INFORMATION

- **Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007**
  An act to prevent and combat trafficking in persons and smuggling of migrants and to provide for matters connected therewith

- **Three Elements in Human Trafficking**
  **Activity**
  Recruitment, transport, transfer, harbouring, receipt

  **Purpose**
  Sexual exploitation/prostitution, slavery, servitude, removal of organs, forced labour/services

  **Means**
  Threat, coercion/violence, abduction, deception, fraud, kidnapping, cheating, abuse of power, giving/receipt of payment

- **Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants**

  ![Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants](chart.png)
MEMBERS OF THE COUNCIL FOR TRAFFICKING IN PERSONS AND ANTI-SMUGGLING OF MIGRANTS

SECRETARY-GENERAL MINISTRY OF HOME AFFAIRS

SECRETARY-GENERAL MINISTRY OF FOREIGN AFFAIRS

SECRETARY-GENERAL MINISTRY OF WOMEN, FAMILY AND COMMUNITY DEVELOPMENT

SECRETARY-GENERAL MINISTRY OF HUMAN RESOURCES

SECRETARY-GENERAL MINISTRY OF TRANSPORT

SECRETARY-GENERAL MINISTRY OF INFORMATION, COMMUNICATIONS AND CULTURE

ATTORNEY-GENERAL OF MALAYSIA ATTORNEY-GENERAL’S CHAMBERS

INSPECTOR-GENERAL OF POLICE ROYAL MALAYSIAN POLICE

DIRECTOR-GENERAL IMMIGRATION DEPARTMENT OF MALAYSIA

DIRECTOR-GENERAL ROYAL MALAYSIAN CUSTOMS

DIRECTOR-GENERAL MALAYSIAN MARITIME ENFORCEMENT AGENCY

FIVE (5) NON-GOVERNMENTAL ORGANISATIONS (NGOS)
• **Definitions of Trafficking in Persons and Smuggling of Migrants**

**Trafficking in persons** means all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, conveying, transferring, harbouring, providing or receiving a person.

**Smuggling of migrants** means arranging, facilitating or organising, directly or indirectly, a person’s unlawful entry into or through, or unlawful exit from, any country of which the person is not a citizen or permanent resident either knowing or having reason to believe that the person’s entry or exit is unlawful and recruiting, conveying, transferring, concealing, harbouring or providing any other assistance or service for the purpose of carrying out the acts mentioned above. *(Section 2 of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007)*

• **What Exploitation is**

All forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs *(Section 2 of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007)*.

• **Difference between Trafficking in Persons and Smuggling of Migrants**

<table>
<thead>
<tr>
<th><strong>TRAFFICKING IN PERSONS</strong></th>
<th><strong>SMUGGLING OF MIGRANTS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The instrument/international law involved is</strong> Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children under UN Convention on Transnational Organised Crime.</td>
<td><strong>The instrument/international law involved is</strong> Protocol against the Smuggling of Migrants by Land, Air and Sea under UN Convention on Transnational Organised Crime.</td>
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<td><strong>The main element to prove any offence relating to trafficking in persons is exploitation and it may happen in a country without being a cross-border offence. It may also happen at the domestic level.</strong></td>
<td><strong>The important element in the smuggling of migrants is the cross-border occurrence.</strong></td>
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<td>Involving the elements of exploitation, manipulation, threat against victims. <strong>Continuous and repeated exploitation.</strong></td>
<td>Involving consent of the smuggled persons and profits for the people smuggling syndicates. <strong>The smuggling activity ends upon arrival at the destination.</strong></td>
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</table>
• **Definition of Source Country**

Means the country from which a trafficked person originates. It becomes the focus of syndicates to find individuals or groups of persons who will become their victims.

• **Definition of Transit Country**

Means a country into which syndicates bring their victims before they arrive at the destination country, by either land, sea or air routes.

• **Definition of Destination Country**

Means a receiving country into which the syndicates bring their victims.

• **What are the means or routes used?**

Land, sea and air

• **What do you need to do to avoid being trafficked?**

  i. Make sure you receive an official job offer letter.

  ii. Understand the job contract offered to you.

  iii. Make sure your salary is reasonable and consistent with the scope of work offered.

  iv. Make sure the agency/company offering the job is registered and authorised to offer the job.

  v. Make sure you know the address of the workplace/accommodation, and the address and telephone number of the embassy at the destination country.

  vi. Do not keep information about the job and destination country from your family.
What are examples of cases of trafficking in persons?

i. A child under forced labour

ii. A woman from Thailand who was offered work as a masseur but was forced instead to become a prostitute

iii. An Indonesian maid who was confined and not paid any wages. The victim who did not have a valid entry permit was also threatened that she would be handed over to the Immigration Department if she made a complaint or ran away.

iv. An Indian national who was promised work in a restaurant in Malaysia but who, upon arrival, was forced to work as a construction labourer

Frequent Offences Committed

<table>
<thead>
<tr>
<th>TRAFFICKING IN PERSONS</th>
<th>SECTION</th>
<th>OFFENCE</th>
<th>PENALTY</th>
</tr>
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<tbody>
<tr>
<td>12</td>
<td>Trafficking in persons not being a child for the purpose of exploitation</td>
<td>On conviction, imprisonment not exceeding fifteen (15) years and liable to a fine</td>
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<td>13</td>
<td>Trafficking in persons not being a child for the purpose of exploitation by one or more of the following means: (a) Threat; (b) Use of force or other forms of coercion; (c) Abduction; (d) Fraud; (e) Deception; (f) Abuse of power; (g) Abuse of the position of vulnerability of a person to an act of trafficking in persons; or (h) The giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person.</td>
<td>On conviction, imprisonment not less than three (3) years but not exceeding twenty (20) years and liable to a fine</td>
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<tr>
<td>14</td>
<td>Trafficking in persons being a child for the purpose of exploitation</td>
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<td>15</td>
<td>Offence of profiting from exploitation of a trafficked person</td>
<td>On conviction, imprisonment not exceeding fifteen (15) years and liable to a fine of five hundred thousand ringgit but not exceeding one million ringgit and shall also be liable to forfeiture of the profits from the offence</td>
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<td>15A</td>
<td>Offence of bringing in transit a trafficked person through Malaysia (land, sea or air) or arranging or facilitating such act</td>
<td>On conviction, imprisonment not exceeding seven (7) years and liable to a fine</td>
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<td><strong>HUMAN SMUGGLING</strong></td>
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<tr>
<td>26A</td>
<td>Offence of smuggling of migrants</td>
<td>On conviction, imprisonment not exceeding fifteen (15) years and liable to a fine or both</td>
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</table>
| 26B     | Aggravated offence of smuggling of migrants involving:  
(a) intention to exploit the smuggled migrant after entry into the receiving country or transit country whether by the person himself or by another person;  
(b) subjecting the smuggled migrant to cruel, inhuman or degrading treatment; or  
(c) the person’s conduct gives rise to a risk of death or serious harm to the smuggled migrant. | On conviction, imprisonment not less than three (3) years but not exceeding twenty (20) years and liable to a fine or both |
| 26C     | Offence of bringing in transit a smuggled migrant through Malaysia by land, sea or air or otherwise arranging or facilitating such act. | On conviction, imprisonment not less than seven (7) years and liable to a fine or both |
| 26D     | Offence of profiting from the offence of smuggling of migrants | On conviction, imprisonment not less than seven (7) years and not exceeding fifteen (15) years and liable to a fine of not less than five hundred |
thousand ringgit but not exceeding one million ringgit and shall also be liable to forfeiture of the profits from the offence

- **List of Enforcement Agencies under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act**
  
  i. Royal Malaysian Police (Head)
  ii. Immigration Department of Malaysia
  iii. Malaysian Maritime Enforcement Agency
  iv. Royal Malaysian Customs
  v. Labour Department

- **Why is trafficking in persons wrong and should be stopped?**
  
  i. It is one of the major crimes against humanity whereby it violates basic human rights according to the United Nations (UN).
  
  ii. It needs to be stopped as it will destroy civilised society and prevent the continued enjoyment of freedom.

- **Why is it considered cruel and uncivilised?**
  
  i. The freedom of a person is curtailed and he/she is not free to perform any activity according to his/her own wishes and desires.
  
  ii. The person is coerced into performing a job or oppressed to obtain profit from the job.

- **What is TIP?**
  
  The Trafficking in Persons (TIP) Report is a list of countries which are ranked according to their level of compliance with minimum standards for the elimination of human trafficking. The evaluation is conducted each year by the United States Department of State.

- **Explanation of the tier levels**
  
  i. Tier 1 – complying fully with the minimum standards of the Trafficking Victims Protection Act (TVPA)
  
  ii. Tier 2 – not complying fully with the minimum standards of the Trafficking Victims Protection Act (TVPA) but has made significant efforts to meet the conditions stipulated
iii. Tier 2 Watch List - not complying fully with the minimum standards of the Trafficking Victims Protection Act (TVPA) but has made significant efforts to meet the conditions stipulated, and

- Increase in number of victims saved
- Failure to provide evidence of efforts to deal with human trafficking based on previous year’s performance
- Determination to increase efforts to deal with human trafficking problem based on the commitments of the country to take appropriate steps over the following year

iv. Tier 3 – not making any effort and not complying fully with the minimum standards of the Trafficking Victims Protection Act (TVPA)

- What measures is the Malaysian Government taking to provide protection to victims of human trafficking?

The government has established several places of refuge to place victims of human trafficking. The victims will be protected at the places of refuge until the process of recording evidence is completed. This is in line with the provisions under Sections 44 and 51 of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007.

- What is the purpose of the place of refuge?

The place of refuge is established to protect victims who have been issued with an interim protection order (IPO) and subsequently a protection order (PO) until the process of recording evidence is completed.

- What facilities are provided at the place of refuge?

Human trafficking victims will be provided with accommodation, meals, recreational activities and counselling.

- Are the rights of human trafficking victims protected and guaranteed?

Yes, they will be protected from outside threats and given the freedom to carry out their own activities.

- What must you do if you come across elements of trafficking in persons and smuggling of migrants?

Call 999.
What is the hope of the Malaysian Government pertaining to the issues of human trafficking and human smuggling?

It is the hope of the government that the people of Malaysia will work together to deal with these two crimes. The people can play their part by contacting the authorities if they come across anything suspicious. Let’s be caring citizens to prevent more people from becoming victims.