



**COUNCIL FOR ANTI-TRAFFICKING IN PERSONS  
AND ANTI-SMUGGLING OF MIGRANTS**

# **NATIONAL REPORT MALAYSIA**

**For the reporting period from 1st April 2020, to 31st March 2021**

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## ABBREVIATIONS

ACT 446	Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446)
AGC	Attorney General's Chambers
ATIPSOM Act	Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (Act 670)
CMC	Case Management Meeting
CSO	Civil Society Organisations
DPP	Deputy Public Prosecutor
FLNTIP	Forced Labour, Non-Trafficking in Persons
GSB	Global Shepherds Berhad
ILO	International Labour Organization
IO	International Organisations
IOM	International Organization for Migration
IPO	Interim Protection Order
JHAMS	Joining Hands Against Modern Slavery
JIM	Immigration Department of Malaysia ( <i>Jabatan Imigresen Malaysia</i> )
JTK	Department of Labour ( <i>Jabatan Tenaga Kerja</i> )
JTKSM	Department of Labour Peninsular Malaysia ( <i>Jabatan Tenaga Kerja Semenanjung Malaysia</i> )
KKMM	Ministry of Communications and Multimedia ( <i>Kementerian Komunikasi dan Multimedia Malaysia</i> )
MAPO	Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants ( <i>Majlis Antipemerdagangan Orang dan Antipenyeludupan Migran</i> )
MAPO Taskforce	MAPO Inter-Agency Task Force
MCO	Movement Control Order
MMEA	Malaysian Maritime Enforcement Agency
MOHA	Ministry of Home Affairs
MOHR	Ministry of Human Resources
MWFCD	Ministry of Women, Family and Community Development
NAPTIP	National Action Plan on Anti-Trafficking in Persons
NGHTI	National Guidelines on Human Trafficking Indicators
NGO	Non-Government Organisations
NRM	National Referral Mechanism
NSO MAPO	National Strategic Office to the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants
PL8	Project Liber8
PO	Protection Order

## ABBREVIATIONS (continued)

RMCD	Royal Malaysian Customs Department
RMP	Royal Malaysia Police
SOM	Smuggling of Migrants
SOP	Standard Operating Procedures
SUHAKAM	Human Rights Commission of Malaysia
TIP	Trafficking in Persons
TVET	Technical and Vocational Educational Training
TWG	Technical Working Group
UNICEF	United Nations Children's Fund
VAC	Victim Assessment & Coordination Committee
VAS	Victim Assistance Specialist
VCO	Victim Care Officer

# NATIONAL REPORT MALAYSIA

## FOR THE REPORTING PERIOD 1<sup>ST</sup> APRIL 2020 TO 31<sup>ST</sup> MARCH 2021

### 1. INTRODUCTION

The year 2020 turned out to be an unprecedented year for the whole world as nations struggled and endeavoured to manage and contain the spread of the Covid-19 virus, which wreaked havoc to the way of life for governments and peoples alike. The priorities of each nation affected by the pandemic shifted to tackle mainly the arising health and economic challenges. The Government of Malaysia, in response to the pandemic, imposed various levels of interstate restrictions, as well as cross-border movement to curb the spread of the virus. The first Movement Control Order (MCO) was introduced on 18 March 2020. With the rising number of cases in the country, the government, with the consent of the King, imposed a nationwide state of emergency on 12 January 2021 as a proactive measure to control the pandemic. The state of emergency was effective until 1 August 2021 but could have been lifted earlier if the pandemic was under control. The civilian government remains in place, and the cabinet, state executive councils and public services continue to function.

During this challenging time, the Government of Malaysia, through the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO), remains committed in their effort to eradicate crimes related to trafficking-in-persons (TIP), which is on top priority of the national agenda. The five current committees under the MAPO setup, namely the Legislative Committee, Enforcement Committee, Victim Care and Protection Committee, Media and Publicity Committee and the Special Committee to Monitor on the Issue of Labour Trafficking have worked tirelessly with various Non-Governmental Organisations (NGOs), Civil Society Organisations (CSOs), International Organisations (IOs) and foreign diplomatic missions in ensuring effective and successful implementation of policies, programs, and activities planned to combat TIP in Malaysia.

MAPO is proud to present the first National Report of Malaysia, where the significant efforts of the government and its partners, which include NGOs, CSOs and IOs, are highlighted to showcase what the government has achieved during the reporting period. In the spirit of transparency and integrity, pertinent issues are also discussed and addressed in this report.

### 2. SIGNIFICANT ACHIEVEMENTS / EFFORTS DURING THE REPORTING PERIOD

Some of the notable achievements of MAPO in the year 2020/2021 are as follows:

#### 2.1 Development and Launch of NAPTIP 2021-2025

The NAPTIP 2021-2025 is a testimony of the openness and willingness of the government to partner and collaborate with NGOs, CSOs, IOs and academia in setting the roadmap for the country's anti-TIP efforts over the next five years. The development of NAPTIP is a significant effort where the government can be proud of its **inclusiveness and collaborative process, with the establishment of a**

**Technical Working Group (TWG) which consists** of representatives from government agencies, namely, the National Strategic Office to the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (NSO MAPO), the Ministry of Human Resources (MOHR), the Ministry of Women, Family and Community Development (MWFCD), and the MAPO NAPTIP Committees; NGO representatives from Global Shepherds Berhad (GSB) and Project Liber8 (PL8); and representatives from the IOs, namely, the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF) and the International Organization for Migration (IOM).

The development process took over a year, which included **two multi-stakeholder consultations with about 50 representatives from NGOs, CSOs, IOs, academia and related foreign diplomatic missions in Malaysia, including the US Embassy in Kuala Lumpur**. Due to the Covid-19 situation, the sessions had to be conducted online, with feedback forms distributed via email to solicit further responses from the participants. NAPTIP provided the platform and the opportunity, particularly for the local NGOs working on TIP, to raise their concerns and provide recommendations or solutions to the government for inclusion regarding the activities of the NAPTIP. Through this platform, the government actively encouraged the stakeholders to provide their recommendations and ideas on developing a strong and comprehensive NAPTIP, and urged for their commitment to further work with the government in the implementation of the NAPTIP.

Through the consultation sessions, few written submission of recommendations were received from several parties, namely, the Human Rights Commission (SUHAKAM), NGOs from the network called Joining Hands Against Modern Slavery (JHAMS) that includes GSB, PL8, National Council of Women's Organisations (NCWO), Engender Consultancy, Stop Human Trafficking (SHUT), SUKA Society, Be My Protector, Yayasan Chow Kit (YCK), Tenaganita and the Earthworm Foundation. Extensive inputs and feedback to the NAPTIP were also contributed by representatives from the United Nations Office on Drugs and Crime (UNODC), ASEAN Act and representatives from the US Embassy in Kuala Lumpur. Meanwhile, focus group sessions were conducted separately with each MAPO / NAPTIP Committee to deliberate further on the recommendations garnered from the multi-stakeholder sessions. The TWG met regularly in the drafting, compilation and refinement process, leading to the culmination of the NAPTIP document, which was launched by the Minister of Home Affairs on 31 March 2021.

**The result of the thorough development process is a new, improved and comprehensive version of NAPTIP which outlines the country's vision, five guiding principles, nine strategic goals, 34 specific objectives with 78 respective outputs and 210 corresponding activities in its anti-TIP efforts** over the next five years. In working towards achieving NAPTIP's goals, the MAPO / NAPTIP committees have been assigned with responsibilities to ensure the implementation of the numerous activities in collaboration with other stakeholders including NGOs and IOs. A Monitoring and Evaluation Committee also have been specifically established separately to ensure the implementation of the NAPTIP is being monitored closely. The new NAPTIP presents the planned activities, expected outputs and specific objectives under the pillars of anti-TIP responses, namely the 4Ps – Prevention, Prosecution & Enforcement, Protection and Partnership. This provides a clearer

picture of the country's collective efforts which encompass all the 4Ps of anti-TIP responses.

The NAPTIP 2021-2025 is clear evidence of the government's steadfast commitment in combating TIP. **Equipped with this comprehensive roadmap over the next five years, the government is confident that, together with its partners from NGOs, CSOs, IOs and other stakeholders, the country will make further inroads in its war against TIP.**

**The NAPTIP 2021-2025 was endorsed during a MAPO HLC Meeting chaired by the Minister of Home Affairs *cum* Chairman of the MAPO HLC on 31 March 2021 and subsequently launched via live streaming.** This is a clear testimony of the strong political will and a manifestation of the whole-of-government commitment to eliminate TIP in Malaysia.

## **2.2 Development and Launch of the National Guidelines on Human Trafficking Indicators (NGHTI)**

The National Guidelines on Human Trafficking Indicators (NGHTI) was developed **in line with national and regional requirements, particularly in fulfilling Malaysia's obligation as per Article 14 of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP).** The NGHTI document serves as a standard guide, particularly to enforcement officers, in the process of identifying trafficking victims in Malaysia.

**The NGHTI document was developed with support from NGOs, namely GSB and PL8, and was officially launched on 8 February 2021 by the Secretary General of the Ministry of Home Affairs (MOHA).** This document was prepared bilingually, i.e., Bahasa Malaysia and English, for ease of enforcement officers' reference. The NGHTI has since been distributed to enforcement agencies such as the Royal Malaysia Police (RMP), the Malaysian Maritime Enforcement Agency (MMEA), the Immigration Department of Malaysia (JIM), the Royal Malaysian Customs Department (RMCD) and the Department of Labour (JTK).

The development of the NGHTI and its inclusion in the Standard Operating Procedures (SOP) for enforcement agencies, as well as in capacity-building programmes for the enforcement agencies, marked one of the significant efforts by MAPO to enhance the understanding of TIP and the victim identification process. It is likely that with continued training of enforcement officers in using the NGHTI, the capacity of enforcement officers in understanding the definition of TIP and in victim identification will be improved, resulting in better quality TIP cases being referred to the National Referral Mechanism (NRM). Recognising the importance and relevance of the NGHTI, ILO has adopted the NGHTI in their training module for enforcement agencies in relation to victim identification. The NGHTI is a dynamic document which MAPO and its NGO partners will continue to monitor and evaluate regularly, and update when necessary to reflect new or current trends in TIP.

### 2.3 Amendment of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM) Act 2007

Malaysia's efforts in combating TIP and the smuggling of migrants (SOM) are governed by the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM) Act of 2007. The Act came into force in 2007 and has since been amended twice, in 2010 and 2015, with the aim of strengthening the anti-TIP and anti-smuggling of migrants' legal framework, enforcement thereof, as well as adopting a more victim-centered approach for trafficked victims.

The Act is currently being revised for the third time. In order to obtain recommendations on strengthening the legislations related to TIP, **MAPO has engaged with several NGOs, CSOs, IOs and other relevant stakeholders.** These recommendations for amendments of the ATIPSOM Act were contributed by various parties, including SUHAKAM and a coalition of lawyers known as the Malaysian Centre for Constitutionalism and Human Rights (MCCHR). MCCHR had organised a consultation session with the relevant NGOs, IOs and government agencies to discuss and produce a draft with proposed amendments to the ATIPSOM Act, which was eventually submitted to MAPO for consideration. In addition, UNICEF engaged an expert consultant for the purposes of studying and proposing their recommendations for the amendments to the ATIPSOM Act, with a concentrated focus on children.

MAPO also initiated a series of engagement sessions together with the Attorney General's Chambers (AGC), related ministries and government agencies to deliberate on the proposed recommendations and other relevant issues concerning the ATIPSOM Act. Among them were hearing the concerns raised while being mindful of the areas in the ATIPSOM Act which require further strengthening or fine-tuning. Moreover, the latest revision focused on several substantive improvements, particularly on the definition of 'trafficking in persons,' the removal of the definition of "coercion" as the only critical element in determining TIP cases and also to **propose heavier sentences to the perpetrators, as well as public officials found guilty of complicity with the traffickers.** For example, ILO in its "Situation and Gap Analysis on Malaysian Legislation, Policies and Programmes, and The ILO Forced Labour Convention and Protocol" had pointed out that the current definition of "coercion" in the ATIPSOM Act "sets the bar very high and in some cases, is unattainable."<sup>1</sup> With the proposed amendment to provide clarity on the definition of TIP and the removal of having to prove coercion as the only critical element in determining TIP, it is predicted to contribute to a more effective victim identification process by enforcement agencies, as well as to improve the effectiveness in the prosecution of TIP cases by the Deputy Public Prosecutors (DPPs). Besides, the proposed amendment will also focus on **strengthening the element of shared responsibility and better coordination among the various government agencies, as well as NGOs, particularly in the victim care and protection efforts.**

The concrete step undertaken by the government to strengthen its TIP legislation is in line with the first strategic goal of NAPTIP 2021-2025, which is to improve the nation's

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<sup>1</sup> International Labour Organization: Situation and gap analysis on Malaysian legislation, policies and programmes, and the ILO Forced Labour Convention and Protocol



response to TIP by strengthening existing legal and regulatory frameworks.<sup>2</sup> The draft for the proposed amendments has been ready since October 2020 and is scheduled to be presented to the Parliament in the first session in 2021.

## **2.4 Amendment of the Employment Act 1955 and other Relevant Legislations**

During the reporting period, the Ministry of Human Resources (MOHR) continued its review process in collaboration with IOs, industry stakeholders, CSOs and other interested parties to amend the Employment Act to ensure better protection for all workers and address the issue of forced labour. This includes **the consideration to introduce forced labour as a specific offense in the Employment Act, which includes imprisonment for offenders if found guilty.** The recognition of forced labour as a specific offense will provide employees who have been subjected to forced labour an alternate avenue to seek legal redress. This provision will be strengthened by MOHR through the Department of Labour of Peninsular Malaysia to take legal action against employers who practice forced labour in employment and strengthen the legal framework for the issue of forced labour comprehensively.

Other proposed amendments to the Employment Act 1955 include the benefits of employees and the welfare of women workers, particularly maternity benefits and sexual harassment areas. Given the current pandemic situation, the amendment to the Employment Act has yet to be presented to the Parliament.

**The amendment to the Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446) came into force on 1 June 2020** and its enforcement activities was carried out from 1 September 2020, applicable to Peninsular Malaysia as well as Federal Territory of Labuan. With the amendment, Act 446's coverage has been expanded from the plantation and mining sectors to all employment sectors to provide accommodation for their workers. The effective implementation of the minimum standards outlined in the Act will serve to improve the living conditions of employees, which is often one of the common indicators of forced labour. **In February 2021, the application of the law was extended to Sabah and Sarawak in accordance with the proclamation of emergency as an immediate response to curb the Covid-19 pandemic.**

The Minimum Wages Order 2020 was gazetted on 10 January 2020 and came into effect on 1 February 2020. It stipulates two different sets of minimum wage rates, RM1,200 per month or RM1,100 per month, based on place of employment in line with the cost of living. This, however, does not apply to "domestic servants" as defined in the Employment Act.

These efforts undertaken to amend and improve current legislation relating to employment issues indicate the government's continued commitment to strengthen its laws and address gaps in its responses to TIP issues, including forced labour issues. This is another effort which is in line with the strategic goal of the NAPTIP 2021-2025 to improve the nation's response to TIP by strengthening existing legal and regulatory frameworks.<sup>3</sup>

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<sup>2</sup> Government of Malaysia, National Action Plan on Trafficking in Persons 2021-2025

<sup>3</sup> Government of Malaysia, National Action Plan on Trafficking in Persons 2021-2025

## 2.5 Enhancement of the Victim Assistance Specialist (VAS) Programme

Following the overwhelming positive feedback from the enforcement, prosecution and protection agencies, as well as from victims themselves on the invaluable services and support received from the Victim Assistance Specialist (VAS) unit over the 12-month pilot project period from 1 March 2019 to 1 March 2020, the VAS programme has been extended to the end of 2022. At the moment, there are two VASs appointed – each one from GSB and MWFC. As for the reporting period ending on 31 March 2021, both the VASs have assisted a total of seven cases consisting of 54 persons rescued and / or identified as victims under ATIPSOM (2019: 13 cases consisting of 72 persons).

There are considerations of having the VAS programme as a permanent structure. Therefore, the VAS unit has been placed within the MAPO Task Force, where the VAS will report directly to the Head of the MAPO Task Force. With this, the MAPO Task Force is now a more comprehensive multi-disciplinary team, with the component of victim assistance and support included. This further **cements the commitment of MAPO to improve on victim support and adhering to a victim-centered approach by deploying the VAS during or immediately following the rescue process to address victims' needs and concerns, and assist in victim stabilisation and interaction.**

As an effort in making the VAS programme a formal establishment, **a Standard Operating Procedures for VAS (VAS SOP) was developed and subsequently approved on 9 March, 2021.** This comprehensive VAS SOP specifies, among others, the criteria or requirements for the eligibility as VAS, the roles and responsibilities of the VAS, the guiding principles in victim engagement as well as the code of ethical and professional conduct for VAS. The VAS SOP also includes the forms and templates for reporting which the VAS is required to complete for each case assigned. The VAS SOP, which also states the training requirements of the VAS, will provide a standard set of guidelines and procedures to ensure the high quality and level of care that is expected from each VAS appointed.

As a solid step to increase the strength of the VAS unit, an Introduction Session on NGO Protection Officers (NGO PO) and VAS was conducted on 25 March 2021, organised by the NSO MAPO in collaboration with MWFC. The online session was facilitated by the current two VASs and was attended by 42 participants from numerous NGOs and other organisations nationwide. This engagement session also served as a recruitment exercise for more NGOs to join as NGO POs and as VASs, and fulfills one of the stated activities in the new NAPTIP 2021-2025, with a purpose to enhance victim care and support by increasing the number of NGO POs and VASs. In order to make this programme a success, all newly appointed NGO POs and VASs are required to undergo an orientation session and on-the-job training, and are mandated to attend on-going capacity-building programmes for Protection Officers and VASs.

MAPO targets to establish a pool of interpreters under the VAS Programme, which allows the enforcement, prosecution and protection agencies to use whenever there is a need for interpreters. The current VAS unit has been supporting the communication process by seeking the services of interpreters through their existing

network of service providers and other NGOs. With the planned expansion in the VAS programme to increase the number of VAS, there will be greater networking resources to effectively establish this pool of interpreters with more language options.

MAPO is currently in discussion with D11 (the unit in the RMP which handles cases relating to sexual crimes including child sexual crimes) to appoint D11's Victim Care Officers (VCOs) as VAS for TIP cases, particularly those relating to child trafficking. The function of D11's VCOs can be integrated into the VAS for TIP cases as they also provide support and assistance to victims of sex crimes. Currently, there are a total of 28 VCOs throughout the country. Once the collaboration with D11 is finalised, together with the VCOs providing assistance to TIP victims, the enforcement agencies and prosecution will be able to engage assistance of a VAS / VCO nationwide for TIP cases. Towards the end, a familiarisation session for the VCOs on the roles and responsibilities of the VAS will be conducted on 6 April 2021.

The MAPO has indeed made significant efforts to enhance the VAS programme. **During the pilot project, both the VASs provided their services on a *pro bono* basis. With the extension of the VAS programme and the planned expansion, MAPO has provided funding of RM 20,000 to GSB for 2021 to cover the expenses incurred by the VAS appointed from GSB.** This RM20,000 funding is part of the larger amount of funding provided to GSB for the running of its shelter for trafficked victims.

## **2.6 Development of Standard Operating Procedures (SOP) on Trafficking in Persons (TIP) for Enforcement Agencies**

During the reporting period, the Standard Operating Procedures (SOP) on Trafficking in Persons (TIP) for Enforcement Agencies, which was developed in 2013 with the aim of providing clear guidelines to the enforcement personnel in handling TIP cases, was revised and updated to reflect current trends and good practices. The revised and updated document has since been endorsed and circulated to all enforcement agencies in Malaysia, particularly the RMP, MMEA, JIM, RMCD and JTK.

This is part where the **government's efforts to standardise the enforcement agencies' response to TIP cases and facilitate better coordination and integration among enforcement agencies** as all agencies will be guided by the same SOP. Besides, this SOP is in line with the strategic goal of the NAPTIP 2021-2025 to improve the nation's response to TIP.

## **2.7 Special Programme for Irregular Migrants (PATI) – Recalibration Plan**

The Government of Malaysia is implementing a special programme for Irregular Migrants (PATI) Recalibration Plan from **16 November 2020 to 30 June 2021** in Peninsular Malaysia. The announcement for this programme was made by the Home Minister and Human Resource Minister following a meeting co-chaired by both ministers on 12 November 2020.

This plan has two main components:

- i. **Return Recalibration Programme (RP Programme).**

This programme allows PATI to **return to their countries of origin voluntarily** without prosecution and punishment.

- ii. **Labour Recalibration Programme (RTK Programme).**  
This programme **allow employers to hire PATI to work legally** with certain conditions.

The purpose of this Plan is to achieve the following objectives:

- i. **To strengthen data** on the existence of PATI in Malaysia;
- ii. **To control the spread of the COVID-19** pandemic by reducing the number of PATI in the country;
- iii. **To revitalize the economy** in certain sectors affected by the pandemic; and
- iv. **To prevent trafficking in persons, exploitation and forced labour** among migrant workers.

As of 28 March 2021, 54,780 participants registered for the **RP programme** and 42,572 of them have successfully return to their home countries.

Meanwhile, a total of **9,679 PATI** and 1,326 employers submitted applications for the RTK programme. The registrations are based on applications to work in four sectors, namely, construction, manufacturing, agriculture and plantations.

## **2.8 Implementation of the Forced Labour, Non-TIP Pilot Project (FLNTIP)**

In recent times, the issue of forced labour in Malaysia has continued to be highlighted in local and international news. In October 2020, the US Department of Labour (US DOL) added Malaysian rubber gloves to its latest list of goods produced with forced labour, after the US Customs and Border Protection (CBP) enforced a detention order on products from two key Malaysian producers of rubber gloves. Imports from these two producers were banned following allegations that the workers were subjected to forced labour which included high recruitment fees, leaving them in debt bondage, forced to work long hours beyond what was allowed by Malaysian law, hazardous work environment, workers worked under duress and threat of penalties such as withholding of wages, restricted movement and withholding of their identification documents<sup>4</sup>. Two Malaysian palm oil producers were also imposed with a US ban over allegations of forced labour in the production process.<sup>5</sup> In response to the imposed ban by the US DOL, MOHR reiterated that the Malaysian government does not tolerate or compromise on practices of forced labour, and will continue to monitor compliance, and take action against employers for violation of national labour laws and legislation.<sup>6</sup>

ILO highlighted that while Malaysia has ratified the ILO Convention 29, there are still gaps in the government's response to forced labour cases that do not meet the current

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<sup>4</sup> <https://www.malaymail.com/news/malaysia/2020/10/15/malaysian-rubber-gloves-added-to-us-list-of-goods-produced-by-forced-labour/1913005>

<sup>5</sup> <https://www.thestar.com.my/business/business-news/2020/12/31/us-blocks-palm-oil-imports-from-malaysia039s-sime-darby-over-forced-labour-allegations>

<sup>6</sup> <https://www.malaymail.com/news/malaysia/2020/10/17/hr-ministry-says-taken-action-after-us-red-flags-malaysia-for-producing-rub/1913677>

threshold of the ATIPSOM Act.<sup>7</sup> Local NGOs have often raised the issue that such forced labour, non-TIP cases are inadequately addressed by the present NRM for TIP. In order to identify the current gap in responding to forced labour cases that do not meet the threshold of ATIPSOM Act, a 12-month pilot project was proposed on 10 February 2021 and was implemented on 9 March 2021 to test an alternative referral mechanism for persons under forced labour, non-trafficking in persons (FLNTIP) cases to seek legal redress and assistance. The conversations leading up to the implementation of the FLNTIP pilot project began in earnest in January 2020, following a consultation session organised by MAPO with relevant government agencies, CSOs, NGOs, and IOs to deliberate on the victim screening process. This includes reviewing the present Interim Protection Order (IPO) / Protection Order (PO) process and permission to move freely and work within the NRM for TIP.

This pilot project aims to study two test cases to:

- i. Understand the current processes involved for victims of FLNTIP to seek legal redress, including the potential costs involved;
- ii. Identify any potential gaps or good practices of the current legal redress process;
- iii. Facilitate a consultative and collaborative process to study the feasibility of an alternative referral mechanism for the case management of FLNTIP cases through the test cases;
- iv. Obtain feedback from the various stakeholders involved in the process, including their challenges, what kind of help or support they require, and areas for improvement;
- v. Obtain feedback from the FLNTIP victims of their lived experience of the legal redress process, including what was helpful, as well as areas for improvement; and
- vi. Facilitate a consultative and collaborative process to make the relevant recommendations to MAPO on a referral mechanism for FLNTIP cases.

**This pilot project involves multi-stakeholders from NSO MAPO, MAPO Task Force, enforcement agencies, namely RMP, JIM and JTK, NGO shelter (from GSB), VAS unit, and *pro bono* lawyers to provide legal assistance for forced labour clients.** A Steering Committee was established to review the progress of the test cases, and to make its recommendations to MAPO on the feasibility and workings of an alternative referral mechanism for FLNTIP cases at the end of the pilot project.

This pilot project is another significant step towards achieving Malaysia's efforts in addressing forced labour issues, particularly in protecting the rights of the migrant workers who have been subjected to horrendous abuse and violations of their human rights, and in holding the perpetrators to account for violating the laws of the country. Implementation of this pilot project indicates that the government's commitment

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<sup>7</sup> International Labour Organization: Situation and gap analysis on Malaysian legislation, policies and programmes, and the ILO Forced Labour Convention and Protocol

towards the ILO Forced Labour Convention and Protocol and in responding to forced labour cases in line with international law and standards.

## **2.9 Establishment of the Law and Labour Policy Compliance Steering Committee and Task Force Technical Committee on Compliance with Labour Laws and Policies for the Rubber-based Industry**

The Law and Labour Policy Compliance Steering Committee was established based on the meeting between the Malaysian Rubber Glove Manufacturers Association (MARGMA) and the rubber-based industry companies with the Minister of Human Resources on 21 of July 2020 concerning the issue of the Withhold Release Order (WRO) by US Customs and Border Protection (CBP) on rubber glove manufacturing companies owing to allegations of forced labour practices. The purpose of this committee is **to ensure rubber glove manufacturers' compliance to labour laws and standards in order to eradicate the practice of forced labour. This committee was established on 29 July 2020 and consists of two levels, namely, the Steering Task Force Committee and the Technical Task Force Committee. Meetings of both committees are scheduled four times a year.**

The Steering Committee is chaired by the Secretary General of the Ministry of Human Resources. Members consist of:

- i. Ministry of Human Resources (MOHR);
- ii. Ministry of International Trade and Industry (MITI);
- iii. Ministry of Plantation Industries and Commodities (MPIC);
- iv. Ministry of Home Affairs (MOHA);
- v. Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO);
- vi. Immigration Department of Malaysia (JIM), MOHA;
- vii. Federal Department of Town and Country Planning (PLAN Malaysia);
- viii. Department of Occupational Safety and Health Malaysia (DOSH);
- ix. Social Security Organisation (SOCSO); and
- x. Other relevant ministries / departments / government agencies based on the needs and issues discussed by this committee.

Representatives of industry associations / unions:

- i. Federation of Malaysian Manufacturers (FMM);
- ii. Malaysian Employers' Federation (MEF);
- iii. Malaysian Rubber Glove Manufacturers Association (MARGMA); and
- iv. Malaysian Rubber Products Manufacturers Association (MRPMA).

This Steering Committee serves to set policies and mechanisms towards raising the industry's awareness of the law, policies and social responsibilities. In addition, the committee also considers integrated implementation of preventive measures and enforcement.

The Task Force Technical Committee on Compliance with Labour Laws and Policies is chaired by the Director General of the Department of Labour Peninsular Malaysia (DOL), Ministry of Human Resources. Members of this committee are:

- i. Policy Division, Ministry of Human Resources (MOHR);
- ii. Ministry of International Trade and Industry (MITI);
- iii. Ministry of Plantation Industries and Commodities (MPIC);
- iv. Ministry of Home Affairs (MOHA);
- v. Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO);
- vi. Immigration Department of Malaysia (JIM), MOHA;
- vii. Federal Department of Town and Country Planning (PLAN Malaysia);
- viii. Department of Occupational Safety and Health Malaysia (DOSH);
- ix. Social Security Organisation (SOCSO); and
- x. Other relevant ministries / departments / government agencies based on the needs and issues discussed by this committee.

Meanwhile, the representatives of industry associations / unions are:

- i. Federation of Malaysian Manufacturers (FMM);
- ii. Malaysian Employers' Federation (MEF);
- iii. Malaysian Rubber Glove Manufacturers Association (MARGMA); and
- iv. Malaysian Rubber Products Manufacturers Association (MRPMA).

This committee is tasked to coordinate **an integrated action plan involving committee members through statutory inspections, complaint investigations, prosecutions and compounds, advisory services / education and awareness measures in the rubber-based industry.** Furthermore, this committee will also consider initiatives to strengthen the involvement and cooperation of the industry associations / unions by implementing self-regulatory compliance on its members on compliance with current labour laws and policies. This committee also is responsible to identify weaknesses in the action plan and to provide proposals for improvement. Reporting is to be done based on the action plan to the Steering committee and it shall act on the decisions or outcomes of the Steering committee.

Besides the Task Force Technical Committee for the rubber-based industry, **MOHR had also set up Task Force technical committees to monitor compliance with national labour laws and policies in four other sectors associated with forced labour and TIP, namely, the plantations, services (restaurants and cleaning), electrical and electronics, as well as furniture industry.**<sup>8</sup>

## **2.10 Establishment of the Employee Accommodation Management Task Force**

In accordance with the spirit of enforcing the Workers' Minimum Standards of Housing and Amenities Act 1990 (Act 446), the government, through the Ministry of Human Resources (MOHR), established the Employee Accommodation Management Task Force. The fundamental objective of the Task Force is to ensure the effective and comprehensive enforcement of the Act.

For a stipulated period of time from 1 February 2021 to 17 March 2021, **MOHR had inspected 9,107 employers involving 65,743 units of workers' accommodations nationwide under Act 446. A total of 481 investigation papers had been opened**

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<sup>8</sup> <https://www.malaymail.com/news/malaysia/2020/11/15/hr-minister-enforcement-of-act-446-crucial-to-ensuring-malaysia-free-of-for/1922860>

**for further action.** Cases include failing to provide convenient and conducive accommodation for workers and failing to provide workers' accommodation certified by the Department of Labour.

### **2.11 Improved services to TIP victims at shelter homes**

As part of the initiative by the MAPO Victim Care and Protection Committee led by MWFCDC in order to enhance the victim care and protection services, **a pilot study was conducted from 1 October 2020 to 31 March 2021 to segregate shelter occupants at two government shelters for women TIP victims** in the Central Zone, by the Interim Protection Order (IPO) and Protection Order (PO) court order. Prior to this, women shelters would house both IPO and PO cases. During the six-month period, a shelter in Selangor housed only PO cases, while the other in Kuala Lumpur housed only IPO cases. The rationale of the pilot project is to study if intervention programmes in shelters can be implemented in a more targeted and effective manner by segregating the residents according to their court orders. The purpose is to **enable a more victim-centric and focused intervention according to specific groups, which are likely to have different care and support needs.** As the pilot project had just ended on 31 March 2021, a review and evaluation of the project will be undertaken, and recommendations will then be submitted to MAPO for consideration and approval.

One of the major efforts to improve on victim care and support is **the revised policy to allow child victims below 18 years old to stay with their mothers in the same shelter. This positive change in policy was implemented in the best interest of the child,** and will contribute to a better mental and emotional well-being of both child and parent. In line with the victim-centered approach, the MAPO Victim Care and Protection Committee has continued to revise its policies to allow for more freedom and choices for the residents. Therefore, effective 28 July 2020, TIP victims in government shelter homes can choose to wear their own clothes or those provided by the shelters.

### **2.12 Enhancing capacity of shelter personnel, Protection Officers, VASs and relevant service providers**

According to the new NAPTIP 2021-2025, one of the specific objectives under the Protection pillar is to enhance the capacity of frontline personnel and agencies in victim responses to be more victim-centered.<sup>9</sup> Frontline personnel and agencies include shelter personnel, Protection Officers, service providers to victims, VASs and medical and health services personnel. To kick-start the initiative **towards building capacities and understanding the responsibilities of frontline personnel in victim care and protection, an assessment session** was organised by MWFCDC in partnership with GSB in February 2021 in order to understand the issues and needs of the relevant personnel in performing their duties or providing services. The session was attended by 51 participants. In accordance with the NAPTIP and the government's stance of strengthening collaborative efforts with multi-stakeholders, a training needs analysis was included to assess participation and contribution from government officers involved in victim care and protection., relevant NGOs, as well as IOs, which work on

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<sup>9</sup> Government of Malaysia, National Action Plan on Trafficking in Persons 2021-2025



or are knowledgeable in victim care and protection.

This initiative has immensely helped in getting, extensive inputs and feedbacks from the participants for the development of two MWFCDD training manuals. By including the end result, the latest training modules would address the actual issues and needs on the ground, as well as developing the necessary skills for better delivery of victim care and protection services.

Training Manual Part 1 on “Essentials of Victim Care and Protection” will explain the foundational materials on TIP, such as introduction to TIP, victim-centered approach, trauma-informed approach, rights-based approach and gender-responsive approach. It also covers the basics of victim care and protection, and will include inputs from the participants which will address the training needs. Whereas the Training Manual Part 2 - “Guide to Effective Interventions and Recovery Programmes” will elaborate the best practices in terms of interventions and recovery programmes for TIP victims. It includes real life case studies as experienced by the participants in the course of their work, as well as their experience and evidence-based data on effective strategies towards victim recovery and empowerment.

The training manuals will be developed by GSB in collaboration with MWFCDD and is targeted for completion by the end of October 2021. A Train-The-Trainers programme will be conducted to build the capacity of selected trainers from MWFCDD and relevant NGOs who will then be able to conduct the required training sessions accordingly upon rollout of the MWFCDD training manuals. **This significant undertaking contributes towards improved and institutionalised capacity-building, which will ensure that frontline personnel are adequately equipped with appropriate skills and knowledge in the care and protection of victims.**

### **2.13 Smart partnership with government agencies, NGOs, CSOs, IOs, and foreign government agencies**

The Government-NGO-IO collaboration in organising the First National Conference on Anti-Trafficking in Persons in August 2019 served as **a key catalyst in broadening the working relationship among the government ministries/agencies, NGOs and IOs in the current reporting period.** The Government has made great strides to expand its cooperation with NGOs and IOs. This can be observed from the significant and impactful collaborative projects which the government has worked or is currently working on together with its NGO and IO partners, as described in the preceding sections. These continued collaborative efforts and the new NAPTIP 2021-2025 will propel the government-NGO working relationship to a higher level going forward.

Through NSO MAPO, the **government continues to engage with various government agencies, other (foreign) government agencies, NGOs, CSOs, IOs and academia in the sharing of knowledge and best practices in addressing TIP issues, as well as to improve the delivery system (in the aspect of enforcement, prosecution, protection, prevention, and partnership).** Among the notable engagement sessions during the reporting period are as follows:

No.	Meetings	Date	Main Agenda
1	Virtual meeting with the US Embassy and US Government Accountability Office (GAO)	4/6/2020	Networking and to learn best practices in managing the issue of human trafficking.
2	Discussion with the US Country Attaché (Homeland Security Investigation)	5/8/2020	Networking and to explore training opportunities, particularly in investigation.
3	Consultation session with NGOs, CSOs, and IOs for the development of NAPTIP 2021-2025	27/8/2020	To collate relevant input and suggestions for the development of NAPTIP 2021-2025.
4	Sharing Session with Verite (study on electronic industry in Malaysia)	1/10/2020	Networking and learn issues related migrant workers in electronic industry in Malaysia.
5	Engagement session with the Philippines' Inter-Agency Council Against Trafficking (IACAT)	5/10/2020	Sharing and learning the best practices in managing human trafficking including child exploitation from the Philippines.
6	Learning session with IACAT: Introducing Anti- Trafficking Initiatives in Public Procurement Policy and Supply Chain Management	29/10/2020	Provide basis for analysing, developing and implementing measures to identify and prevent and reduce the risk of human trafficking in government procurement supply chains.
7	Session with the International Committee of the Red Cross (ICRC)	9/11/2020	Learn best practices regarding protection mechanism.
8	Session with ASEAN-ACT: Regional Program Steering Committee (RPSC)	7/12/2020	Networking and discuss ASEAN policies and priorities in countering trafficking in persons.
9	Engagement session with the Malaysian Community Care Foundation (MCCF)	10/12/2020	Networking and discuss possibility of cooperation particularly in creating public awareness on trafficking in persons.
10	Engagement session with the Roundtable on Sustainable Palm Oil (RSPO)	26/1/2021	Networking and discuss issues related to trafficking in persons in plantation industries.
11	Engagement session with Tenaganita	26/2/2021	To discuss details about a project related to the management of trafficking cases.
12	Engagement session with academician.	11/3/2021	To discuss issues / recommendations on managing trafficking in persons cases.

### 3. PROSECUTION & ENFORCEMENT

Several key issues to be highlighted under Prosecution & Enforcement during the reporting period are as follows:

#### 3.1 Enhancing victim identification process

The Malaysian Government has taken substantial steps in addressing issues in victim identification with the development of the NGHTI and the SOPs on TIP for the enforcement agencies to assist enforcement personnel, including labour inspectors, in the process of identifying trafficking victims. Within the certain time frame given, a total of **55 training programmes** were conducted, particularly for the frontline officers, to familiarise themselves with trafficking indicators.

MAPO collaborated with ILO in developing a **Training Manual on Forced Labour and Trafficking for Labour Exploitation for Malaysian Law Enforcers**. This manual was developed as a practical guide for enforcement agencies to understand the legal frameworks for forced labour and TIP, identifying potential victims and protecting potential victims' rights and the process for referring cases. ILO also incorporated the NGHTI in the training manual which will build the capacity of enforcement personnel in using the indicators in the course of their work.

**The NGHTI and the SOP on TIP for enforcement agencies also serve to aid the enforcement officers to identify trafficking victims among the vulnerable population.** As a result, the enforcement agencies, through operations such as *Op Pintas*, managed to identify trafficking victims within the vulnerable population. For instance, the RMP successfully rescued 38 Rohingya children who were exploited in a face mask manufacturing factory.<sup>10</sup> The enforcement agencies also managed to rescue five Rohingya children in a forced labour situation at an electronic company.<sup>11</sup>

The government has also doubled its efforts in identifying trafficking victims by collaborating with NGOs and the general public. MAPO, through the Ministry of Communication and Multimedia Malaysia (KKMM), has conducted a year-long anti-trafficking campaign to educate the public on TIP, as well as to urge the general public to lodge complaints on suspected trafficking conditions, particularly involving domestic workers. The increased awareness efforts have led to several notable rescues involving domestic workers which was reported in the local media:

- *Amah warga Kemboja disyaki disimbah air panas, dipukul.* February 25, 2021.  
<https://www.utusan.com.my/berita/2021/02/amah-warga-kemboja-disyaki-disimbah-air-panas-dipukul-2/>
- *Pembantu rumah didera majikan.* November 25, 2020.  
<https://www.bharian.com.my/berita/nasional/2020/11/758401/pembantu-rumah-didera-majikan>

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<sup>10</sup> <https://www.sinarharian.com.my/article/119272/BERITA/Semasa/38-kanak-kanak-Rohingya-jadi-mangsa-kerja-paksa-di-kilang-pelitup-muka>

<sup>11</sup> <https://www.utusan.com.my/nasional/2021/03/lima-kanak-kanak-rohingya-jadi-buruh-paksa-diselamatkan/>

- *Imigresen selamatkan mangsa eksploitasi majikan. October 20, 2020.*  
<https://www.bharian.com.my/berita/kes/2020/10/748183/imigresen-selamatkan-mangsa-eksploitasi-majikan>
- *Polis tahan 2 beranak didakwa dera pembantu rumah di Sitiawan. May 12, 2020.*  
<https://www.freemalaysiatoday.com/category/bahasa/2020/05/12/polis-tahan-2-beranak-didakwa-dera-pembantu-rumah-di-sitiawan/>

In addition, the enforcement agencies made significant efforts to screen all the irregular migrants detained under SOM at the immigration depots for trafficking indicators. If the irregular migrants are found to be in a trafficking situation, appropriate care and protection will be accorded to them. Moreover, the government also launched the **Labour Recalibration Programme for undocumented migrants in the country, which began on 16 November 2020 and will remain in effect until 30 June, 2021.**<sup>12</sup> The main aim of the programme is to provide the undocumented migrants the opportunity to be legalised in Malaysia without penalties for their irregular entry and presence. Above all else, this exercise provides opportunity for the enforcement agencies to screen the vulnerable individuals for trafficking indicators as well. This exercise also forms part of the government's prevention efforts, especially among the vulnerable population.

### **3.2 Increasing prosecution efforts and conviction of trafficking cases**

The government is in the final stage of the ATIPSOM 2007 Act amendment. The amended draft is ready and scheduled to be presented to Parliament in the first session of 2021. **The fundamental revisions are to provide a clearer definition of TIP and coercion, as well as to provide heavier punishment on the perpetrators, including complicit officials.** It is hoped that the amended law would provide the necessary means to DPPs to prosecute and convict more trafficking cases.

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<sup>12</sup> <https://imigresen-online.imi.gov.my/myimms/pendaftaran?termConditionRTK>

Details relating to the total number of trafficking cases and convictions, as of 31 March 2021 are as follows:

Reporting period: 2020			Reporting period: 2021		
IPO	PO	Total	IPO	PO	Total
1101	82	1183	487	119	606

Reporting period: 2020		Reporting period: 2021	
Number of Charges	Number of Convicted Person	Number of Charges	Number of Convicted Person
69	23	140	25

As at 28 February 2021, a total of RM122,300 compensation orders were made under Section 66 of the ATIPSOM Act. In one of the successful convictions of a TIP case, the perpetrator was sentenced to a total of 33 years' imprisonment for his crime.

Another successful conviction of a case involving a Philippine victim was highlighted in the Philippines media. It was reported that the Malaysian Sessions Court reversed an initial acquittal decision and found the employers guilty under the ATIPSOM Act. The Court sentenced the employers to 10 to 12 years of imprisonment and also ordered them to pay the victim RM 20,000 in damages. The conviction was hailed as a huge victory by Philippine's Foreign Affairs Undersecretary.<sup>13</sup>

One more example of a noteworthy trafficking case is where the **DPPs in charge were lauded in carrying out their duties in relation to victim engagement and preparation for court against a high profile trafficking case involving a senior police officer as the perpetrator.** The Two experienced DPPs were assigned to prosecute the case. Prior to that, the DPPs met with the victims over three sessions which lasted between four to six hours. A VAS was assigned during the IPO period and supported the victims up to repatriation. In another case involving Malaysian victims, the DPP in charge met with the victims in advance of their court appearance. A VAS was also assigned to the case to support the victims at the request of the DPP. In these two examples, the DPPs engaged the VAS to support the victims, as they recognised the importance of victim engagement and attempted to build rapport with the victims, as well as provided reassurance to the victims that the DPPs are acting in their best interest.

In August 2020, the AGC organised a state-level workshop on TIP for DPPs as part of its capacity-building efforts. NSO MAPO presented the government's efforts in combating TIP and key initiatives undertaken to improve on case management and communication with trafficking victims, including a thorough prosecutor-victim

<sup>13</sup> <https://www.cnnphilippines.com/news/2020/10/10/Filipina-human-trafficking-victim-Malaysian-employers-convicted.html>

interaction. By using this example and opportunity, more DPPs were encouraged to engage the services of the VAS to assist them in victim interaction.

During the reporting period, a total of **14 cases were convicted under the Passport Act**. The government continued to raise awareness among the employers on the offence of withholding their workers' passports through JTK's engagements with employers, statements made by MOHR in the media, as well as in television or public appearances by representatives of MAPO. In some situations, the cases were not charged under the ATIPSOM Act or there were no convictions under the ATIPSOM Act. At this point the JTK managed to assist the workers to obtain their unpaid wages through negotiations with the employers. The JTK managed to claim unpaid wages totalling RM 19,048,326 for a total of 15,395 workers within the given reporting period. The total fines imposed on errant employers amounted to RM 586,440. These efforts to charge the employers or accused under other legislations, such as the Passport Act, Immigration Act and / or the Employment Act, shows the authorities' are determined to hold the employers or accused accountable for their wrongful actions.

MAPO continuously gives priority in building capacity of enforcement officers and DPPs. They have successfully collaborated with ILO in developing the Training Manual on Forced Labour and Trafficking for Labour Exploitation for Malaysian Law Enforcers. In addition to that, currently NSO MAPO, MOHR and ILO are collaborating to provide an online training programmes based on the Training Manual in Bahasa Malaysia for the enforcement agencies. MAPO will continue collaborating with IOs, as well as NGOs in supporting the capacity-building programmes for the government agencies on TIP. It is evident from these efforts that the initiative and efforts put in building capacities on TIP for government agencies is on top of the government's priority list and is one of the strategic goals in the NAPTIP 2021-2025.

### **3.3 Corruption and Complicity of Government Officials**

The government acknowledges that corruption is one of the contributing factors to TIP, which often involves organised crime networks and corruption within the system. As such the government resolves to strengthen its anti-corruption measures to counter complicity and eliminate corruption in TIP. The NAPTIP 2021-2025 includes a specific objective to mainstream anti-corruption efforts in combating TIP.

During the reporting period, **the government intensified its efforts to take action against corrupt government officials who are complicit in TIP, as well as SOM related activities**. These cases were widely reported in the local and international media, as the government hopes that increased publicity and awareness on cases involving corrupt officials will serve as a deterrent for government officials to be involved in such crimes.

In one of the cases reported in the local media, Bukit Aman (RMP) Criminal Investigation Department (CID) Director, Commissioner Datuk Huzir Mohamed vowed to go after enforcement personnel who are complicit with human trafficking

syndicates.<sup>14</sup> In another report, Johor police chief, Commissioner Datuk Ayob Khan Mydin Pitchay reported the arrest of a total of 22 enforcement agency personnel for colluding with human trafficking syndicates. These include JIM officers, including a senior immigration officer, as well as a marine police officer.<sup>15</sup>

During the reporting period, **33 government officials were investigated by the RMP for their involvement in TIP and SOM related activities. This has resulted in 2 convictions involving two officials.** Another **40 personnel were investigated by the Malaysian Anti-Corruption Commission (MACC)** for the same offence as a result of a strategic partnership with JIM. Some of the cases that were made public in the local news are listed below:

- *Penjawat Awam Ditahan, Disyaki Terlibat Aktiviti Pernerdagangan Orang.* January 14, 2021. <https://malaysiaaktif.my/84573>
- Immigration officers arrest a big blow to country. November 30, 2020. <https://www.nst.com.my/opinion/columnists/2020/11/645522/immigration-officers-arrest-big-blow-country>
- NST Leader: Of crooked officers and illicit incomes. November 22, 2020. <https://www.nst.com.my/opinion/leaders/2020/11/643145/nst-leader-crooked-officers-and-illicit-incomes>
- 40 members of human trafficking syndicate nabbed in Johor. Jun 8, 2020. <https://www.astroawani.com/berita-malaysia/40-members-human-trafficking-syndicate-nabbed-johor-246217>
- *3 polis, 11 dalang seludup warga asing ditahan.* Jun 22, 2020. <https://www.bharian.com.my/berita/kes/2020/06/703092/3-polis-11-dalang-seludup-warga-asing-ditahan>
- *18 penguatkuasa ditahan seludup PATI.* Jun 18, 2020. <https://www.bharian.com.my/berita/kes/2020/06/701577/18-penguatkuasa-ditahan-seludup-pati>
- *Seludup PATI, pegawai polis ditahan.* July 16, 2020. <https://www.hmetro.com.my/mutakhir/2020/07/600473/seludup-pati-pegawai-polis-ditahan>
- *Empat lagi pegawai, anggota penguat kuasa ditahan seludup migran.* Jun 24, 2020. <https://www.bharian.com.my/berita/kes/2020/06/703746/empat-lagi-pegawai-anggota-penguat-kuasa-ditahan-seludup-migran>
- *Pegawai Kanan Imigresen Ditahan Terlibat Sindiket Seludup PATI.* July 3, 2020. <http://www.pnbbcportal.com/2020/07/03/pegawai-kanan-imigresen-ditahan-terlibat-sindiket-seludup-pati/>

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<sup>14</sup> <https://www.thestar.com.my/news/nation/2020/06/10/cops-in-cahoots-with-human-trafficking-rings-identified-following-arrests-says-bukit-aman-cid-director>

<sup>15</sup> <https://www.thestar.com.my/news/nation/2020/06/24/human-trafficking-four-more-enforcement-agency-officers-picked-up>

- *Anggota penguatkuasa bersubahat sindiket PATI dikenal pasti.* April 11, 2020. <https://www.bharian.com.my/berita/kes/2020/04/675843/anggota-penguatkuasa-bersubahat-sindiket-pati-dikenal-pasti>

### **3.4 Enhancing the Capacity of Law Enforcement as well as Interagency and International Cooperation**

The enforcement agencies under MAPO organised and attended several capacity-building workshops and seminars to equip officers with the relevant knowledge to investigate and prosecute TIP cases. In addition, the enforcement agencies also organised 17 joint-operations to investigate TIP cases. The enforcement committee under MAPO conducted meetings between the enforcement agencies to share pertinent input, as well as intelligence on TIP issues. During the reporting period, five enforcement agencies were involved in the following capacity-building sessions:

- Royal Malaysia Police (RMP) – organised 23 courses on ATIPSOM;
- Immigration Department of Malaysia (JIM) – organised 6 courses on ATIPSOM;
- Malaysian Maritime Enforcement Agency (MMEA) – attended 5 ATIPSOM trainings organised by UNICEF, ILO and NSO MAPO;
- Department of Labour (JTK) – 14 courses;
- Royal Malaysian Customs Department (RMCD) – organised 2 courses on ATIPSOM.

During the reporting period, there were **17 joint operations** under ATIPSOM, which involved several enforcement agencies, notably RMP, JIM, JTKSM and MAPO Taskforce. In one of the most recent joint operations under ATIPSOM, which was led by JTKSM with the cooperation of RMP, JIM and MAPO Task Force; several migrant workers were rescued from their work place. For this joint operation, the VAS unit was also engaged for the rescue operation. Once the situation was secured, the VAS proceeded to engage with the migrant workers to de-escalate their distress by explaining to them the situation and attending to their concerns and queries with the assistance of two interpreters brought in by JTKSM and the VAS unit. The inclusion of the VAS unit and interpreters in this joint-rescue operation facilitated a more victim-centered response during the rescue process. With the planned expansion of the VAS unit, more rescue operations will be able to include the VAS as part of the rescue team are foreseen

In an effort to standardise the training of the police force on TIP and SOM, NSO MAPO and RMP are collaborating to develop a training manual specifically on TIP and SOM for the use of police personnel at borders. This training manual will be implemented through a 12-month pilot project to obtain feedback and further input from the participants, and will subsequently be implemented nationwide. Following the inclusion of NGHTI in the enforcement SOP, MMEA and RMCD has included a specific focus



on indicators for the identification of TIP victims before all raids / operations in the debriefing procedure

In May 2020, the government **established the National Task Force (NTF)**, an entity coordinating enforcement agencies involving the **Malaysian Armed Forces (ATM), Royal Malaysian Police (PDRM), Malaysian Maritime Enforcement Agency (MMEA), Ministry of Health (MOH), Malaysian Civil Defence Force (APM), Malaysian Immigration Department (JIM) and Malaysian Volunteer Department (RELA) to Strengthen National Border Control** with the implementation of Ops Benteng to prevent the spread of the COVID-19 pandemic in the country.

### **3.5 Improving Efficiency of TIP Case Prosecution Process**

The government established a Special Court for Anti-Trafficking in Persons which focuses specifically on TIP cases. This helps to ensure that TIP cases are being processed effectively and efficiently, thus reducing the length of time the victims have to remain in the country if they choose to return to their home countries. In previous years, there were complaints, particularly from NGOs, of the lengthy period victims have to stay in shelters pending repatriation, some for as long as 12 months. Now **with the establishment of the Special Court, the case prosecution process has been expedited, and victims are now generally able to go home within nine months** following the directive for the disposal of cases, if there are no unforeseen circumstances such as restrictions in travel and the closure of court sessions due to the pandemic. The Special Court has registered **48 cases** related to trafficking for the period of April 2020 to March 2021.

MAPO, through the monthly Victim Assessment & Coordination Committee (VAC) meetings and Case Management Committee (CMC) meetings, also monitors and ensures that there are no unnecessary delays in the process of prosecuting TIP cases. At the moment, MAPO is also reviewing current mechanisms used by the Court Registrar Department in prosecuting TIP cases. This is to find other innovative ways to increase judicial familiarity in managing TIP cases.

The government is in the process of **enhancing data digitalisation** in an effort to leverage its own vast and complex data to better serve the stakeholders. For example, the Court Registrar Office is now in the process of improving data digitalising and developing a mechanism for digitalising court proceedings at remote areas or during the MCO. The progress of this effort will also be monitored and reported to the relevant committees under MAPO, which is parallel with the specific objective number 25 under the fourth Pillar of NAPTIP 2021-2025, specifically to develop and further improve an integrated user-friendly information management system that facilitates timely, comprehensive collection, analysis of statistical and disaggregated data.

## **4. PROTECTION & COOPERATION**

### **4.1 Enhancing Protection Services**

For the current reporting period, MAPO had approved **76 applications** from IPO and PO for **permission to move freely**. However, due to the movement restrictions

imposed as a result of the Covid-19 pandemic, this initiative has been dampened. Considering the health risks involved, the victims are not encouraged to leave the shelter homes. In fact, the victims themselves did not feel safe to move about due to the rising cases of Covid-19 reported.

During the intermittent periods where the MCO was lifted, male TIP victims were able to move freely without unescorted. However, most female TIP victims who were able to move freely requested to be accompanied due to the unfamiliarity of the new environment (as some have been rescued from other states) and for safety reasons.

MAPO, in collaboration with MWFC, has implemented **the use of internet phone call applications to increase communication** between victims and their family members. This initiative allows the victims to have greater access to communication with their families, as well as to reduce the cost to the shelter homes, as calls to some countries are expensive using landline phone service and the shelter homes have to work within a certain budget allocation for phone calls.

#### **4.2 Deepening of Cooperation with NGOs and Other Organisations**

MAPO continues to forge smart partnerships with various NGOs and CSOs in the effort to combat TIP in Malaysia while providing support and assistance to the TIP victims. The participation of SUHAKAM and three NGOs, namely, the National Council of Women's Organisations (NCWO), Tenaganita and GSB, at MAPO meetings are invaluable in representing the voices of the victims, as well as the other NGOs working on TIP issues. One of the proposed amendments in the ATIPSOM Act is to allow for an increase in the number of NGO participation in MAPO. MAPO is aware of the importance of NGO's inclusion in the TIP policymaking process and has increased its efforts to engage and consult with the NGOs as well as IOs. This is evident in the consultation sessions and collaborative projects between MAPO and relevant NGOs and IOs during the reporting period which relate to TIP policies, as well as victim care and protection efforts.

For example, **NGOs like GSB and PL8 were appointed as members of the Technical Working Group (TWG) on NAPTIP 2021-2025 development, together with representatives from ILO, UNICEF and IOM.** In addition, two multi-stakeholder consultation sessions were organised for the development of the NAPTIP 2021-2025, in which about 50 participants from NGOs, CSOs, IOs and academia were given the platform to contribute their recommendations and ideas, as well as raise any issues of concern. The involvement of NGOs and IOs in public policymaking was also evident in the development of the NGHTI and consultations on the amendment of the ATIPSOM Act.

During the reporting period, **MAPO continued to provide financial assistance to NGOs**, namely, GSB and Tenaganita, for operating their shelters for women trafficked victims, amounting to a total of **RM 755,920**. Other costs included in the funding to GSB are the financial support for the VAS appointed from GSB, as well as for programme activities which GSB runs in the government shelters for women victims in Selangor and Kuala Lumpur. The GSB and Tenaganita, which run the NGO shelter homes for TIP victims, are members of the Victim Assessment & Coordination Committee (VAC), where NSO MAPO will facilitate meetings among the government

agencies (enforcement, prosecution, protection) and the two NGOs, to review and discuss the outstanding cases on hand in the shelter homes. These VAC meetings provide the NGOs the avenue to raise any issues of concerns, including issues on suspected complicity of government officials, in the course of their work in managing TIP cases in their shelters.

As the government's shelter partners, MAPO, including the enforcement agencies, namely RMP, JIM and JTKSM, go the extra mile in responding promptly to any request for assistance by Tenaganita and GSB. NSO MAPO, MAPO Task Force as well as Unit D3 ATIPSOM of RMP are directly accessible to these NGO partners in relation to any of the TIP cases they manage when they require assistance. For instance, during the reporting period, the **Tenaganita shelter in Penang had sought the assistance of NSO MAPO for more than five cases**, which include liaising with state enforcement agencies, such as the respective Investigation Officers or the state Immigration Department to obtain their cooperation with Tenaganita's cases. In another case, another NGO had sought the guidance of the MAPO Task Force to address a situation of suspected complicity of certain parties in relation to one TIP case the NGO was managing. The MAPO Task Force responded swiftly by providing advice to the NGO on how to proceed.

In a number of instances during the reporting period where the NGOs presented their cases to NSO MAPO, RMP or the MAPO Task Force and requested for assistance with the cases. For example, **in November 2020, Tenaganita and the Indonesian Embassy, upon receiving information of a potential trafficking and abuse case of a domestic worker, referred the case to D3 in Bukit Aman**. The team from D3 acted swiftly to rescue the tortured and abused domestic worker and arrested the employers. Tenaganita had commended the police for responding to their request for rescue without hesitation, and by doing so, had saved the domestic worker from the abusive situation. The domestic worker was able to receive medical treatment and surgery for her injuries. In some cases, the authorities were not able to assist, as the individuals concerned chose not to proceed to lodge a police report. In such situations, the enforcement agencies would not be able to respond or regard the related cases as TIP cases under the ATIPSOM Act.

There were also some cases whereby after further investigations, the authorities were unable to classify as TIP under ATIPSOM Act due to the lack of evidence of TIP elements. MAPO is aware of such incidences where the NGOs would have differences of opinions with the outcome of the victim identification process, and have been open to receive the NGOs' grievances and review the facts of the case. There have also been cases where MAPO had responded and intervened to have the relevant enforcement personnel review the decisions made. For example, following a complaint lodged by Tenaganita on one of their cases where the rescued person did not receive the PO and was handed over to JIM and placed in a detention center for deportation, MAPO had written in to the Director General of JIM to seek an exemption on behalf of Tenaganita, to allow the person to remain at Tenaganita's shelter and repatriated, instead of remaining in the detention center. This reflects the government's efforts in responding to TIP cases in a victim-centered manner.

MAPO has often responded to the NGOs when requests are made and after careful review of the cases concerned. MAPO is aware that there could be some

discrepancies in the understanding of the victim identification process among some enforcement personnel at the state level. In addressing this area, the NGHTI and the SOP on TIP for enforcement agencies have been developed and capacity-building sessions are in the pipeline for enforcement personnel at the state level, in addition to the further amendment to the ATIPSOM Act to more clearly define what is TIP.

Besides the VAC meetings by MAPO, the MWFCDD also conducts regular meetings, namely, the Coordination Committee Meetings Amongst TIP Shelter Homes, where representatives from all government and NGO shelter homes meet to discuss and highlight any issues or concern relating to the provision of shelter services or any cases in particular which require further attention. MWFCDD, as the lead in the MAPO NAPTIP Committee for Victim Care and Protection, will subsequently inform and update MAPO and the other MAPO NAPTIP Committees on Protection matters when they meet during their regular MAPO NAPTIP meetings.

MAPO is currently exploring options to ensure the sustainability of funding for the NGOs to run shelters for TIP victims. MAPO, together with MWFCDD, are encouraging more NGOs to open up TIP shelters in the other states, such as in Sarawak and in the northern region, and to consider providing shelter men and children victims. One NGO has expressed its intention to open a TIP shelter in Perak, while another NGO indicated its interest to open a TIP shelter in Sarawak. MAPO and MWFCDD are committed to support NGOs to provide shelter services to TIP victims, and will continue to engage with NGOs to partner with the government in enhancing the country's victim care and protection services in the best interests of TIP victims. In addition to providing funds for NGO shelters, MAPO, through MWFCDD, also provide funding to NGOs for TIP awareness and prevention programmes. During the reporting period, **RM 11,880** was provided to an NGO called **Stop Human Trafficking (SHUT) to organise an awareness** campaign on TIP. NSO MAPO had also cooperated with SHUT in one of its proposed awareness and prevention programmes which involved the television production of a 10-episode docu-series on TIP.

In September 2020, the Sarawak state government, through the resident office in Sibu, organised an interfaith conference on TIP in conjunction with the Malaysia Day celebration. During this occasion, MAPO presented the government's efforts in combating TIP, as well as in victim care and protection. Among the issues that MAPO shared about is the urgent need to establish a shelter home in Sarawak and welcomed participants from various religious bodies to consider responding to the need. The conference was attended by about 250 participants, comprising community leaders, NGOs and multifaith bodies.

The government shelter homes work together with NGOs such as GSB, SUKA Society and Yayasan My Kaza'a to provide support services to the TIP victims. These include counselling and other therapeutic services, language classes, income-generating projects, educational sessions on TIP and rights of migrant workers, as well as recreational activities. The Technical and Vocational Educational Training (TVET) pilot project for TIP victims, initiated in March 2019 through the collaboration of MAPO, the Manpower Department of MOHR and Ministry of Youth and Sports, offers TIP victims the opportunity to take up courses in nine-programme areas comprising basic skills training in the English language, computing, cell phone repair, photography, multimedia applications, printing, automotive and car servicing, air condition servicing

and makeup classes. Unfortunately, due to the pandemic, this project had to be put on hold in 2020. In the near future when the situation improves, the government intends to resume providing such support to victims to acquire new skills, which will better equip them in seeking job opportunities whether at home or abroad. The government has also sought the cooperation of the NGOs and the IOs to support in the empowerment and capacity-building of the TIP victims as well as in helping them with the reintegration process in their home countries.

The Case Officers in the shelter homes would seek the cooperation of NGOs, particularly when the victims request for assistance for safe repatriation. The VAS unit, through their networks with the NGOs and IOs, have also assisted some victims with their reintegration in their home countries. For example, in one case involving several women victims from Viet Nam, the VAS sought the assistance of an NGO which has a network in its home country, to receive the women upon their return. The NGO in the home country subsequently assisted the women by providing them with training and eventually helped them to secure jobs. These women are reportedly doing well in their new jobs and are happy to remain in their home country. In another case, VAS linked two women who were being repatriated to their home country with an NGO in the home country, who followed up on the women upon their return to ensure that they reached their homes safely. In another case of networking efforts with NGOs, a group of women victims were referred to an NGO in the home country in India, where support was provided in terms of temporary shelter, finding jobs and therapeutic services for their recovery and healing process.

On 22 January 2021, **the network of NGOs called JHAMS (Joining Hands Against Modern Slavery) organised a capacity-building session on TIP** for its members, in which a representative from NSO MAPO was invited to present on the topic “MAPO: Mechanisms, Structures & Partnerships to Combat Trafficking in Persons.” This was an opportunity for NSO MAPO to raise awareness among public and understanding of TIP and the government’s response to it, and is part of NSO MAPO’s on-going engagement efforts with the NGOs.

#### **4.3 Enhancing and Streamlining the Approval Process for Employment**

MAPO has developed a **survey form for victims to indicate their interest to work in Malaysia** and their choice / types of job preference. Currently, the survey forms are available in six languages (Myanmar, Tamil, Thai, Viet Nam, Bengali, and Mandarin). The survey form translation process was done with cooperation between the Ministry of Foreign Affairs and related foreign diplomatic missions. However, based on the survey, no victims were interested to work due to movement restrictions caused by the Covid-19 pandemic. They were eager to go home as soon as possible.

MAPO is also exploring job opportunities for TIP victims under the MyFutureJobs programme organised by the MOHR to provide jobs to TIP victims if they are interested to remain in Malaysia to work. In the meantime, MAPO has streamlined the approval process for the permission to move freely and work by requiring that the Risk Assessments for approval be completed by the 14th day of the IPO period and submitted to MAPO. Any rejection of permission to move freely by the respective Investigating Officer can be reviewed by MAPO. If the individuals are issued with the PO, the application to move freely can be processed more expeditiously. In addition,

if the victims indicate that they are interested to work, the application for permission to work can also be processed simultaneously. Again, the CMC meetings provide an avenue for MAPO to monitor any delays in the process.

#### **4.4 Enhancing Case Management Services**

MAPO extended the VAS programme and proceeded with the initiative to expand the VAS unit by recruiting more VAS from among the NGOs as one of the key strategies to enhance support services and case management services to TIP victims. The fundamental objective of the programme is to assist victims, as well as the Investigating Officers and DPPs in case management.

The AGC also released an internal circular to remind the DPPs to give priority to their engagement with TIP victims in order to build rapport with the victims. This will help to improve the interviewing process with victims so as to obtain information relevant and crucial for case prosecution, and will help to increase the potential for successful prosecutions. Some of the DPPs and Investigating Officers have begun engaging the services of the VAS to assist them with victim interaction, and this has enabled a more victim-centered experience for the victims. With the expansion of the VAS unit and increase in awareness of the VAS programme in store, it is expected that DPPs-victim engagement will see tremendous improvement.

For example, during the reporting period, two DPPs had engaged the VAS to assist them in victim engagement and to check in on the well-being of the victims during the court process. The DPPs provided positive feedback to NSO MAPO about having the VAS programme and supported the idea that this programme be expanded so that more TIP cases can use the services of the VAS for victim engagement. They also encouraged other DPPs and Investigating Officers working on TIP cases to use the services of the VAS.

As an on-going effort to improve on case management, **MAPO continues to conduct VAC meetings and CMC meetings on a monthly basis** to resolve any issues related to case management as well as victims at the shelters.

## **5. PREVENTION & FORCED LABOUR**

### **5.1 Awareness and Prevention Campaigns**

MAPO, through its Media and Publicity Committee, has been actively producing and airing numerous public service radio broadcasts, television segments, Information on Wheels (IOW), billboards and banners to raise awareness on TIP issues and to promote the government's efforts in combating this crime. The government continued to provide banners and other signage at airports in several languages to help raise awareness and educate migrant workers about TIP and their rights in Malaysia. There was a total of **55,365 public service announcements** made during the reporting period.

For the victims residing in government and NGO shelters, one of the key prevention initiatives undertaken with the cooperation of the NGOs is to educate the victims on

issues such as what is TIP, indicators of forced labour, their rights as workers, the relevant employment and immigration laws in Malaysia and where to seek help should they choose to come back to Malaysia in future. It is hoped that educating the victims will prevent them from being re-trafficked, and share this knowledge and experience with their friends and family members in order to prevent them from falling prey to traffickers in future.

## **5.2 Addressing Forced Labour and Other TIP Issues Relating to Migrant Workers**

The MOHR is currently **in the process of amending the Employment Act of 1955**, which includes improvement to domestic workers' welfare. The enforcement agencies continued with their efforts to investigate allegations of abuse of domestic workers received from NGOs, the public, or reported by the victims themselves. Besides this, the MOHR has amended the Private Employment Agencies Act of 1981 (Act 246), which strongly spells out the responsibility of the employment agencies to adhere to the laws by imposing bonds according to their respective license of recruitment and recruitment fees that can be charged to the employers. The amendment of Act 246 also increases the amount of penalties for private employment agencies that commit violations under the Act.

Meanwhile, Memorandum of Understanding (MoU) with source countries, such as Bangladesh and Nepal have established the total migration cost structure for the recruitment of foreign workers. In this case, each source country is responsible for ensuring that these agreed cost structures are implemented. Besides, the MoU signed with the source countries includes the implementation of pre-departure training sessions in the source country and post-arrival orientation programme in Malaysia.

In addition, **the Employer's Undertaking for the employment of foreign workers in Malaysia** issued by the Department of Labour includes several conditions that must be complied with by the employer. For example, during the period of employment of foreign workers, the employer cannot retain the passports from them in accordance with the Passport Act of 1966 (Act 150). Moreover, the Guidelines and Tips for Employers of Foreign Domestic Helpers also stipulates the rights of domestic helpers regarding their passports. The rights of employees to hold their passports have been included in MoUs with origin countries and employment contracts. All embassies and relevant agencies have been informed of this matter.

The reinforcement of the Minimum Standards of Housing and Amenities Act (Amendment) of 1990 (Act 446) also stipulates the provision of safe boxes or vaults to store important documents, including passports and identity cards. New rules for the minimum standards that employers must adhere to when providing housing for their employees were published. That includes requirements for sleeping facilities, lockers for workers to allow for safekeeping of passports, as well as the provision of water and electricity. Failure to adhere to the minimum standards can result in imprisonment for up to three years or fine not exceeding RM 200,000 or both for the offender.

Among the initiatives implemented in addressing the issue of labour trafficking are **periodic and random inspections, as well as integrated inspections from time to time**. The amendments gave powers to six ministries, including the Ministry of Housing

and Local Government, the Ministry of Domestic Trade and Consumer Affairs, the Ministry of International Trade and Industry, to enforce the Act. MOHR is also empowered to direct any department or agency to carry out enforcement on its behalf.

In 2020, the **Labour Department had conducted 23,236 inspections** over various business sectors and industries. During the reporting period, there was a total of **481 investigation papers against companies in violation of Act 446**. As at the production of this report, there were four convicted cases, while the rest are still under investigation. The government, through the Department of Industrial Relations, conducts visits to the employers' premises to convey information on Malaysian labour legislation, including workers' rights and employees' rights. CSOs and the MTUC also conduct employee rights' awareness programmes through the Migrant Resource Centre (MRC).

During the reporting period, **MAPO collaborated with PL8 in developing a mechanism for the reporting** of suspected TIP cases and the dissemination of information with regard to TIP and the rights of migrant workers. This mechanism, which employs the use of a Chatbot, is in the final stages of implementation and is expected to be rolled out in 2021.

MOHR and JTK continued to engage with ILO for capacity-building of its labour inspectors on forced labour and child labour issues. The ILO had provided technical support in the development of the National Action Plan on Forced Labour and the National Action Plan on Child Labour, which MOHR is including as part of its capacity-building programme for its labour inspectors.

In recognising the importance of migrant workers' rights to hold their own passports, the action of withholding an employee's passport by an employer or other persons is clearly stated as an offence in MoUs with source countries, as well as in employment contracts.

### **5.3 Malaysia's Commitment to Eradicate Forced Labour Issues in Palm Oil Sector**

Malaysia is committed to Agenda 2030 and the Sustainable Development Goals (SDG), a United Nations initiative. Malaysia has also made significant efforts to develop a sustainable oil palm sector, supporting the Roundtable for Sustainable Palm Oil, and more recently, introducing the Malaysian Sustainable Palm Oil (MSPO) scheme.

The MSPO certification has been mandatory from 1 January 2020 in line with the government's announcement on certification of compliance to elevate the industry to global standards on 24 February 2017. The mandatory implementation aims to enhance the image of the country's palm oil industry in terms of sustainability, while fulfilling the demand for certified palm oil in global markets.

The MSPO certification provides credible, sustainable and responsible management, to bring about positive social, environmental and economic impacts, while minimising the negative impacts, particularly on its people and the environment. The scheme



provides general principles for the production of sustainable palm oil that covers the 3Ps - People, Planet and Profit.

**Principle 4 of the MSPO clearly states that the policy under this principle is to protect human rights**, such as ensuring that such work meets the standards of equality, salaries and employment environment in accordance with the minimum standards of the law of the country. In addition, basic facilities must also be provided by employers to workers, their families and the local community. Workers are also given the right to join unions or to choose representatives from the workforce. Sexual harassment, workplace violence and the recruitment of minors are prohibited.

The implementation of **the MSPO will create greater opportunities for all, reduce inequalities**, raise basic standards of living and promote integrated and sustainable management of natural resources and the ecosystem. Thus, the production of sustainable palm oil does not involve policies that commit to deforestation, peat development, and exploitation of workers.

To date, due to the Conditional Movement Control Order (CMCO), MPIC only managed to organize three engagement sessions (physical and online) involving 729 participants representing the industry players in the southern and eastern regions.

#### **5.4 Addressing Forced Labour Issues in the Manufacturing Sector**

The outbreak of the COVID-19 pandemic has battered economies around the world. On the domestic front, while industries and businesses are slowly recovering from the impact of the pandemic; the intermittent surge in COVID-19 clusters has raised an equally growing concern in relation to labour or workers' rights. Hence, the issue of workers' rights has been in the headlines in Malaysia, impacting not only business operations of industries in Malaysia but in other international markets such as the U.S. and the E.U.

As such, the lead agency responsible for manufacturing sector, **MITI has collaborated with various government agencies, including the U.S. Embassy in Kuala Lumpur, Responsible Alliance Business (RBA) and IOM in organising sessions with national associations, foreign chambers and industry associations to focus on pertinent issues** as follows:

- i. Implementation of the Employment Act in relation to elimination of forced labour elements and Workers' Minimum Standards of Housing and Amenities Act, or *Akta 446*;
- ii. Mechanisms for industry resilience in the global supply chain - sustainable recognition related to labour standards to the U.S. and forced labour risks in the global supply chain;
- iii. the labour framework in major importing countries (U.S., E.U. and Australia), related information to prevent restrictions / bans against their merchandise, and build capacity in dealing with the restriction order / ban of merchandise in those importing countries.

In addition, several **meetings were held with U.S. Customs and Border Protection to attain better understanding and to be updated on forced labour issues**, as well as to discuss ways forward on the WRO process.

Apart from that, several news / articles on ethical recruitment practices, compliance with global labour laws and the necessary ecosystem to increase industry competitiveness, were aired in the mainstream media in December 2020.

Together with other ministries, including the Human Resources Ministry, MITI has participated in the 11,476 inspections under the Task Force Inspections (MCO Monitoring and Enforcement) at both the factory and non-factory (premise) during the reporting period.

MITI also organised an engagement session with the industry association and chamber of commerce on current policies was held on 22 January 2021, and hence was also notified about eight briefing sessions on the compliance to the Act 446 and awareness on forced labour issues organised by Federation of Malaysian Manufacturers (FMM). This has also served the specific objectives underline in the Prevention as well as Partnership Pillars under NAPTIP 3.0.

## **5.5 Government Social Obligations**

Malaysia has been swift and serious in both its action and commitment in dealing with the Covid-19 pandemic. since its emergence over a year ago, the government continues to be steadfast in its efforts to protect those within Malaysian borders. This includes some of the most vulnerable communities comprising foreign workers, migrants, refugees, asylum seekers and stateless people.

The government realised that poor housing conditions for foreign workers contributes to higher Covid-19 infection rates to Covid-19. In response to the situation, the Malaysian Parliament passed amendments to the Worker's Minimum Standard of Housing and Amenities Act of 1990. These improvements include a minimum size requirement for housing, as well as basic amenities and safety features to ensure the health and well-being of foreign workers. The amendments are also in line with Malaysia's efforts to comply with International Labour Standards.

Additionally, **a programme to subsidise Covid-19 screenings for foreign workers was also launched through the Social Security Organisation's (SOCSO) Prihatin Screening Programme.**

**The National COVID-19 Immunisation Programme has been an inclusive programme for all those staying in Malaysia. Efforts taken** include a comprehensive plan covering pre-implementation, implementation and post-implementation that takes into account the provision of facilities, manpower coordination, guidelines, monitoring, reporting and support infrastructure to ensure comfortable and safe overall facilities for the people. The COVID-19 National Immunisation Programme document launched on 16 February 2021 is a living document and will be updated from time to time for public reference. **The implementation of this programme covers frontline personnel, high-risk groups, citizens and non-citizens aged 18 years and above to achieve cluster**

**immunisation. This will include TIP victims placed in government / NGO shelters, as well as undocumented migrants.**

On a separate note, MITI has taken a proactive and responsive step by introducing a comprehensive initiative known as **Safe@Work** aimed at balancing the operational sustainability of the manufacturing sector with the control of the spread of the pandemic among workers. Safe@Work is a Standard Operating Procedure (SOP) that can be implemented by companies in the manufacturing sector requiring employers to provide safe accommodation for employees, as well as to comply with standards under the Minimum Standards of Accommodation and Housing for Employees Act of 1990 (Act 446). It also entails responsibilities relating to management of employees who are COVID-19 positive, close contacts, health screening, as well as measures to prevent transmission among employees.

## **6. THE REAL AND UNTOLD STORIES**

During the reporting period, there were a number of incidences which attracted the attention of the public and international community. While some of these incidences may not be under the purview of MAPO or fall under the ATIPSOM Act, in the spirit of transparency and integrity, they are worth addressing in this Country Narrative Report, as they have impacted the image and credibility of MAPO as well as Malaysia. The following updates or explanations are from the point of view or understanding of MAPO and are presented for the purposes of this Country Narrative Report.

### **6.1 Employment Survey in Oil Palm Plantations**

The Cabinet first directed the Ministry of Plantation Industries and Commodities (MPIC) to undertake a comprehensive study on 24 March 2017 in response to the United States Department of Labor (DOL) listing Malaysia in its List of Goods Produced by Child Labor or Forced Labor (TVPRAList). The Employment Survey in Oil Palm Plantations was carried out to estimate the prevalence of forced labour and child labour in oil palm plantations in Malaysia. This study was commissioned by MPIC. The survey was conducted by the Department of Statistics Malaysia (DOSM) with technical support from the International Labour Organization (ILO).

**The findings of the study were submitted to the U.S. Embassy in Malaysia on 4 November 2020.** The full 141 pages of report can also be obtained from the Ministry's portal at this link [https://www.mpic.gov.my/mpi/images/01-Bahagian/PSA/MPIC\\_EmploymentSurvey2018\\_FINAL.pdf](https://www.mpic.gov.my/mpi/images/01-Bahagian/PSA/MPIC_EmploymentSurvey2018_FINAL.pdf)

### **6.2 Status of the Royal Commission of Inquiry (RCI) on Wang Kelian Issue**

The issue of the Wang Kelian mass graves discovered in 2015 continues to be raised and highlighted as one of the government's failures to address the corruption and complicity of government officials. A Royal Commission of Inquiry (RCI) was established in January 2019 to conduct a thorough investigation of the incident, including examining all documents and evidence relating to the case. The RCI was led by former chief justice, Tun Arifin Zakaria, aided by panel members Tan Sri Norian

Mai, Noorbahri Baharuddin, Tan Sri Razali Ismail, Junaidah Abd Rahman, Nazirah Hussain and Tan Seng Giaw. The RCI conducted a 17-day inquiry between April to June 2019 which involved a total of 48 witnesses.<sup>16</sup> The RCI report was presented to His Majesty, the King in September 2019, and was subsequently tabled at the Cabinet in January 2020 by then Home Minister, Tan Sri Muhyiddin Mohd Yassin.

However, several unpredictable events had impacted the country and caused delayed the review of the RCI report by the Cabinet. This include the change in Government of Malaysia in March 2020, followed by the outbreak of the Covid-19 pandemic following which the country went into a Movement Control Order (MCO) from 18 March 2020. As the new government grappled with the worsening situation arising from the pandemic, a decision was made to enact a state of emergency to allow the government to focus its resources and attention in tackling the pandemic and flattening the curve. During this time, Cabinet meetings were suspended. When the meetings resumed, the Cabinet focused on more pertinent issues relating to the pandemic and the country's economy. Other matters, including the RCI report and amendments to legislations such as the ATIPSOM Act and the Employment Act, have been pushed behind as there were greater priorities for the government to address.

Some local and international human rights groups or NGOs have raised concerns that this delay in making the RCI report public is an indication of the government's refusal to be transparent about the issue or that the government has something to hide. It was noted that even in the previous US TIP Report 2020, this was one of the contentious issues flagged as a negative report on the government.<sup>17</sup>

**The Government of Malaysia remains committed in addressing this long-standing issue.** In the most recent development pertaining to the RCI report, MAPO was made to understand that the RCI report will be made public upon successful declassification of the document. This is expected to happen by mid-2021.

As a response to take a tough stance against corruption and complicity of government officials, MAPO has continually stressed that it will not hesitate to come down hard on any of its enforcement personnel if found to be complicit with TIP and people smuggling syndicates. This is evident by the public reporting of cases which involved the complicity of government officials. MAPO had an engagement session with border control agencies on 23 November 2020, involving 58 personnel, to address issues of TIP and SOM at the borders. During this session, MAPO stressed the **importance of upholding integrity and responsibility among government officials in performing their duties.**

### **6.3 Return of Myanmar Nationals to Their Home Country**

In February 2021, it was widely reported in the local and international media that the Government of Malaysia had, in bad faith, expelled more than 1,000 Myanmar nationals. In the numerous news articles, the government was accused of undertaking this matter in secrecy and being in contempt of a court order, as well as breaching the

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<sup>16</sup> <https://www.thestar.com.my/news/nation/2019/06/18/wang-kelian-rci-concludes-report-ready-by-september>

<sup>17</sup> US Department of State, 2020 Trafficking in Persons Report, Page 329.

principle of non-refoulement. Human rights groups and UN agencies claimed that some of the people sent back could face persecution when they return to Myanmar. Also as UNHCR was not able to make any assessments, there were no proper screening process were done to ensure that no refugees or asylum seekers were sent back. UNHCR had claimed that the government had denied them access to the immigration detention centers since August 2019.<sup>18</sup> It was further reported that UNHCR claimed that there were at least six people registered with them were among the 1,086 Myanmar nationals who were sent back.<sup>19</sup>

**The issue of refugees and asylum seekers are neither within the purview of MAPO, nor covered under the ATIPSOM Act unless it is related to the trafficking or smuggling of refugees and asylum seekers.** In relation to this incident, the initiative to return the said nationals to their home country, Myanmar, was an arrangement that had been agreed upon by both governments prior to the change of government in Myanmar on 1 February 2021. This was part of the humanitarian efforts undertaken by both countries to send home those nationals who have opted to return once the borders are open following the travel restrictions due to the Covid-19 pandemic. The Government of Malaysia has been undertaking continuous repatriation efforts, including making similar arrangements with other countries such as Indonesia and the Philippines. This was not something that was done by the government with questionable intentions and in cahoots with the current junta in Myanmar to send the Myanmar nationals back to be persecuted by the military government.

Despite the assurances offered by the Malaysian immigration chief, Datuk Indera Khairul Dzaimie Daud, that JIM had done its screening and that there were no members of the persecuted Rohingya refugees or asylum seekers being returned to Myanmar (and those Myanmar nationals who had returned have done so on their own free will), rights groups remain unconvinced. Perhaps the communications and explanation with regard to this repatriation exercise could have been done with greater clarity and transparency. It was unfortunate that the timing of the pre-arranged repatriation occurred after the change in the Myanmar government. Had it been carried out before the change in government, perhaps this repatriation exercise would not have been so contentious. However, this was not possible due to the Covid-19 pandemic situation.

The return process for the 1,086 Myanmar nationals had been processed and the check-out memo has been issued before the stay order of the court. As such, JIM proceeded with the return according to normal procedures. The transportation arranged to pick up the Myanmar nationals arrived and departed in the early morning of the day of return, whereas the stay order from the court was only issued to the Director General of JIM in the afternoon. The accusation that the Government of Malaysia is in contempt of the court order is neither valid nor is the accusation that the authorities did not do proper screening for asylum seekers or refugees. As a matter of fact, JIM had screened and withheld sending back 114 individuals who were suspected to be asylum seekers or refugees.

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<sup>18</sup> <https://www.benarnews.org/english/news/malaysian/my-bu-deport-02222021132348.html>; <https://www.dawn.com/news/1609083>; <https://reliefweb.int/report/malaysia/malaysia-un-experts-appalled-deportation-migrants-myanmar-despite-court-order>

<sup>19</sup> <https://apnews.com/article/kuala-lumpur-malaysia-asylum-seekers-immigration-united-nations-7ab0a05192e993d6f56917cade5925f5>

It should be noted that Malaysia is not a signatory of the UN Refugee Convention. While the Government of Malaysia has no legal obligations to recognise or protect refugees as required by the UN Refugee Convention, **nevertheless the government is working with UNHCR to establish a proper mechanism to screen for asylum seekers and refugees** and to issue UNHCR cards to confirmed refugees. The government strongly urges UNHCR to expedite the resettlement process for the refugees to other countries, which are signatories of the UN Refugee Convention and are legally bound to receive these refugees. At the 36<sup>th</sup> ASEAN Summit on 26 June 2020, the Prime Minister of Malaysia had also urged the UNHCR and the international community to expedite the resettlement process of the refugees.

All said and done, the functions and powers of MAPO are confined to matters relating to TIP and SOM. It is beyond the functions and power of MAPO to make policy decisions in relation to asylum seekers, refugees and even stateless people out of the purview of TIP and SOM.

#### **6.4 Immigration Response on Undocumented Migrants during MCO**

The Government of Malaysia was widely criticised in the local and international media for the authorities' actions in arresting undocumented migrants during the MCO. Although the authorities have explained that this was a necessary response aimed at preventing undocumented migrants from travelling and spreading the virus, it was reported in the media that the government was using the pandemic as an excuse to clampdown on migrants in the country.<sup>20</sup>

It should be noted that the government had made several attempts at giving undocumented migrants in Malaysia the opportunity to be registered and legalised so that they can remain and work in Malaysia without fear of being arrested and deported in future.

In the most recent Labour Recalibration Plan for undocumented migrants which began in November 2020 and will run until the end of June 2021, **the government is once again providing the opportunity for employers and undocumented migrants currently in Malaysia to get workers legalized**. This will allow them to continue working legally in certain sectors such as construction, manufacturing and agriculture in Peninsular Malaysia. The authorities have urged employers as well as the undocumented workers to take this opportunity to obtain official work permits and comply with the laws, as this will be both beneficial to the employers and the workers. The employers would not have to worry about being charged or penalised for hiring undocumented workers, while the workers will obtain the benefit of protection of their interests and rights as legal workers.

By giving employers and undocumented migrants this window of opportunity to come forward to be legalised without the threat of penalties or arrest, the government is making a concrete and significant effort to resolve the long-standing issue of undocumented migrants who are highly vulnerable to being trafficked and exploited

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<sup>20</sup> <https://www.aseantoday.com/2020/06/does-malaysia-need-a-better-immigration-policy/>

by unscrupulous parties. The government seeks the cooperation of NGOs alike who are in touch with the communities to encourage them to participate in this legalisation process.

## **6.5 US Withhold Release Order (WRO) on rubber gloves and palm oil**

Following the U.S. detention order on Top Glove in July 2020 due to allegations of forced labour, the company's headquarters in Klang was raided on 13 July 2020 by enforcement agencies, led by the MAPO Task Force in cooperation with MOHR. From the investigations, no elements of forced labour was found. However, there was an issue of cramped living quarters, as well as a breach of MCO rules, where the company was issued with a notice of compliance by the Ministry of Housing and Local Government and was imposed a fine by the Ministry of Health.<sup>21</sup>

In response to the Top Glove issue, the Minister of Human Resources, Datuk Seri M. Saravanan, met with the company as well as other rubber industry players under the Malaysian Rubber Glove Manufacturers Association (MARGMA) to discuss the issue of forced labour. The minister called for dialogues on compliance with domestic labour laws as well as international standards. MOHR also had sessions to discuss the implementation of the Independent Social Compliance Audits (ISCA).<sup>22</sup> It subsequently issued an order to employers requiring them to conduct the ISCA to ensure their compliance with the National Labour Standards. The implementation date for ISCAs was set for 1 June 2021.

The president of MARGMA was reported to have said that MARGMA is working with MOHR and JTKSM, as well as engaging with the U.S. Embassy in Kuala Lumpur to look into various efforts for improvement, including improving the welfare of migrant workers in the rubber glove industry. MARGMA members resolved to repatriate any migrant workers with debt-bondage risk or for not disclosing that they incurred debt bondage during their entrance interviews, and will terminate the related recruitment agents.<sup>23</sup> The government, through MOHR and JTKSM, remains committed to support industry players in their efforts to address forced labour in their supply chains.

In September 2020, U.S. Customs and Border Protection (CBP) detained palm oil and palm oil products made by FGV Holdings Berhad (FGV), following allegations of forced and child labour. In response, FGV issued a statement detailing how it has continuously taken concrete steps and remained committed in respecting human rights and upholding labour standards. FGV reported that it will continue to engage with CBP to clear its name.<sup>24</sup> In December 2020, the CBP issued a WRO on imports of palm oil from Sime Darby Plantation Berhad over allegations of forced labour in the production process. In response, Sime Darby issued a statement that it is engaging with CBP and the relevant organisations which made the allegations to obtain further

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<sup>21</sup> <https://focusmalaysia.my/mainstream/top-glove-hq-raided-but-cleared-of-forced-labour/>

<sup>22</sup> <https://www.malaymail.com/news/malaysia/2020/10/17/hr-ministry-says-taken-action-after-us-red-flags-malaysia-for-producing-rub/1913677>

<sup>23</sup> <https://www.theedgemarkets.com/article/glove-makers-hail-efforts-taken-address-labour-issues-raised-us%C2%A0>

<sup>24</sup> <https://www.thestar.com.my/business/business-news/2020/10/01/fgv-039disappointed039-in-us-customs-action-will-clear-name>

information in order for the company to respond with appropriate corrective actions, as required. The company once again reiterated its commitment to combat forced labour and to protect its workers' rights.<sup>25</sup>

For the reporting period, **MOHR had opened 22 investigation papers against several companies in the Top Glove group under Act 446** following enforcement operations in five states which found that the companies did not comply with the new government rules on accommodation standards and the requirement to apply for an accommodation certificate from JTKSM. Prior to this, Top Glove's worker dormitories in Meru, Klang, had been put under Enhanced Movement Control Order (EMCO) due to the increasing number of positive Covid-19 cases, which prompted the enforcement operations to curb the spread of the virus.<sup>26</sup> MOHR had reiterated that the ministry will not compromise on the non-compliance with Act 446 by any employer and will not hesitate to take necessary action against them.

In a recent case in March 2021 involving a joint rescue operation led by JTKSM with the cooperation of MAPO Task Force, JIM, and RMP was conducted at a smallholder oil palm plantation. This was done based on the initial report from a certain embassy which requested for the rescue operation to be done at a plantation allegedly belonged to FGV. Upon conducting the rescue and obtaining further information, it was discovered that the plantation belonged to an independent smallholder and not a part of FGV plantations. When the enforcement personnel interviewed the migrant workers who were being rescued, the workers reported that their agent at the home country that recruited them had informed them that they would be working for Sime Darby Plantations. The workers reported that one of the reasons they signed up for the job was that they thought they would be working for Sime Darby, as they heard that Sime Darby was a good employer to work for, as it takes care of its employees. Some of the workers still believed that they were working for Sime Darby until the enforcement personnel explained to them that they had been deceived by the recruitment agency.

This incident highlighted the possibility that some of these migrant workers had been deceived into thinking that they would be working for big plantation companies like Sime Darby when in actual fact, the recruiters were merely using the names of big Malaysian companies to deceive and entice workers to sign up. In so doing, the workers would incur substantial loans with the recruiter in order to secure jobs. It is therefore incumbent upon the sending countries to take the necessary precautions and preventive measures to protect their citizens from being trafficked.

On 29 March 2021, the U.S.C.B.P. published a notice which stated that "certain disposable gloves, have been mined, produced or manufactured in Malaysia by Top Glove Corporation Berhad with the use of convict, forced or indentured labour, and are being, or are likely to be, imported into the US."<sup>27</sup> As a result, products from Top Glove and all its subsidiaries have been banned. Earlier, in January 2021, Top Glove

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<sup>25</sup> <https://www.simedarbyplantation.com/media/press-releases/sime-darby-plantation%E2%80%99s-statement-response-us-cbp%E2%80%99s-issuance-of-its-withhold>

<sup>26</sup> <https://www.theedgemarkets.com/article/top-glove-be-charged-over-worker-accommodations-%E2%80%94-labour-department>

<sup>27</sup> <https://www.federalregister.gov/documents/2021/03/29/2021-06393/notice-of-finding-that-certain-disposable-gloves-produced-in-malaysia-with-the-use-of-convict-forced>



had reported that it had engaged an independent consultant to assess its labour practices and verify the implementation of its corrective action plans and other remedial steps to eliminate forced labour in its practices.<sup>28</sup> On 10 March 2021, Top Glove had announced that the independent consultant had reported that it had found no evidence of systemic forced labour within the group as of January, 2021. The independent consultant verified that there were “no longer any indicators of forced labour found, such as abuse of vulnerability, restriction of movement, excessive overtime or withholding of wages” and that progress was being made on other indicators such as “the retention of identity documents, abusive working and living conditions, deception, debt bondage, physical and sexual violence and intimidation.”<sup>29</sup>

In response, the Human Resources Minister reiterated that MOHR will not compromise with companies that abuse their workers.<sup>30</sup> Meanwhile, the Minister of International Trade and Industry (MITI) responded that MITI would be investigating the latest U.S.C.B.P. action against Top Glove and that the Ministry will continue to facilitate industry players to understand the regulatory requirements of export markets.<sup>31</sup>

**The government, through MOHR and JTK, is closely monitoring the situation and will take necessary actions to ensure that companies conduct their due diligence to make sure that there is no forced labour in their processes and supply chains.** The government is gravely serious in addressing this matter. This is reflected in one of the strategic goals of the NAPTIP 2021-2025, which focuses specifically on combating labour trafficking and child trafficking, including the exploitation of forced labour and child labour. Periodic labour inspections will be intensified at workplaces where labour trafficking and child trafficking are known to occur to assess the risk of forced labour in companies’ operations and supply chains.<sup>32</sup>

**Such an endeavor was also reiterated and emphasized during the MAPO High Level Committee meeting held on 31 March 2021.**

## 7. CONCLUSION

This first National Report of Malaysia is a testament to the significant efforts and initiatives which the Government of Malaysia and its committed partners, namely from NGOs, CSOs and IOs, have made during the reporting period to eliminate TIP as well as to improve victim care and support services to the people who matter most in the fight against this heinous crime. Despite the extreme challenges brought by the Covid-19 pandemic during the reporting period, **the Government of Malaysia remains steadfast and committed in undertaking significant efforts to combat TIP.**

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<sup>28</sup> <https://www.theedgemarkets.com/article/us-cbp-finds-top-glove-products-manufactured-using-convict-forced-indentured-labour>

<sup>29</sup> <https://www.malaymail.com/news/money/2021/03/10/top-glove-says-no-systemic-forced-labour-found-at-firm-reports-record-profi/1956455>

<sup>30</sup> <https://www.theedgemarkets.com/article/import-ban-top-glove-products-tarnishes-countrys-image-says-saravanan>

<sup>31</sup> <https://www.thestar.com.my/business/business-news/2021/03/30/miti-to-look-into-us039-forced-labour-claim-by-top-glove>

<sup>32</sup> Government of Malaysia, National Action Plan on Anti-Trafficking in Persons

Moving forward, the new NAPTIP 2021-2025 will provide the strategic roadmap for the government and its partners to go beyond the minimum standards for eliminating TIP.

**National Strategic Office  
Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants  
May 2021**