- Medical professionals- Can testify regarding the nature and extent of injuries, illnesses, or the cause of death, etc.

Local law will govern the admissibility of expert testimony. As a general matter, local law will likely require that an expert's qualifications be proven and satisfied to the Court before testimony may be accepted.

HOW TO USE EXPERTS EFFECTIVELY: Speaking with an expert early on in building your case will help to clarify the evidence and explain the facts. Prosecutors should provide documents and other relevant evidence to the expert early for a complete analysis. Experts may be able to advise on other possible evidence that the lawyer should seek, and expert opinions can inform the charging decisions or plea negotiations. Do not wait until trial to speak with the expert.

Prosecutors should also research their expert witnesses. A prosecutor should know their expert's background, such as education and work experience, as well as their standing among their colleagues. Ensure that the expert's opinions or methods are consistent with at least some, if not a majority, of the experts in their field, and research whether anything in the expert's past experience may reduce their credibility.

In some situations, the lawyer can choose their expert witness. In choosing an expert witness, be mindful that not every expert is an effective expert witness. Experts are more persuasive if they are knowledgeable, impartial, dynamic, confident, and well prepared.

When working with an expert, it is important to listen and engage. Do not have an expert testify simply because it is required. Be flexible with your case theory and listen to critiques. Remember experts are impartial. Do not expect your expert to fit into your case theory and do not cause the expert to believe that he or she is working for you. Listen to and welcome warnings from the expert because any flaw or weakness in the expert testimony can be an argument for the opposing side. The earlier the exposure of the weaknesses, the better.

EXPERT'S TESTIMONY: An expert's communication skills are essential for an effective testimony. Prosecutors should advise their experts to follow these tips:

- Be brief, no long narratives
- Use simple language, avoid technical and shorthand terms
- Use visual aids
- Use examples and analogies
- Speak as equals, not as someone with superior knowledge

Lawyers may also practice with the experts during case preparation to increase the effectiveness of expert testimony.

In conducting direct examination of an expert, prosecutors should ask questions on the following:

1. Introduction, credentials and qualifications of the expert, such as years of study, relevant degrees, and years of experience with relevant matters
2. Expert's opinions
3. Process for forming the opinions—analysis, test results, etc.
4. Bases for opinions—explain and support conclusions

The defense may also call its own expert witnesses, either to counter the testimony of the prosecution's experts or to introduce new evidence. **When cross-examining an expert witness, potential areas of inquiry may include:**

- Expert's Qualifications
 - Has the expert attained the highest degree in that field?
 - How much hands-on experience do they have?
 - Is their expertise in a different area than the one involved in the trial?
- Bias and Interest
 - Does the expert widely advertise her services?
 - How much money does he make from testifying?
 - Do they primarily testify for plaintiffs or defendants or a particular lawyer or law firm?
- Process Conducted
 - Did the expert's process match industry standards?
 - Were any mistakes made throughout the process?
- Data Relied On
 - Accuracy of information or sources given
 - Assumptions made to reach the conclusion
 - What the Expert Did Not Do
 - Identify all the procedures and tests that can be done and show some were never done
- Prior Inconsistent Statements
 - Commit the expert to her testimony, credit the impeaching source, and then confront the expert with the prior statement

Impeachment

Impeachment is the process of discrediting a witness. Most often, impeachment occurs when opposing counsel asks questions on cross-examination designed to elicit facts from the witness that discredit or expose inconsistencies in the witness's testimony. The goal of impeachment is to cause the judge, magistrate, or jury to question the witness's credibility and therefore their testimony.

Effective impeachment will depend on lawyers' identification of the witness to be impeached. Before and during the trial, prosecutors should try to determine which witnesses would be most helpful to discredit, or, in other words, which witness's testimony is most damaging to their own case. During the trial, prosecutors should pay attention to all contra-

dictory facts and statements offered by the defense. For example, lawyers should track any statements made during a witness's testimony that are inconsistent with his or her prior statements.

Impeaching a witness by prior inconsistent statements is a very common and effective way to cast doubt on the witness's credibility. Prior inconsistent statements can be (1) a contradiction of an earlier statement by the witness or (2) testimony on a detail that was omitted in the earlier statement.

Contradiction	Omission
a. In court: The car was green.	a. In court: The car was green and had a flag.
b. In earlier statement: The car was red.	b. In earlier statement: The car was green.

Local law may contain very specific requirements with regard to impeaching witnesses' prior statements. Prosecutors should study those requirements, because opportunities to impeach witnesses may be fleeting at trial and lawyers should be well prepared to seize such opportunities.

Prosecutor may also attempt to impeach a witness by presenting new evidence that is not yet properly before the court, called extrinsic evidence. Local laws may have various limitations as to when and what kind of extrinsic evidence can be used for impeachment. This is because extrinsic evidence on a witness's credibility can distract the court or the jurors from the current issue in dispute. Some extrinsic evidence may lead to a mini-trial of the witness rather than focusing on the current legal proceeding against the defendant. Such extrinsic evidence will likely be excluded by local laws.

As with other aspects of trial, it is important to prepare for impeachment. Think carefully about the order of questions and ensure all questions are clear. Consider which kinds of prior statements hold the most weight and thus are most valuable to use during impeachment, such prior testimony under oath and written statements signed by the witness. When referring to prior inconsistent statements, it is important to use quotes rather than paraphrasing, so make sure to have the exact quote available. In addition, if they exist, have source documents accessible as backup.

To effectively impeach a witness, a prosecutor should follow the three C's: Commit, Credit, and Confront.

(1) Make the witness **COMMIT** to the Statement

- Repeat and recommit the witness to the statement he or she made in court
 - "You told us here in court that the car was green?"
- Or ask the question based on the earlier statement that you believe is correct.
 - "The car was actually red wasn't it?"

(2) **CREDIT** the Circumstances

- Attempt to give as much credibility and weight as possible to the prior statement
- Explain the circumstances surrounding the earlier, original statement: date, place, time, etc.
- Get the witness to admit to having made the earlier statement and that the witness understood the surrounding circumstances:
 - Identify statement, signature, etc.
 - Language that says the statement is truthful
- When the prior statement contains a contradiction, credit the:
 - Importance of the circumstances
 - Duty involved in making the statement
 - Proximity in time to the event in question

- When the prior statement contains an omission, credit the:
 - Opportunity to include the omitted fact at the time of the prior statement
 - Duty to include all relevant facts in the original statement
 - Need to be complete when making the original statement

(3) CONFRONT the Witness with the Prior Inconsistent Statement

- Confront the witness with the prior inconsistent statement
- If in writing, identify the text with the prior statement and read verbatim
- Do not give the witness a way out of the statement
- Confront, then STOP. DO NOT ASK witness to explain the contradiction or omission.

Closing Arguments

Closing arguments are a key aspect of a prosecutor's case. The judge, magistrate, and/or jury needs to feel that the verdict is factually, legally, and morally correct, and the closing is the last opportunity to address the factfinder and to convince them to rule in your favour.

While during the opening statement lawyers are restricted to stating the facts, during closing arguments lawyers can argue the merits of the case:

- Opening Statement: "Witness [X] will testify that [Event] occurred."
- Closing Argument: "As we know from Witness [X]'s testimony, [Event] occurred and this establishes who should be held responsible in this case."

ORGANIZING THE CLOSING ARGUMENT:

Every closing submission should have a theme. The theme should be stated at the beginning of the closing and should be referred to throughout. It should also link back to the theme presented during the opening statement, providing continuity to the case. For example, "I promised to prove [x], [y], and [z] and I did..."

While the theme provides the main heading for the closing argument, early on the prosecutor should also provide an outline or roadmap for the argument. Make sure to actually cover each of those points and then review the outline again towards the end of the argument. For example:

- "I am going to make three points why the Accused should be found guilty."
- Point 1
- Point 2
- Point 3
- "I have presented to you three reasons why the Accused should be found guilty."

Make sure to use headlines and transitions during the closing argument to ensure it is both smooth and understandable.

There are various ways to organize the body of the closing argument. The closing could be organized chronologically by witness, chronologically by events, by charge, by topic, or some other method. Whatever method of organization is used, it is important to (1) use the best facts and arguments, (2) address the weaknesses of the case, (3) refer to exhibits for emphasis, (4) know your audience, and (5) start and end strong.

1. Use the best facts/arguments
 - a. Discuss the facts that support each element
 - b. Include logical inferences
 - c. Use all relevant witness testimony, including opposing party witness testimony
 - d. Accept what the opposing party concedes
 - e. Argue credibly
 - f. Tie to your theme
2. Address the weaknesses
 - a. Anticipate and acknowledge weaknesses and bad facts
 - b. Anticipate and raise questions about the other side's argument that the court should consider

3. Use exhibits effectively
 - a. Choose only the most persuasive exhibits
 - b. Make them easy to read – project on a screen if possible
 - c. Practice how you will handle them and where you will store them
4. Know your audience
 - a. Use visual aids
 - b. Avoid repetition and rhetorical questions
 - c. Use simple language
 - d. Be professional and courteous
 - e. Talk, don't read, to your audience
 - f. Voice level, tone, pace
 - g. DO NOT:
 - i. Place fact finder in litigant's shoes
 - ii. Argue without strong conviction or connection
 - iii. Attack opposing counsel or ridicule witnesses
 - iv. Argue outside the record
 - v. Incorrectly state the facts or the law
 - vi. Vouch for a witness personally or note your personal belief in the merits of the case
5. Start and end strong

Remember, closing arguments are a prosecutor's last chance to convince the judge, magistrate, or jury that the defendant should be found guilty.

Exercise 4.4.1: Open and Closed Questions

Objective:

- To practice asking open-ended and closed questions in order to improve questioning styles for direct examination and cross-examination, respectively.

Time:

 30 Minutes

Materials and preparation:

- Choose a topic for discussion- the topic can be an animal, a food, a famous person, a country or city, etc.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Tell the participants the topic for discussion (example: football).
- Starting at one side of the room, each participant must ask one open-ended question about the subject as if they are conducting a direct examination. For example:
 - How many players are on the field at a time?
 - Can you explain how teams score a point in a football match?
 - What is the role of the keeper?
- If a participant asks a question that is not open-ended, other participants should make “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not open-ended. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Starting at the other end of the room, each participant must next ask one closed question about the subject as if they are conducting a cross examination. For example:
 - There are 11 players per team on the field at a time?
 - Teams score points by getting the ball into the opposing team’s net?
 - The role of the goalie is to stop balls from getting into their team’s net?
- If a participant asks a question that is not closed, other participants should make “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not a closed question. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Close the activity by discussing with participants what they have learned about asking open-ended and closed questions.
 - 5 minutes

Key messages:

- The purpose of direct examination is to get the witnesses to tell the story of the case. Thus, the prosecutor should use open-ended questions during direct examination.
- During cross-examination, the lawyer should be the storyteller. To maintain control of the story, the prosecutor should use closed questions during cross-examination.



Photo Credit: JP Goguen, 2009

Exercise 4.4.2: Opening and Closing Statements

Objective:

- To practice conducting opening and closing statements for trial using commonly known fairy tales or stories.

Time:

 95 Minutes

Materials and preparation:

- Chose a popular fairy tale or story in which it can be argued a crime is committed.
 - Sample stories to use include:
 - Hansel and gretel
 - Prosecution of hanel and gretel for the homicide, theft, trespassing, and/or destruction of property
 - Prosecution of the witch for kidnapping and attempted murder
 - Prosecution of hanel and gretel's parents for child endangerment
 - Goldilocks and the three bears- prosecution of goldilocks for trespassing and/or theft
 - Cinderella- prosecution of stepmother for false imprisonment and/or domestic violence
 - Snow white- prosecution of the queen for attempted murder
 - Paper and pencil for each group
 - Timekeeping device

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Review the chosen story with the group in order to refresh their memory.
 - 5 minutes
- Split the participants into two groups. Assign one group to act as the prosecution and one group to act as the defense.
- Each group should work together to prepare an opening statement and a closing argument. The openings and closings should be less than five minutes each. Each group should select one person to present the opening and one person to present the closing for their side
- The facilitator(s) should circulate the room as the groups work in order to answer any questions and provide tips.
 - 45 minutes
- Reconvene into one large group.
- The selected representatives from each group will present their opening statements, with the prosecutor delivering the first opening statement followed by the defense. The facilitator should end each statement at the five-minute mark (the facilitator might also provide warnings along the way, i.E., One minute remaining).
- The group should discuss strengths and weaknesses of each opening statement. The facilitator might prompt discussion based on key points from the lesson, such as:

- Did the opening statement have a clear theme?
- Did the opening explain the legal theory of the case?
- Was the opening statement organized in a logical manner?
- Did the speaker stick to the facts of the case, rather than becoming argumentative?
- Did the speaker: use simple and concise language; act professionally; speak directly to the audience (rather than look at their papers); and speak loudly, clearly, and at a moderate pace?
- 20 minutes
- The selected representatives from each group will then present their closing arguments, with the prosecutor delivering the first closing argument followed by the defense. The facilitator should end each argument at the five-minute mark (the facilitator might also provide warnings along the way, i.e., One minute remaining).
- The group should discuss strengths and weaknesses of each closing argument. The facilitator might prompt discussion based on key points from the lesson, such as:
 - Did the speaker effectively argue the merits of the case?
 - Did the closing argument have a clear theme?
 - Was the closing argument organized in a logical manner? Did the speaker provide a roadmap or outline for the argument?
 - Did the closing highlight the best facts and witnesses “presented”?
 - Did the speaker: use simple and concise language; act professionally; speak directly to the audience (rather than look at their papers); and speak loudly, clearly, and at a moderate pace?
 - 20 minutes
- If time allows, facilitators can repeat the exercise using a different story and have the groups switch positions- the former prosecutors will become the defense, and the defense will become the prosecutors.

Key messages:

- Opening statements and closing arguments are key aspects of trial practice since they are the first and last things the fact finder will hear.
- Plan both the opening statement and closing argument before the trial even starts; this will ensure prosecutors are prepared and the prosecutor’s opening and closing are parallel.
- Ensure that both openings and closings have a clear theme and are logically organized.
- Practice, practice, practice!

Lesson 4.5: Evidence

Objective:

- Learn the different types of evidence used in child labor, forced labor, and human trafficking cases and how to introduce such evidence at trial.

Time:

 1 hour and 50 minutes

Steps:

- Exercise 4.5.1: Evidence Energizer[25 minutes]
- PowerPoint Presentation 4.5: Evidence
 - 45 minutes
- Exercise 4.5.2: Admitting Evidence Drill
 - 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.5: Evidence
- Projector
- Handout 4.5.2A: Facilitator’s Script
- Handout 4.5.2B: Pieces of Evidence

Evidence is any information or object presented by either party in a lawsuit to support its case. Common types of evidence include:

- Forensic evidence (fingerprints, blood stains, fibers, DNA, etc.)
- Physical evidence (weapons, objects found at a crime scene, etc.)
- Testimonial evidence (depositions, lay or expert testimonies in court, any permissible hearsay evidence, etc.)
- Electronic evidence (text messages, social media posts, e-mails, etc.)
- Illustrative evidence (photos, videos, graphs, charts, maps, etc.)
- Documentary evidence (letters, invoices, records, etc.)

Not all evidence is admissible to a court proceeding. Some evidence may be irrelevant to the present case. Some evidence may be highly prejudicial to a party. Some evidence may be so speculative or highly tainted that it only has a very minimal probative value. All such evidence is likely inadmissible. Admissibility is a threshold quality control mechanism for evidence, and a court can only consider evidence that has been properly admitted.

This lesson will first discuss common types of evidence that prosecutors may use to demonstrate each element of the three offenses. Then, it will discuss how to introduce such evidence during trials so that the court will consider it as admissible evidence.

Types of Evidence Used in Child Labor, Forced Labor, and Human Trafficking Cases

TYPES OF EVIDENCE USED IN CHILD LABOR CASES:

As a reminder, the ILO defines child labor as “work that:

- (1) is mentally, physically, socially, or morally dangerous and harmful to children; OR
- (2) interferes with their schooling by:
 - (i) depriving them of the opportunity to attend school;
 - (ii) obliging them to leave school prematurely; or
 - (iii) requiring them to attempt to combine school attendance with excessively long and heavy work;”²

Whether or not particular forms of “work” can be called “child labor” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed, and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.³

Therefore, prosecutors should try to gather evidence in the following categories. The bullet points under each category show some examples of evidence in that category. The categories and examples are not exhaustive. Prosecutors can use their local knowledge to expand and modify the following list. Prosecutors can also be creative in gathering evidence based on their understanding of the ILO definition of child labor and their countries’ law regarding child labor and child protection in general.

I. Evidence of a Child’s Age

- Birth certificate, ID, or passport
- School certificate
- Certificate signed by a physician (such as medical evaluation of the child’s age)
- Sworn statement of the parents
- Dated pictures or other documents

II. Evidence of a Child’s Type and Hours of Work, and Conditions of Work

- Employment contract
- Paycheck
- Documents containing work schedules, time sheets, assigned tasks, or reprimands from employer
- Internet sites or recruiters used for recruiting children
- Witness statements (such as statements of police officers, co-workers, or friends)

III. Evidence of a Negative Impact on the Child’s Education

- Documents attesting absence from school
- Documents showing that the child is working during school hours (e.g. time cards or attendance sheets) or abnormally long working hours before or after school
- Witness statements (such as statements of teachers, classmates, or neighbors)

2. “What is Child Labour.” International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <https://www.ilo.org/ipec/facts/lang--en/index.htm>.

3. “What is Child Labour.” International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <https://www.ilo.org/ipec/facts/lang--en/index.htm>.

IV. Evidence of Hazardous Work

- The workplace is underground, under water, at dangerous heights, or in confined spaces
- Employment contracts, witness statements, emails, or other forms of communication and work schedules may demonstrate that:
 - The work involves handling dangerous machinery, equipment, and tools;
 - Involves the manual handling or transport of heavy loads;
 - The working environment exposes the child to hazardous substances, agents or processes, or too high temperatures, noise levels or vibrations;
 - The working conditions are particularly difficult (e.g. long hours, night shifts or unreasonable confinement to the premises of the employer)

TYPES OF EVIDENCE USED IN FORCED LABOR CASES:

Forced labor means “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁴ Forced labor does not include compulsory military service, normal civic obligations of the citizens, service exacted in cases of public emergency, and minor communal services.⁵

In order to prove forced labor occurred, prosecutors should aim to collect evidence on the following elements:

1. “All work or service”- evidence that work or service is provided;⁶
2. “Menace of any penalty”- evidence of a threat such as criminal sanctions or various forms of coercion, such as violence, retention of identity documents, confinement or non-payment of wages;⁷ and
3. “Voluntarily”- evidence of valid consent (or lack thereof) by the person.⁸

These elements are intertwined. For example, an adult employee’s consent may be invalid because the consent is obtained by deception or coercion.

Examples of the types of evidence that can be used in forced labor cases are:

- Evidence of recruitment
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim
- Evidence of lack of consent
 - Discrepancy between the initial recruiting materials or promises and the actual work conditions
 - Contract substitution or lack of employment contract
 - Withholding of wages or no payment of wages
 - Threat to lose a wage that is due to the worker or the right to be protected from violence

4. Convention concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932), Art 2 (1). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

5. Convention concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932), Art 2 (2). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO

6. Forced Labor and Human Trafficking: A Handbook for Labor inspectors, International Labor Office (ILO), p. 4, 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

7. Forced Labor and Human Trafficking: A Handbook for Labor inspectors, International Labor Office (ILO), p. 4, 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

8. Forced Labor and Human Trafficking: A Handbook for Labor inspectors, International Labor Office (ILO), p. 4, 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm

- Debt bondage (excessive fees paid by the worker for recruitment, transportation, food, accommodation, working tools, etc.)
- Retention of identity documents
- Evidence of different/poor working conditions
 - Wage slips and other documentation showing violation of minimum wage laws
 - Lack of health and safety equipment
- Evidence of people sleeping in what should be places of work exclusively
 - Lack of rest and vacations (long working hours every day, etc.)
 - Harsh penalties for non-conforming job performance
 - Retention of identity documents

TYPES OF EVIDENCE USED IN HUMAN TRAFFICKING CASES:

As previously discussed, the Palermo Protocol defines human trafficking as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Thus, a prosecutor must generally prove three elements: (1) the act, (2) the means, and (3) the purpose. For the trafficking of children, prosecutors only need to prove act and purpose.

Accordingly, prosecutors should submit evidence in the following categories. The bullet points under each element show some examples of evidence in that category. Note that victim or witness testimony can be used as evidence to prove some or all of the elements of trafficking in persons. Some of the evidence listed may be used to prove multiple elements. Furthermore, the examples are not exhaustive. Prosecutors can use their local knowledge to expand and modify the following list.

I. Evidence of Act- evidence of:

- Recruitment,
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim
- Transportation,
 - Travel itinerary
 - Flight tickets, boarding pass stubs, etc.
 - Payment of travel details, receipts, invoices, etc.
- Harboring, or
 - Food and lodging provided
 - One-way locks on doors
 - Video cameras or monitoring devices
 - Forfeiture of passports and other travel documents
 - Security guards closely monitoring the premise
 - Exclusive transportation vehicles (police report or statements by people who procure or operate such vehicles)

- Receipt.
 - Wire transfers, ledgers, or bank statements linking recruiters and traffickers
 - Legal documents showing change in guardianship

II. **Evidence of Means- evidence of:**

- The threat or use of force or other forms of coercion,
 - Injuries
 - Text messages, letters, etc. documenting threats
- Abduction,
 - Injuries or evidence of use of restraints
 - Weapons or restraints used to commit abduction
- Fraud,
 - Fake labor contract
 - False advertising
- Deception,
 - False promises
 - Documented lies
- The abuse of power or of a position of vulnerability, or
 - Documentation showing change in guardianship
- The giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
 - Bank statements, wire transfers, other financial documentation

OR

- Evidence of the victim's age to establish that the victim is a child so that there is no need to show further evidence of means.
 - Birth certificate
 - Passport or other ID card
 - School records

III. **Evidence of Purpose of Exploitation- evidence of:**

- The prostitution of others or other forms of sexual exploitation,
 - Evidence of sexual intercourse or contact (including traces of semen, hair, or blood on victims, and on bedding)
 - Unwanted/unplanned pregnancy
 - Evidence that identifies related injuries, illness, or disease
 - Evidence that establishes the age of a victim (many jurisdictions have harsher punishments if the victim is under certain age)
 - Documents or electronic records that show prices for sexual services
 - Websites used for recruiting victims or selling sexual services
 - Sex toys, sexual implements, lubricants, sex work clothing, etc.—these may be evidence themselves, but may also

- have traces of biological evidence that could link them to individuals
- Multiple keys or access instruments to hotels, brothers, or areas known for prostitution
- Photographs or videos
- Marks/tattoos on body
- Evidence of forced labor or services, slavery or practices similar to slavery, or servitude,
 - Evidence of violence (injuries) or restraint
 - Evidence that links a victim's injuries to a particular type of equipment
 - Evidence that links piece of equipment to an individual through fingerprints, hair, etc.
 - Employment Contracts (or lack thereof)
 - Evidence of people sleeping in what should be places of work exclusively
 - Wage slips and other documentation showing a violation of minimum wage laws
 - Lack of health and safety equipment
 - Hard labor, long hours
- Evidence of removal of human organs
 - Injuries and scars of the victim
 - Medication taken by the victim

How to Introduce Evidence at Trial

Relevant evidence that is not obtained through illegal procedures or means will be admissible unless any exclusionary evidentiary rule applies, such as rules that exclude certain types of out-of-court statements. Evidence is relevant when it tends to make a fact corresponding to an element of an offense more or less probable than what would be without the evidence.

In evaluating whether a piece of evidence is admissible, a judge generally will consider how the evidence is obtained, whether the evidence is relevant, reliable, and credible, and whether any exclusionary evidentiary rules will nonetheless exclude the evidence. To prove a fact with evidence, that evidence needs to be properly identified and traceable to the relevant fact. Evidence may face less or more scrutiny from the judge as to its integrity depending on its nature. For example, electronic evidence must often be supported by authentication to support its reliability and credibility.

Evidence introduced at trial can be roughly divided into two types: (1) personal observation statements introduced through trial testimonies and (2) exhibits, such as documents, photographs, electronic, objects, substances, samples, etc. This section will discuss how to introduce evidence for admission at trial. The following paragraphs discuss some of the major issues that prosecutors will likely encounter in introducing evidence, such as how to lay the foundation for evidence, how to establish the chain of custody of evidence, how to deal with credibility issues of witness, how to introduce child witness, and how to introduce electronic evidence.

Laying the Foundation: When introducing an exhibit into evidence at trial, the prosecution must first properly “lay the foundation” for such evidence. Laying the foundation is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial. Often, the foundation is established by a witness who can testify as to the identity and authenticity of the exhibit. Prosecutors can follow the eight steps below to lay the foundation for evidence at trial:

- (1) Ask introductory questions to orient the witness
- (2) Have the exhibit marked
 - “May I have the letter dated 1 December 2018 marked as [Prosecution] Exhibit X?”
- (3) Show the exhibit to opposing counsel
 - “Let the record reflect that I am showing Exhibit X to opposing counsel.”

- (4) Ask to approach the witness
- (5) Show the exhibit to the witness
 - o "I am handing you what has been marked as Exhibit X for identification."
- (6) Ask if the witness recognizes the exhibit
 - o "Do you recognize Exhibit X?" OR "How do you recognize Exhibit X?"
- (7) Ask any other questions specific to this exhibit
- (8) Offer the exhibit into the evidence
 - o "I produce Exhibit X as evidence."

Once admitted, exhibits can be used in the courtroom and shown to any witness (your own witness and opposing parties' witnesses) to:

- Corroborate testimony
- Impeach testimony
- Assist the witness in explaining testimony
- Refresh memory

Chain of Custody: Chain of custody is the process used for collecting, documenting, and protecting evidence. See Module II for a more detailed discussion on maintaining a proper chain of custody, which is an important procedure that allows prosecutors to defend the reliability and credibility of the evidence. Common errors in maintaining a chain of custody include:

- Not labeling evidence or missing important information from labels
- Evidence being handled without gloves being worn
- Evidence not being bagged
- Evidence being mishandled, tampered, or damaged

During trial preparation, prosecutors should determine whether there is any defect in the chain of custody; whether there is still time to gather more evidence to overcome the defect; if some evidence cannot be used due to a defective chain of custody, whether other evidence still capable of proving all the elements of the offense; etc. Prosecutors should also be prepared to present a good chain of custody to the court and answer the judge's and opposing counsel's questions about it.

Credibility of the Witness: Witnesses must testify regarding the time, place, and circumstances of his or her personal observation. Speculation in the testimony is not acceptable. The testimony will be subjected to challenge for credibility. Witness credibility can be challenged on the following grounds:

- Competency (capacity to understand)
- Sensory limits (capacity to observe or hear)
- Memory (capacity to remember)
- Communication (capacity to respond to questions)
- Bias (capacity to be objective and free of conflicts of interest)

Prosecutors can use these grounds to assess the strength and weakness of a witness's testimony, to determine whether to let him or her testify at trial, to prepare the witness for trial testimony, and to anticipate and prepare an appropriate response to a likely attack of the witness's credibility by the opposing party. This process can not only enhance the

prosecution's performance at trial, but also can help prosecutors weed out weak or unreliable testimonies, gather more evidence, and make informed prosecutorial decisions so that the limited governmental resources can be used in a way that will be more likely to result in successful prosecution.

Voir Dire of Child Witness and Corroboration of a Child Witness: Children might not understand the meaning of telling the truth in the court under oath. Voir dire is used in some jurisdictions to determine if a child of tender age (such as 14 years or younger): (1) understands the nature of an oath; (2) possesses sufficient intelligence; and (3) understands the duty to tell the truth. If a child passes this examination, the court will receive the child's testimony. If a child fails the voir dire examination or if a judge fails to conduct the examination properly, the court may still receive the child's testimony as unsworn testimony as long as it determines that the child has sufficient intelligence and understands the duty to tell the truth. In this case, additional evidence may be required to corroborate the child's testimony, such as another competent witness's testimony. If the child's testimony cannot be corroborated, the court may exclude the child's testimony.

There can be exceptions to the voir dire requirement. For example, in some jurisdictions, voir dire is not necessary in cases involving a sexual offense. Voir dire may also be unnecessary in cases where the only concrete evidence against the defendant is the testimony of a child of tender age. In such cases, the court may assess the credibility of the child's testimony without the use of voir dire, and if the court considers the testimony to be truthful, it may convict the accused.

Different countries can have very different rules on assessing the credibility of a child witness. Prosecutors shall make sure they are familiar with their countries' specific rules. If the prosecution's case somewhat heavily relies on a child's testimony, the prosecutor should be prepared (preferably with some credible corroborating evidence) to establish the credibility of the child's testimony in the court.

Admission of Electronic Evidence: Admitting electronic evidence is becoming increasingly important in child labor, forced labor, and human trafficking cases as more and more perpetrators now use online platforms to recruit and control their victims. Electronic evidence could include social media posts and messages, text messages, instant messages on mobile applications, web browsing and online searching histories, login histories and account information, etc.

In many jurisdictions, electronic evidence must be authenticated to be admissible. Depending on a country's specific laws, authentication can be done through a certificate signed by a responsible person, through a witness's personal knowledge of the electronic evidence, or through circumstantial evidence.

Electronic output may be considered a document for admissibility purposes. Generally, to be considered a document, the output must have been produced during regular use; it must be of a type expected in ordinary use; and the computer/other device generating the output must have been operating properly. For example, bank records are often admissible if they were made in the usual and ordinary course of business and the book is in the custody of the bank. The safest way to authenticate an electronic record for use in court is via a certificate. When using a certificate for authentication, the certificate should identify the electronic record and the manner of production; provide details on the device that produced the electronic record, such as make, brand, type, and/or serial number; and be signed by the responsible person.

A witness with personal knowledge of electronic evidence, such as an electronic message, can often be used to verify the authenticity of the evidence. For example, the person who wrote the message testifies to its authenticity, or a person who saw the message being authored or received can testify about the identity of the author or recipient of the message. Independent witnesses are often required to testify as to other matters, such as verifying that evidence was seized properly, and videotaping the seizure of electronic evidence is considered to be a best practice.

Circumstantial evidence can also be used to verify authenticity. This can be done by showing unique ties to the purported author such as a known email address or phone number; the use of an electronic signature, username, nickname, business logo, etc.; the name as stored on the recipient's phone; and the use of the same email address or phone number on prior occasions. Unique facts used in messages can also help verify the sender's identity, such as facts only a small number of people would know, or containing personal information or contact information of family members. Additionally, a witness could testify that the author told him or her to expect the message before it was sent, or that the sender

acted in accordance with and responded to the message. Linking the activity to an IP address associated to the user can also help verify authenticity.

Even if admitted into evidence, the weight given to electronic evidence is guided by:

- The reliability of the manner in which the evidence was generated, stored, or communicated,
- The reliability of the manner in which the evidence was maintained,
- The manner in which the originator of the evidence was identified, and
- Any other relevant factor

Depending on the complexity of the electronic evidence, expert witnesses may be needed to testify about the workings or contents of a device, hard drive, cloud, etc. to explain what was found and how the device or account functions. Testimony by an expert witness would likely increase the reliability and weight of the electronic evidence in the eyes of the factfinder.

Admission of Forensic Evidence: Typically, forensic evidence has the same rules as physical evidence for use at trial. However, lawyers often use expert witnesses, rather than lay witnesses, to introduce forensic evidence at trial. Expert testimony about the forensics conducted can be provided by either the person who conducted the analysis or an expert with similar qualifications. If the expert is not sufficiently qualified, the evidence could be challenged in court (see more on examining an expert witness in Lesson 4.4). The evidence should have been analyzed by an expert following proper procedure, and the expert should be prepared to detail that procedure during their testimony. Like all physical evidence, the evidence must be related to a fact or issue in the case and must have been properly obtained to be admissible in court.

Exercise 4.5.1: Evidence Energizer

Objective:

- To start thinking about evidence in child labor, forced labor, and human trafficking cases and how it can be useful during a prosecution.

Time:

 25 Minutes

Materials and preparation:

- Flipchart
- Markers
- Notecards
- Pens/pencils
- Copies of one etp case study (facilitator can select the case study that is most relevant for the training)

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Give each participant one notecard. Read one of the etp case studies aloud, or have the participants read the case study independently if they have their own copies. Have each participant write down one piece of evidence they think would be useful at trial.
 - 5 minutes
- Have participants get out of their seats and group themselves with people who have the same answers, they will need to ask each other what their answers are. Once they are in groups, have each group determine why they think their evidence would be useful and what element it helps prove.
 - 5 minutes
- Have each group present what need they have identified, why they think it would be useful, and what element they think it helps prove. The facilitator should write down the evidence and the element that each piece is linked to on the flipchart. At the end, the facilitator should review the different elements of the crimes that the groups identified evidence for.
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key messages:

- Evidence can be used to prove different elements of a crime.
- Multiple pieces are needed to prove the different elements of crimes and different charges.

Exercise 4.5.2: Admitting Evidence Drill

Objective:

- To Practice The Process Of Laying The Foundation For Introducing An Exhibit Into Evidence At Trial.

Time:

 40 Minutes

Materials And Preparation:

- Flipchart (Can Also Use Chalkboard Or Whiteboard)
- Handout 4.5.2A: Facilitator Script
- Identify and review local rules for admitting evidence
- Cut out pieces of evidence Handout 4.5.2B: Pieces of Evidence and place at the front of the room
- Write the following (or local rules for admitting evidence, should they differ) in large font so that it is easy for participants to see (if possible, on two separate sheets of flipchart paper):

Admitting Evidence Steps

- (1) "May I have the [description of item] marked as Prosecution Exhibit 1?"
- (2) "Let the record reflect that I am showing Exhibit 1 to opposing counsel."
- (3) "May I approach the witness?"
- (4) "I am handing you what has been marked as Exhibit 1 for identification."
- (5) "Do you recognize Exhibit 1?"
- (6) "How do you recognize Exhibit 1?"
- (7) *Magic words*
- (8) "Your Honor, I would like to produce Exhibit 1 as evidence."

Magic Words: Questions Specific To The Type Of Exhibit

Unique Objects - Weapon:

- (1) "How do you know this is the same gun that was found at the crime scene?"
- (2) "Does it look the same as it did at the time of the event?"

Photographs - Crime Scene Photo:

- (1) "Did you take this photo?"
- (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"

Business Records - Accounting Record:

- (1) "Was this made in the regular course of business?"
- (2) "Was it made around the time of the event?"
- (3) "Was it produced by someone who had knowledge of the event?"

Steps:

- Explain To The Participants The Objectives Of The Exercise.
 - 5 minutes
- Instruct Participants To Form A Line In Front Of The Facilitator.
- Starting At The Front Of The Line, Each Participant Will Attempt To Admit Evidence By Following Exactly The Steps On The Admitting Evidence And Magic Words Posters. The Facilitator Will Act As The Judge/Witness, Following Along With The Script.
- If The Participant Misses A Step, The Facilitator Shall Buzz And The Participant Will Move To The End Of The Line To Try Again. Participants Proceed Through The Line Until Everyone Has Correctly Admitted The Required Piece Of Evidence.
- Repeat Three Times, Each Time For The Introduction Of A Different Kind Of Evidence: A Weapon, A Crime Scene Photo, And An Accounting Record.
 - 30 minutes
- [Note: If There Is More Than One Trainer In The Room, You Can Form Multiple Lines In Order To Give Trainees More Time And Practice Admitting Exhibits.]
- Close The Activity By Discussing With Participants The Key Messages, Their New Comfort Level Admitting Evidence, And What They Have Learned.
 - 5 minutes

Key Messages:

- Before A Judge Will Admit Evidence Into The Record, The Lawyer Must Lay The Foundation For That Piece Of Evidence.
- “Laying the foundation” is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial.
- While every piece of evidence is unique, most of the steps to admit evidence stay consistent. By participating in this drill, participants will be able to remember the key steps to admitting evidence.

HANDOUT 4.5.2A: FACILITATOR SCRIPT

Note: If there are two facilitators in the room, one facilitator should play the judge, and one facilitator should play the witness. If there is one facilitator, they can play both roles.

Participant	Facilitator (Judge/Witness)
"May I have the [description of item] marked as Prosecution Exhibit 1?"	"Let the [item] be marked as Prosecution Exhibit 1."
"Let the record reflect that I am showing Exhibit 1 to opposing counsel."	
"May I approach the witness?"	"You may approach the witness."
"I am handing you what has been marked as Exhibit 1 for identification."	
"Do you recognize Exhibit 1?"	"Yes."
"How do you recognize Exhibit 1?"	Weapon: "It is the gun found at the crime scene."
	Crime Scene Photo: "It is a photo of the crime scene."
	Accounting Record: "It is an accounting record for XYZ Corporation."
Magic words	
Weapon: (1) "How do you know this is the same gun that was found at the crime scene?" (2) "Does it look the same as it did at the time of the event?"	Weapon: (1) "I recognize it by the serial number." (2) "Yes."
Crime Scene Photo: (1) "Did you take this photo?" (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"	Crime Scene Photo: (1) "Yes." (2) "Yes."
Accounting Record: (1) "Was this made in the regular course of business?" (2) "Was it made around the time of the event?" (3) "Was it produced by someone who had knowledge of the event?"	Accounting Record: (1) "Yes." (2) "Yes, the record is dated on the day of the event." (3) "Yes, I created the record as part of my role as an accountant for XYZ Corporation."
"Your Honor, I would like to produce Exhibit 1 as evidence."	"Exhibit 1 is admitted into evidence."

HANDOUT 4.5.2B: PIECES OF EVIDENCE

Weapon:



Crime Scene Photograph:



Accounting Record:



Lesson 4.6 Mutual Legal Assistance (MLA)

Objective:

- Learn what MLA is and how to request MLA.

Time:

 45 minutes

Steps:

- PowerPoint Presentation 4.6: Mutual Legal Assistance (MLA)
 - 15 minutes
- Exercise 4.6.1: Mutual Legal Assistance Discussion
 - 30 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.6: Mutual Legal Assistance
- Projector

The crimes of child labor, forced labor, and human trafficking can be transnational. If so, national borders be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims located in foreign states. In this case, prosecutors should consider using Mutual Legal Assistance (“MLA”) to gather the information they want and need from foreign states.

MLA is a process by which states seek and provide assistance to other states in servicing of judicial documents and in gathering evidence for use in criminal cases.⁹ MLA can be based upon bilateral or multilateral MLA treaties between or among the states. If no such treaties exist, the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (“Organized Crime Convention”) provides a framework for state parties to follow. Article 18 of the

Organized Crime Convention provides some examples of the purposes that MLA can be requested for:

- Taking evidence or statements
- Effecting service of judicial documents
- Executing searches and seizures
- Examining objects and sites
- Providing information, evidence, expert evaluations, documents, and records
- Identifying or tracing proceeds of crime, property, or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation
- Facilitating the appearance of witnesses
- Any other type of assistance not barred by domestic law

9. “Mutual legal assistance (MLA)” United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>

When considering MLA from a foreign state, prosecutors should first research whether there is an MLA treaty between their state and the foreign state. If such a treaty exists, the prosecutor should follow the procedures set out in the treaty to request the MLA. If there is no such a treaty, the prosecutor should follow the guidance of the Organized Crime Convention, because the Convention requires its States parties to afford each other mutual legal assistance to the fullest extent possible.¹⁰

Article 18 of the Organized Crime Convention prescribes that a request for MLA shall contain:

- a. The identity of the authority making the request;
- b. The subject matter and nature of the investigation, prosecution, or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution, or judicial proceeding;
- c. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- d. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- e. Where possible, the identity, location, and nationality of any person concerned; and
- f. The purpose for which the evidence, information, or action is sought.

In addition to the above requirements, MLA treaties increasingly require that States parties designate a central authority (generally the ministry of justice) to whom requests can be sent.¹¹ Therefore, even if there is no MLA treaty, it is still recommended that prosecutors designate the central authority in their requests of MLA.

The United Nations Office of Drugs and Crime (UNODC) has developed computer software that can help prosecutors write MLA requests that conform with all of the requirements of the Organized Crime Convention.¹² This MLA Tool can be linked to the UNODC Directories of Competent National Authorities (CNA)¹³ to retrieve the CNA contact information for use in the preparation of MLA requests.

10. Mutual legal assistance (MLA)“ United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>

11. “Mutual legal assistance (MLA)“ United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>

12. “Mutual Legal Assistance Request Writer Tool.” United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/mla/>

13. “Online Directories of Competent National Authorities.” United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/unodc/en/legal-tools/directories-of-competent-national-authorities.html>

Exercise 4.6.1: Mutual Legal Assistance

Discussion

Objective:

- To Discuss Prosecutors' Experience With Mutual Legal Assistance (Mla).

Time:



30 Minutes

Materials And Preparation:

- Flipchart And Markers To Take Notes

Steps:

- Explain To The Participants The Objectives Of The Exercise.
 - 5 minutes
- Ask For Volunteers To Answer The Following Questions:
 - Have You Ever Used Mutual Legal Assistance?
 - What Did You Use Mla To Request?
 - How Did It Work?
 - How Long Did It Take?
 - Did You Receive What You Had Requested?
 - Was There An Mla Treaty In Place With The State From Which You Were Requesting Assistance?
 - What Were Some Challenges You Faced?
 - If You Received Assistance, Did It Help Your Case? How?
 - How Can Mutual Legal Assistance Be Used For Human Trafficking, Child Labor, And Forced Labor Prosecutions?
 - 25 minutes

Key Messages:

- Because the crimes of child labor, forced labor, and human trafficking can be transnational, national borders be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims located in foreign states.
- Prosecutors should consider using MLA to gather the information they want and need from foreign states.

List of Sources

1. Convention concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932). International Labour Organization (ILO). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO
2. "Ronaldinho: Paraguayan judge rejects seven-figure bail bond." AS, 16 March 2020. https://en.as.com/en/2020/03/16/football/1584361168_089023.html
3. Forced Labor and Human Trafficking: A Handbook for Labor inspectors, International Labor Office (ILO), 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm
4. "What is Child Labour." International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <http://www.ilo.org/ipec/facts/lang--en/index.htm>
5. "Mutual legal assistance (MLA)" United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>
6. "Mutual Legal Assistance Request Writer Tool." United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/mla/>
7. "Online Directories of Competent National Authorities." United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/unodc/en/legal-tools/directories-of-competent-national-authorities.html>



MASTER ENFORCEMENT TRAINING PROGRAM

Enforcing Labor and Criminal Law to Address Child Labor, Forced Labor, and Human Trafficking

SENTENCING

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Introduction to Module 5

Module 5 of the *Enforcement Training Program* focuses on sentencing, the final step of the child labor, forced labor, and human trafficking case process unless there is an appeal. Sentencing plays an important role in the case process. It sanctions offenders, can serve as a deterrent to other potential offenders, and can provide closure and compensation to victims. The module looks at sentencing guidelines and factors that judges should consider when determining a sentence. The role of restitution is examined, along with the positive impact it can have for victims. The module examines the benefits and challenges of plea bargaining and how plea bargaining can be used in jurisdictions in which it is permitted. Finally, the module examines judicial ethics and the Bangalore Principles of Judicial Ethics. The module uses three interactive exercises to help apply what is learned to real-life scenarios; it also gives participants an opportunity to discuss important sentencing issues. Module 5 completes the case process that began with Modules 1 through 4. However, it should be noted that victim services may continue past sentencing.



Photo Credit: Murkas, 2006, Tanzania

Lesson 5.1: Sentencing Guidelines

Objective:

- To learn about sentencing guidelines and challenges. Practice child labor, forced labor, and human trafficking sentencing using scenarios.

Time:

 90 minutes

Steps:

- Exercise 5.1.1: Sentencing Discussion
 - 15 minutes
- Present PowerPoint Presentation 5.1: Sentencing Guidelines
 - 15 minutes
- Exercise 5.1.2: Sentencing Scenarios
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 5.1: Sentencing Guidelines
- Projector
- Handout 5.1.2: Sentencing Scenarios

In many jurisdictions, sentencing is discretionary, permitting the circumstances of the individual case, the accused, and the victims to be taken into account. Because of this individualized, discretionary approach, there can be sentencing disparities. These disparities can cause the public to lose confidence in the penal system if they feel sentences are arbitrary, and the sentencing process is unpredictable and unfair. While mandatory sentences may reduce sentencing disparities, they can also increase overcrowding in prisons and hinder the appropriate discretion of courts.

Sentencing Guidelines

Many jurisdictions have sentencing guidelines. The guidelines may cover specific classes of cases or specific offenses. Sentencing guidelines are developed for the following reasons:

- Align the sentencing process with the country's Constitution
- Guide the process of determining sentences
- Link the sentencing process to the overarching objectives of sentencing
- Structure the use of discretion to reduce disparities
- Provide a framework for exercising discretion
- Address the need to reduce the use of custodial sentences and promote the use of non-custodial sentences
 - May encourage the participation of victims in the sentencing process

Judges should always consult local guidance and stay up to date on any changes to local sentencing guidelines.

Sentencing Procedures

Sentencing procedures can vary by jurisdiction, but they generally require a judge to issue a sentence after considering a series of special factors. In some jurisdictions, a pre-sentence report may be required for some or all cases. A pre-sentence report is completed by a probation officer and includes information about the defendant and any reasons for imposing a greater or lesser sentence.

Factors that should be considered when determining the sentence for a defendant include things such as:

- Circumstances under which the offense was committed
- Offender's age
- Offender's health and means of livelihood
- Offender's attitude and remorsefulness
- Offender's likelihood of reform
- Offender's standing and role in the community
- Impact of the offence on the child labor, forced labor, or human trafficking victim
- Aggravating and mitigating factors
- Other relevant information

In determining the sentence, the judge must consider aggravating and mitigating factors, particularly when they are included in legislation as increasing a penalty. In many jurisdictions, there are mandatory increases in penalties if a victim is killed, injured, or is a child. The judge should also consider whether, if relevant, sentences should be served concurrently or consecutively. If permitted, an additional consideration is whether restitution should be granted to the child labor, forced labor, or human trafficking victim(s). More information about restitution can be found in Lesson 5.2. Once the factors have been weighed, and the judge has made his or her decision, it should be properly issued.

Exercise 5.1.1: Sentencing Discussion

Objective:

- To begin discussing sentencing and thinking about factors to consider when sentencing child labor, forced labor, and or human trafficking cases.

Time:

 15 minutes

Materials and Preparation:

- One flip chart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flip chart:
 - What factors should be considered when sentencing cases?
 - Are there additional factors that should be considered for child labor, forced labor, and/or human trafficking cases?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- There are a variety of factors to consider when sentencing cases, such as whether the offender is a first-time or repeat offender, the severity of the offense, the offender's remorsefulness, and other factors that will be discussed in the lesson.
- In child labor, forced labor, and human trafficking cases, factors to consider include the impact on the victims, the victims' age, and other factors that will be discussed in the lesson.

Exercise 5.1.2: Sentencing Scenarios

Objective:

- To determine appropriate sentences for child labor, forced labor, and human trafficking offenses.

Time:

 60 minutes

Materials and Preparation:

- Relevant local legislation and sentencing guidelines
- One flip chart for each group and one for the facilitator
- Markers
- Facilitator should print copies of the scenarios in Handout 5.1.1 to give to groups to guide group discussions
- Facilitator should prepare one flip chart in advance that lists the following questions:
 - What sentence or sentences did your group feel was appropriate?
 - What factors did the group consider when making the determination?
 - Did any aggravating or mitigating factors impact the group's decision?

Steps:

- Before the workshop, the facilitator should obtain copies of local relevant legislation and sentencing guidelines and ensure that participants receive an overview of those topics prior to completing this exercise.
- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to form small groups of 4–5 people. Instruct the groups to review the scenarios assigned to their group. Each group should determine a sentence they feel is appropriate for the case. The groups should then answer the questions on the flip chart at the front of the room by recording them either on a sheet of flip chart paper or on another sheet of paper.
 - 25 minutes
- Reconvene participants and ask each group to share their answers to the questions. Encourage comment and questions.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Discretionary sentencing leaves room for judges to consider the facts and circumstances of each individual case. It also means that different judges could evaluate the same case and give different sentences.
- Mandatory penalties and aggravating factors can help make sentences more uniform but may also lead to an increase in incarceration and an inability to respond to the unique circumstances of a case.

Handout 5.1.2: Sentencing Scenarios

Scenario 1: The defendant is accused of employing five children under the age of 14 on a fishing boat that operates under hazardous conditions. One of the children was seriously injured.

Scenario 2: The defendant is accused of running a small recruitment agency that recruited many workers from your country to work in the Gulf States. Recruited workers were required to pay a recruiting fee that was the equivalent of two months' salary. The defendant told recruits they would be working in a hotel, but instead, they were forced to work long hours in construction. The defendant claims he did not know the workers were being given different jobs upon arrival in the Gulf States. However, there is email evidence showing that this is false.

Scenario 3: The defendant employed two children under the minimum age of employment to work in her shop. The children were responsible for taking inventory of goods and working the cash register. The defendant has said \she was only trying to help the children provide additional support to their families.

Scenario 4: The defendant is accused of trafficking 20 women and three girls under the age of 14 for prostitution. The women and girls were trafficked from rural areas in the country and brought to the capital with the promise of working as cleaners in an office building.

Scenario 5: The defendant is accused of forced labor offenses, forcing men to work in a mine for little pay. Several of the men have become sick or injured during their time working in the mine.

Scenario 6: The defendant is accused of having children perform hazardous work on a large farm, including using chemicals and sharp tools. While the defendant claims the children were safe because they were trained and provided gloves, the children were not supervised.

Scenario 7: The defendant is accused of forcing women and children to work in a garment factory. They were forced to work long hours and could not leave the premises without supervision. Their pay was frequently withheld to cover expenses. Multiple employees were beaten for failing to meet their quota for the day.

Scenario 8: The defendant is accused of child labor offenses because several parents brought their children to work on his farm to meet their quota. The employer claims not to have known that the children were working. He has since started posting that children are not allowed to work in the fields.

Scenario 9: The defendant is accused of trafficking girls from a neighboring country to work as domestic workers. The girls had been told they would be attending school and working part time to cover their tuition fees. None of the girls were enrolled in school, and they have been forced to work long hours.

Lesson 5.2 Restitution

Objective:

- To learn about restitution and how to determine damages.

Time:

🕒 75 minutes

Steps:

- Exercise 5.2.1: Restitution Discussion
 - 15 minutes
- Present PowerPoint Presentation 5.2: Restitution
 - 15 minutes
- Exercise 5.2.2: Restitution and the Enforcement Training Program (ETP) Case Studies
 - 45 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 5.2: Restitution
- Projector
- Copies of ETP Case Studies



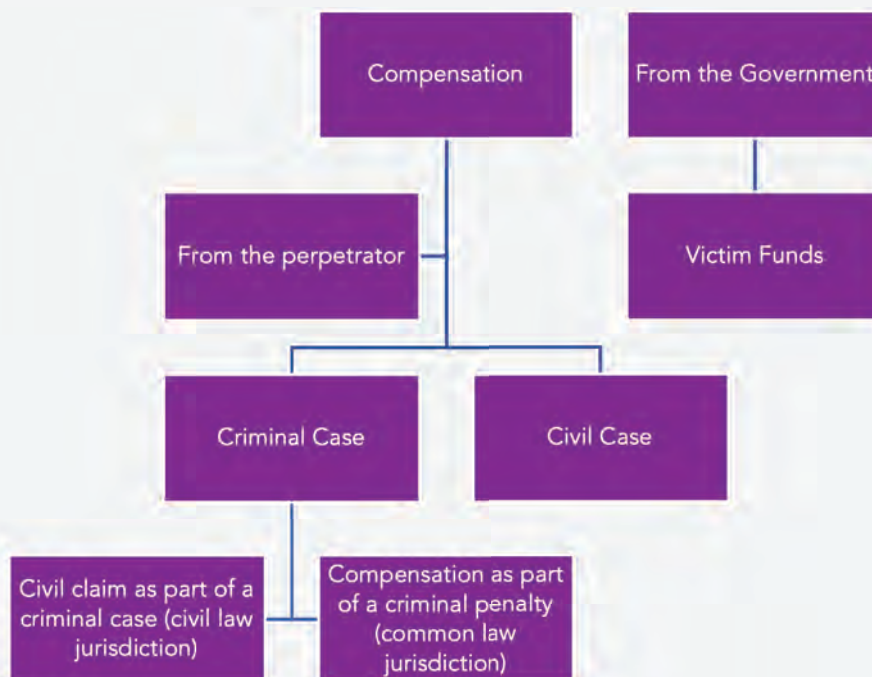
Photo Credit: Rutger van der Maar, 2007, China

The Role of Restitution

Restitution aims to make recipients whole. In the case of child labor, forced labor, and human trafficking, this means trying to put the victim in the situation they would have been in had they not been subjected to child labor, forced labor, or trafficking. Victims are also entitled to adequate compensation, which is provided for in some countries through binding legislation. However, often victims do not receive any compensation through criminal court judgments and are unable to access civil compensation due to a lack of understanding of the process, lack of access to legal assistance, and a lack of the time and resources needed to pursue a civil claim. For those reasons, it is important for each government to have in place specific mechanisms for providing compensation to victims that can be utilized by agencies assisting victims and enforced legally, if necessary. Criminal justice officials play an important role in assisting victims in the compensation process. Judges and prosecutors should ensure victims receive adequate compensation for their physical, psychological, and financial harm. Potential options for sources of and avenues for receiving compensation include:¹

- Allowing victims to sue offenders or others involved in the trafficking in a civil suit, so they may be compensated through civil damages.
- Allowing for victims to be compensated through criminal damages paid by the offenders.
- Imposing requirements that convicted offenders be ordered to pay compensation or restitution.
- Creating legal provisions for dedicated funds for victims to claim compensation directly from the government for injuries or damages caused by a criminal offense.

Figure 1: Options for Victim Compensation²



1. Anti-Trafficking Training Material for Judges and Prosecutors Handbook. International Centre for Migration Policy Development, 2006. http://las-tradainternational.org/Isidocs/540%20AGIS_JUD_Handbook.pdf

2. National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. Organization for Security and Co-operation in Europe (OSCE), 2004, pg. 84. <https://www.osce.org/odihr/13967>

Considerations for Victims

Restitution plays several roles for victims. In cases of child labor, forced labor, and human trafficking, victims may be entitled to withheld wages, medical expenses, and damages. Access to restitution can encourage child labor, forced labor, and human trafficking victims to engage with the justice system, particularly if they are far from home and not permitted to work during the trial process. In many instances, victims have earned little or no money as a result of child labor, forced labor, and human trafficking and need a source of income, either in the form of employment or restitution. Additionally, victims may have had to pay high recruitment fees, and to do so, they or their family may have taken on debt that still needs to be paid to a third party.

Civil Procedures

In many jurisdictions, child labor, forced labor, and human trafficking victims can gain access to compensation, and sometimes damages, through civil cases. Sometimes this may be done through administrative proceedings in a Labor Court to collect back pay and unpaid wages. In civil proceedings, victims often have to pay their court fees and are not entitled to an attorney, which can make the process expensive and daunting, particularly for victims who only have a limited understanding of the country's language and/or lack formal education.

Criminal Procedures

There may be several ways that child labor, forced labor, and human trafficking victims can receive compensation or restitution through a criminal proceeding. These options vary by country, and it is important to note that not all countries allow victims to receive compensation or restitution during criminal proceedings. In some jurisdictions, child labor, forced labor, and/or human trafficking victims can receive damages as part of the offender's sentence. Damages typically must either be set or approved by a judge and are determined on a case-by-case basis, with discretion playing an important role. Damages can cover medical costs, psychological support, and pain and suffering. Child labor, forced labor, and human trafficking victims may also be able to gain back pay/withheld wages as part of the sentencing terms.

In some jurisdictions, offenders may be issued a fine that must be paid to a victims' fund. This fund is used to provide services for victims and to compensate victims. Victims may be entitled to access these funds and services as part of the criminal process.

Exercise 5.2.1: Restitution Discussion

Objective:

- To have participants start thinking about restitution, its different forms, and the benefits for victims.

Time:

 15 minutes

Materials and Preparation:

- One flip chart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions, writing the answers on the flip chart
- What forms can restitution take?
- What benefits does restitution have for victims?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- Restitution can come in different forms and through different means. Depending on what is permitted within a jurisdiction, restitution may cover medical costs, unpaid wages, and pain and suffering.
- Restitution can help a victim recover and move on with his or her life. Restitution can also show that the justice system views the victim as a victim and someone worthy of support, not as a criminal.
- Restitution will be discussed further in the lesson.

Exercise 5.2.2: Restitution and the ETP Case Studies

Objective:

- To practice determining restitution for victims. Learn about the benefits that restitution could bring to the Enforcement Training Program (ETP) case study victims.

Time:

 45 minutes

Materials and Preparation:

- Copies of the ETP Case Studies 1–4
- Flip charts for each group
- Markers
- Before the workshop, the facilitator should determine if there are any existing legislation or guidelines for restitution for victims of child labor, forced labor, and/or human trafficking. If so, copies should be obtained.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Have participants split into four groups; give each group copies of a different case study and have them answer the following questions:
 - What facts in the case study could be addressed by restitution?
 - What would you recommend for restitution for this victim?
 - What impacts would the recommended restitution have for the victim?
- 15 minutes
- Reconvene the groups and have each group present their restitution recommendations. Allow time for discussion and comments.
 - 20 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Restitution can cover a variety of costs. Depending on the jurisdiction, this may include medical costs, withheld wages, and possibly damages for pain and suffering.
- Restitution can help a victim recover and start a new job and/or reestablish him or herself. Restitution can also reassure victims that they are valued and that what happened to them was wrong.

Lesson 5.3: Plea Bargaining

Objectives:

- To learn about plea bargaining and its benefits and challenges.

Time:

 75 minutes

Steps:

- Present PowerPoint Presentation 5.3: Plea Bargaining
30 minutes
- Exercise 5.3.1: Plea Bargaining Discussion
45 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 5.3: Plea Bargaining
- Projector

Plea bargains are also known as plea negotiations. As of 2017, 66 countries used some form of plea bargaining. In a plea bargain, a defendant pleads guilty, often to a lesser crime, with the expectation of a reduced sentence. Using plea bargains can help improve case management and reduce the time before a verdict is reached; however, care should be taken to ensure that there is still access to justice. Anytime a plea bargain is being considered, the following should be taken into account: the strength of the evidence against the accused, the accused's criminal history, and the seriousness of the offence.

Requirements for a Plea Bargain

Generally, to secure a plea bargain, the following three requirements must be met:

- There is sufficient admissible evidence to sustain the charges related to the plea
- The charges accurately reflect the culpability of the accused
- The charges give the court adequate scope to impose an appropriate penalty

In many jurisdictions, there are some offenses that cannot use plea bargaining, so reviewing proposed charges is an important first step.

Often during a plea negotiation, several things can be negotiated, including:

- Charge: The accused will often plead guilty in exchange for a lesser charge.
- Sentence: In some instances, a reduced sentence can be negotiated. Typically, this must be approved by the judge and cannot be negotiated in all jurisdictions or for all crimes. A prosecutor can often agree to request a lesser sentence from the court but cannot guarantee that a reduced sentence will be granted.
- Facts: The accused pleads guilty, and certain facts are entered into the record

Plea bargains have to meet certain standards to be valid. These standards help ensure that the accused understands the agreement and what is being gained and lost by not having a trial. Typically this is accomplished by meeting the following requirements:

- The agreement must be in writing
- The agreement must:
 - Be written in a language that the defendant understands
 - State in full the terms of the agreement
 - Contain all relevant facts including admissions
 - Be signed by the accused or his/her lawyer
 - Be signed by the child labor, forced labor, and human trafficking victim(s) (if the agreement provides compensation to victims)

Roles and Responsibilities

Prosecutors: When conducting a plea bargain, prosecutors must remember to respect the rights of child labor, forced labor, and human trafficking victims and the rights of the accused. This can be challenging in instances when the accused does not have the right to an attorney. In those instances, prosecutors must make sure that the accused understands his or her options and can make an informed decision. The prosecutor should make sure that the accused is able to access due process while also being mindful of the need for justice for child labor, forced labor, and human trafficking victims, including access to compensation. Once the plea is accepted, prosecutors should read the facts in court. The court will ask the accused to admit or deny the facts. Prosecutors should never accept a plea if the facts upon which the plea is agreed to do not conform to the facts of the investigation and the crime charged.

Accused: The accused may have to forfeit the proceeds earned from child labor, forced labor, and human trafficking. The accused may also have to forfeit any instrumentalities used to commit child labor, forced labor, and human trafficking, which means any property other than real property or any buildings, fixtures, or improvements. The agreement or court may determine if any of the forfeited assets should be used to compensate victims. The court must find that the accused is competent and agreed to the plea agreement voluntarily. A plea agreement is binding once the court accepts it. If the agreement was not voluntary or was misrepresented, the accused may apply to the court to set aside the agreement.

Victims: A plea agreement may provide for compensation or restitution to be paid by the accused to child labor, forced labor, or human trafficking victims.

Judges: In most jurisdictions, judges do not participate in plea negotiations. The judge is typically responsible for confirming the factual basis for the plea, determining that the defendant's agreement was voluntary, and exercising some discretion in sentencing. An important role of the judge is to inform the accused of his or her rights. In many jurisdictions, these rights include:

- Right to plead not guilty
- Right to be presumed innocent until proven guilty
- Right to remain silent and to not testify during proceedings
- Right not to be compelled to give self-incriminating evidence

- Right to a full trial
- Right to be represented by counsel of his or her choice or to have a legal representative
- Right to examine witnesses called by the prosecution
- Right to call witnesses in support of his or her case

The judge must also inform the accused that by accepting the plea agreement, he or she is waiving his or her right to a full trial. Additionally, the judge must inform the accused that by entering into a plea agreement, he or she is waiving the right to appeal, except for the extent or legality of the sentence. The judge may also need to inform the accused that the prosecutor has the right to use statements in the plea agreement against the accused should he or she be prosecuted for perjury or false statements.

Arguments for Plea Bargaining

Plea bargaining has several benefits. Plea bargains increase judicial economy, which benefits the community and public courts. Using plea bargains also removes the uncertainty of trial for prosecutors, victims, and the accused. Child labor, forced labor, and human trafficking victims in these cases do not have to wait months or years to learn the outcome of the case and receive compensation. They do not have to remain in shelters during a long trial process and can return to school, work, and their communities more quickly.

Plea bargains reallocate scarce resources, benefiting prosecutors and judges. Prosecutors do not have to use time and office resources to prepare for and prosecute a case. Instead, they can conduct a thorough investigation, often relying on the work done by police and labor inspectors to build an evidence-based argument that leads to a plea agreement with the accused. Plea agreements also reduce the case backlog for judges, prosecutors, and public defenders. In many countries, extensive backlogs mean it can be months or years before a case has a court date, and trials can take a long time to complete. Reducing the case load of judges and prosecutors can reduce the amount of time required to bring a case to trial and provide the opportunity to focus more time and effort on cases that do go to trial.

Plea bargains provide a definitive resolution of the matter for all involved. Defendants know the outcome and do not have to spend months or years waiting for a result. They also know that they will likely be receiving a reduced sentence. Prosecutors know the outcome and do not need to worry about presenting a case during a trial. Victims can often receive closure by knowing that the child labor, forced labor, or human trafficking offender was found guilty and that a sentence was given. Additionally, for foreign victims who wish to be repatriated, it is more likely that a decision would be reached before a victim leaves the country.

Arguments Against Plea Bargaining

There are several arguments against plea bargaining. Some people feel that plea bargains are too soft on criminals, and plea bargains undermine the deterrent effect of criminal penalties. Additionally, there are concerns that plea bargains offer inducements that are likely to produce involuntary guilty pleas. Some defendants may seek to falsely admit guilt. Defendants may feel the lengthy wait for a trial—and the possibility of receiving a severe sentence—makes it wise to accept a plea with a lower fine and/or reduced imprisonment; these factors may also lead some defendants to feel it is worth pleading guilty, even if they are innocent of the crime. Having a greater social emphasis on not punishing innocent persons can help reduce this, as can having additional restrictions for plea bargaining.³

Plea bargaining can shift power to prosecutors, leaving judges to do little more than ratify the plea deal negotiated by the prosecutor. Some believe that plea bargains are contrary to constitutional principles, ethics, and offend fair trial rights and guarantees.

3. Givati, Yehonatan "The Comparative Law and Economics of Plea Bargaining: Theory and Evidence" in Harvard: John M. Olin Center for Law, Economics, and Business Fellows' Discussion Paper Series, July 2011 at 4. http://www.law.harvard.edu/programs/olin_center/fellows_papers/pdf/Givati_39.pdf

Exercise 5.3.1: Plea Bargaining Discussion

Objective:

- To discuss the benefits and challenges of plea bargaining and when the use of plea bargains may be appropriate.

Time:

 45 minutes

Materials and Preparation:

- Relevant plea bargaining guidelines
- One flip chart and markers for the facilitator
- Before the workshop, the facilitator should verify whether plea bargains are permitted for child labor, forced labor, and/or human trafficking cases; obtain copies of local relevant plea bargaining guidelines; and ensure that participants receive an overview of those guidelines (should they exist) prior to completing this exercise.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flip chart:
- What benefits can plea bargains offer? Have you seen any benefits in cases or the legal system?
 - 10 minutes
- What challenges do plea bargains present? How can they be addressed?
 - 10 minutes
- Are there any instances where plea bargains could be useful? What guidelines are needed?
 - 15 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Plea bargains can have some benefits, such as reducing case backlogs, reducing prison sentences, and providing all parties and victims with closure.
- Plea bargains can result in innocent defendants pleading guilty to crimes they did not commit. If plea bargains include jail time, they can lead to an increase in the prison population.
- Regulating plea bargains to reduce case backlogs without negatively impacting the rights of defendants can help alleviate some of these risks.

Lesson 5.4: Judicial Ethics

Objectives:

- Learn about the Bangalore Principles and how to apply them.
- Put the ethical principles into practice using a series of scenarios.

Time:

 95 minutes

Steps:

- Exercise 5.4.1: Judicial Ethics Discussion
 - 15 minutes
- Present PowerPoint Presentation 5.4: Judicial Ethics
 - 20 minutes
- Exercise 5.4.2: Applying Ethics to Daily Practice
 - 60 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 5.4: Judicial Ethics
- Projector
- Handout 5.4.2a: Judicial Ethics Scenarios
- Handout 5.4.2b: Bangalore Principles of Judicial Conduct

Judicial ethics are an integral part of the judicial process. Often, countries have their own judicial ethics guidelines in addition to the guidance provided by the Bangalore Principles of Judicial Conduct.

The Bangalore Principles

A United Nations-affiliated committee drafted the Bangalore Principles to provide guidance and establish standards for judges. The principles include six core values: independence, impartiality, integrity, propriety, equality, competence, and diligence. The United Nations Social and Economic Council (Resolution 2003/26) encouraged countries to create their own judicial ethics codes based on the Bangalore Principles.

Independence: It is imperative that judges are able to act independently. Judges need to hear and decide cases without being subject to the influence of anyone, whether a government, interest group, individual, or another judge.⁴

There are three main requirements for judicial independence:

- Security of tenure until the age of retirement. This allows judges to make decisions based on the law and precedent. With tenure, judges do not have to make politically based decisions to either help them be reelected by the public or reappointed by the executive.
- Financial security with the right to a salary and pension, which should not be subject to the arbitrary change by the government in charge.
- Institutional independence for administrative matters. Allowing the judiciary to control their own administrative matters means they are not dependent on another branch of government or subject to their control or influence, even in day-to-day activities.

Impartiality: Impartiality is needed both in decisions and in the process of decision-making. Judges should be disqualified from matters if they have bias or prejudice in the matter. This means that if a judge has a personal connection to a case, such as when it involves a friend or family member, the judge should recuse him or herself. Impartiality is needed both as a matter of fact and as a reasonable perception. Even if a judge does not have a personal opinion about a case, if the public would have a reasonable belief that the judge was partial, it would harm the case. For example, if the case involved the school that the judge's child had previously attended, the judge should consider recusal. While the judge may not actually have a personal interest in the case, the public might believe that there was prejudice. A judge may not act under the influence of subjective or objective bias in a case. A judge may not have personal prejudice or bias with regard to a case, and judges must offer sufficient guarantees to exclude any legitimate doubt as to their impartiality.

Judges should not have ex parte communications or give the appearance of having ex parte communications. Ex parte communications occur when a party to a case talks, writes, or communicates in some other form with the judge about issues in the case without the other party's knowledge. Judges should not meet alone with a party to a case, or a likely party to a case—even if the meeting is purely social—as such meetings can give the impression of bias. Judges must disqualify themselves from matters in which they have a conflict of interest. For example, if a forced labor case involves a large company that the judge owns stock in, the judge would have a conflict of interest and would be required to disqualify him or herself. Best efforts should be made to show that the judge can try each case without bias.

Integrity: Integrity plays an essential role in the administration of justice. "Justice must not merely be done but must also be seen to be done."⁵ It is essential that judges maintain high standards in both public and private life, with a careful respect of the law. Judges should consider the following factors before making a judgment:

- Whether the act is public or private in nature
- The extent to which the conduct is protected as an individual right
- The degree of discretion that the judge is exercising

4. Commentary on the Bangalore Principles of Judicial Conduct. United Nations Office on Drugs and Crime (UNODC), p. 27, 2007. https://www.unodc.org/res/ji/import/international_standards/commentary_on_the_bangalore_principles_of_judicial_conduct/bangalore_principles_english.pdf

5. Bangalore Principles of Judicial Conduct. United Nations Social and Economic Council (Resolution 2003/26), Principle 3.2 2002.

- Whether the conduct was specifically harmful or reasonably offensive to others
- The degree of respect or lack of respect to the public
- The degree to which the conduct demonstrates bias, prejudice, or improper influence.

Propriety: Judges are expected to meet a higher standard than the general public, and to do so, they must act with propriety at all times. This is because judges are subject to public scrutiny. The following guidance on maintaining propriety has been suggested by commentary on the propriety rule of the Bangalore Principles:⁶

- Judges should live an exemplary life. In doing so, they can demonstrate that judges can meet the high standards needed to administer justice.
- Use discretion and caution when socializing.
- Judges should avoid situations that may cast suspicion on their propriety. Where a judge's propriety is in question, the public can lose trust in the fairness of the justice system.
- Judges should recuse themselves from cases involving their friends or family. The risk of bias, real or perceived, is too high in these types of cases.
- Members of the legal profession should not be permitted to use a judge's personal phone or residence to contact clients. Allowing such activities can be perceived as favoring one side in a case. Additionally, it may be seen as conducting proceedings outside of the court and away from the public.
- Refrain from public controversies and political activities. Engaging in these types of activities can give the appearance of bias and could limit a judge's ability to hear future cases in a way that appears fair to the public.
- Judges should be cautious and exhibit restraint when providing references, character testimony, or in publications.
- Confidential information should not be disclosed. Disclosing information about child labor, forced labor, or human trafficking victims can be traumatizing for victims and put them at risk. Additionally, disclosing confidential information undermines the authority and integrity of the court.
- Gifts should not be accepted. While most gifts are well-intended gestures from friends and family, gifts can also give the impression of trying to gain favor.

Equality: Equal treatment to all is an essential part of justice. To ensure equal treatment, judges should:

- Not make derogatory comments. This should be applied in the court at all times and should be upheld in all aspects of a judge's life.
- Ensure court staff complies with court standards and not engage in prejudicial behavior and treat all parties before the court equally and fairly.
- Prevent lawyers from engaging in racist or sexist behavior. Permitting this behavior can give the impression that the court approves of racism or sexism.
- Set the tone for a fair trial by showing all parties equal dignity and respect; this is particularly important for child labor, forced labor, and human trafficking victims, and other vulnerable individuals.

Competence and Diligence: A judge's judicial duties must always come first. Judges must make sure that they devote sufficient time and effort to their judicial duties. Judges also need to be aware of the latest developments in international law and maintain decorum during all proceedings. Judicial duties should be performed with legal knowledge, skill, thoroughness, and preparation. This may require judges to research topics, legislation, and case law to hear a case on an unfamiliar topic or aspect of law competently.

6. https://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf

The law should be applied evenly to all people, without the abuse of process. This equality should apply whether the person is young or old, a victim or accused, or any other distinction. The judiciary is responsible for training judges and developing a judicial training curriculum. Training plays an important role in judges deciding cases effectively and can cover new legislation, best practices, and other topics deemed necessary by the judiciary. Judges should be punctual and transparent during trial. Decisions should be made in a timely manner. The order and decorum of the court should be maintained throughout all trials.

Considerations for Online Activities

Many interactions now occur online. Judges need to be careful what they communicate, post, or “like,” as often online activity is public. The first consideration that should be made before posting is to determine if the activity readily identifies the judge with the court system. Next, judges should determine whether the activity will reveal information about a case or confidential court information. Judges should not post information that could reflect poorly on the court or express an opinion about a controversial topic that could come before the court, as having expressed an opinion publicly could be used to demonstrate bias.

Before posting a picture, comment, or writing a post, judges should consider if they will detract from the dignity of the court or the judicial process. The ultimate question a judge should ask before making a post is whether he or she would be comfortable with the post becoming front-page news.



Photo Credit: USAID Girls Opportunity to Access Learning (GOAL) Project, Emily Doerr, 2013, Liberia

Exercise 5.4.1: Judicial Ethics Discussion

Objective:

- To begin discussing judicial ethics and start to consider what role ethical responsibilities play in and out of the courtroom.

Time:

 15 minutes

Materials and Preparation:

- One flip chart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flip chart:
 - What role do judicial ethics play?
 - What are the benefits of having rules for judicial ethics?
 - What are the challenges of having rules for judicial ethics?
- 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- Judicial ethics help ensure the judiciary is seen as impartial and having integrity.
- Having a code of judicial ethics makes it easier for judges to know how to ensure that their conduct helps promote public trust in the judicial system.

Exercise 5.4.2: Applying Ethics to Everyday Practice

Objective:

- Practice applying the Bangalore Principles to everyday scenarios.

Time:



Materials and Preparation:

- Relevant local legislation and sentencing guidelines
- One flip chart for each group and one for the facilitator
- Markers
- If there are local judicial ethics guidelines, copies of the guidelines should be obtained for participants.
- Facilitator should print copies of the scenarios in Handout 5.4.1: Judicial Ethics Scenarios and the Handout 5.4.2 Bangalore Principles of Judicial Conduct to give to groups to guide group discussions
- Facilitator should prepare one flip chart in advance that lists the following questions:
 - What decision did your group feel was appropriate?
 - What factors did the group consider when making the determination?
 - Which Bangalore Principle and/or local judicial guidelines did you rely on in making your decision?

Steps:

- Before the workshop, the facilitator should obtain copies of local judicial ethics guidelines (if they exist) and ensure that participants receive an overview of those guidelines prior to completing this exercise.
- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to form small groups of 4–5 people. Instruct the groups to review the scenarios assigned to their group. Each group should determine which action they feel is appropriate and consistent with the Bangalore Principles of Judicial Ethics and local ethics guidelines. The groups should then answer the questions on the flip chart at the front of the room by recording them either on a sheet of flip chart paper or on another sheet of paper.
 - 25 minutes
- Reconvene participants and ask each group to share their answers to the questions. Encourage comment and questions.
 - 25 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Because of the responsibility judges have for ensuring that justice is properly rendered, judges' actions are under more scrutiny than those of most other people. Judges have the privilege of serving as role models.
- In making choices both in and out of court, judges can look to local guidance and the Bangalore Principles.
- When in doubt, ask if the comment or action would be embarrassing if it became front page news.



Photo Credit: Oliver Gryson, 2007, Thailand

HANDOUT 5.4.2A: JUDICIAL ETHICS SCENARIOS

Scenario 1: A judge issued a verdict after a long trial. Immediately after the verdict was issued, the plaintiff, who won the case, approached the bench and thanked the judge for her professionalism during the trial. The plaintiff also presented the judge with an expensive bracelet at this time. The judge did not want to be rude and accepted the bracelet, which she immediately gave to her clerk once she reached her chambers.

Scenario 2: A judge is presiding over a contract dispute. The defense attorney requests that the judge recuse himself because the plaintiff is a brother-in-law of the judge. The judge knows that his brother-in-law has a weak case and that he will rule against his brother-in-law, so the judge decides to hear the case. At the end of the trial, the judge rules against his brother-in-law.

Scenario 3: A judge is presiding over a fraud case on appeal. The case began as an investigation the judge worked on while she served as a prosecutor.

Scenario 4: A judge is at a birthday party and runs into the defense attorney in a case he is presiding over. The defense attorney asks the judge how the case is looking and when a judgment will be issued. The judge does not say anything about the merits of the case but tells the defense attorney that a judgment will be issued soon.

Scenario 5: Judge Smith has been a judge for 15 years. He has fallen behind in his cases in the past few years and regularly adjourns court at 1 p.m. Some of the cases on his docket have been waiting to be heard for over two years. He has said rude things to victims and attorneys in court, and there are rumors that he drinks heavily and gambles. An attorney who has been waiting for nearly two years for a case to be heard became frustrated and complained to Judge Frank about the problem.

Scenario 6: During the lead-up to the presidential election, Judge Jones has been careful not to express political views or endorse a candidate. His wife is planning to hold a lunch fundraiser for a candidate, which will be held at Judge Jones' residence. Judge Jones will not be attending the fundraiser, and none of his money will be used to pay for the event.

Scenario 7: At the wedding of Judge Garcia's daughter, a card containing money and addressed to Judge Garcia is left with the other gifts. The card is signed by the defense attorney in a case before Judge Garcia.

Scenario 8: A judge regularly uses his Facebook account to stay in touch with friends and family. The judge has been assigned a case that has received a lot of press, and the public is monitoring it closely. Family members and friends are posting on the judge's page asking about the case. Can the judge respond on her Facebook page?

Scenario 9: A judge went on a vacation with her husband. On the trip, they went to a casino. She wants to post photos from the trip, including one of her and her husband in front of a slot machine.

HANDOUT 5.4.2A KEY: JUDICIAL ETHICS SCENARIOS

Scenario 1: Bangalore Principles

Value 1 – Independence

“Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.”

Scenario 2: Bangalore Principles

Value 4 – Propriety

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

4.4 A judge shall not participate in the determination of a case in which any member of the judge’s family represents a litigant or is associated in any manner with the case.

Scenario 3: Bangalore Principles

Value 2 – Impartiality

2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:

2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

Scenario 4: Bangalore Principles

Value 4 – Propriety

4.3 A judge shall, in his or her personal relations with individual members of the legal profession who practice regularly in the judge’s court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or partiality.

Scenario 5: Bangalore Principles

Value 6 – Competence and Diligence

6.6 A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge’s influence, direction or control.

Scenario 6: Bangalore Principles

Value 4 – Propriety

4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge’s family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.



Scenario 7: Bangalore Principles

Value 4 – Propriety

4.14 A judge and members of the judge’s family, shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties

Scenario 8: Bangalore Principles

Value 2 – Impartiality

2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

Scenario 9: Bangalore Principles

Value 2 – Impartiality

2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

HANDOUT 5.4.2B BANGALORE PRINCIPLES OF JUDICIAL CONDUCT

Value 1: INDEPENDENCE

Principle: Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:

- 1.1** A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.
- 1.2** A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.
- 1.3** A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.
- 1.4** In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.
- 1.5** A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.
- 1.6** A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Value 2: IMPARTIALITY

Principle: Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:

- 2.1** A judge shall perform his or her judicial duties without favor, bias or prejudice.
- 2.2** A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.
- 2.3** A judge shall, so far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.
- 2.4** A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.
- 2.5** A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the

matter impartially. Such proceedings include, but are not limited to, instances where

- 2.5.1** the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
- 2.5.2** the judge previously served as a lawyer or was a material witness in the matter in controversy; or
- 2.5.3** the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy: Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

Value 3: INTEGRITY

Principle: Integrity is essential to the proper discharge of the judicial office.

Application:

- 3.1** A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- 3.2** The behavior and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.



Photo Credit: The Children of War, 2006

Value 4: PROPRIETY

Principle: Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:

- 4.1** A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- 4.2.** As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
- 4.3.** A judge shall, in his or her personal relations with individual members of the legal profession who practice regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or partiality.
- 4.4** A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.
- 4.5** A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.
- 4.6** A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
- 4.7** A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.
- 4.8** A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.
- 4.9** A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.
- 4.10** Confidential information acquired by a judge in the judge's judicial capacity shall not be used or disclosed by the judge for any other purpose not related to the judge's judicial duties.
- 4.11** Subject to the proper performance of judicial duties, a judge may:
 - 4.11.1** Write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
 - 4.11.2** Appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
 - 4.11.3** Serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge; or
 - 4.11.4** engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- 4.12** A judge shall not practice law whilst the holder of judicial office.

- 4.13** A judge may form or join associations of judges or participate in other organizations representing the interests of judges.
- 4.14** A judge and members of the judge’s family, shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.
- 4.15** A judge shall not knowingly permit court staff or others subject to the judge’s influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
- 4.16** Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Value 5: EQUALITY

Principle: Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:


- 5.1** A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, color, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes (“irrelevant grounds”).
- 5.2** A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.
- 5.3** A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.
- 5.4** A judge shall not knowingly permit court staff or others subject to the judge’s influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.
- 5.5** A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

Value 6: COMPETENCE AND DILIGENCE

Principle: Competence and diligence are pre-requisites to the due performance of judicial office.

Application:

- 6.1** The judicial duties of a judge take precedence over all other activities.
- 6.2** A judge shall devote the judge’s professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court’s operations.

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- 6.3** A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.
- 6.4** A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.
- 6.5** A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.
- 6.6** A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.
- 6.7** A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

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