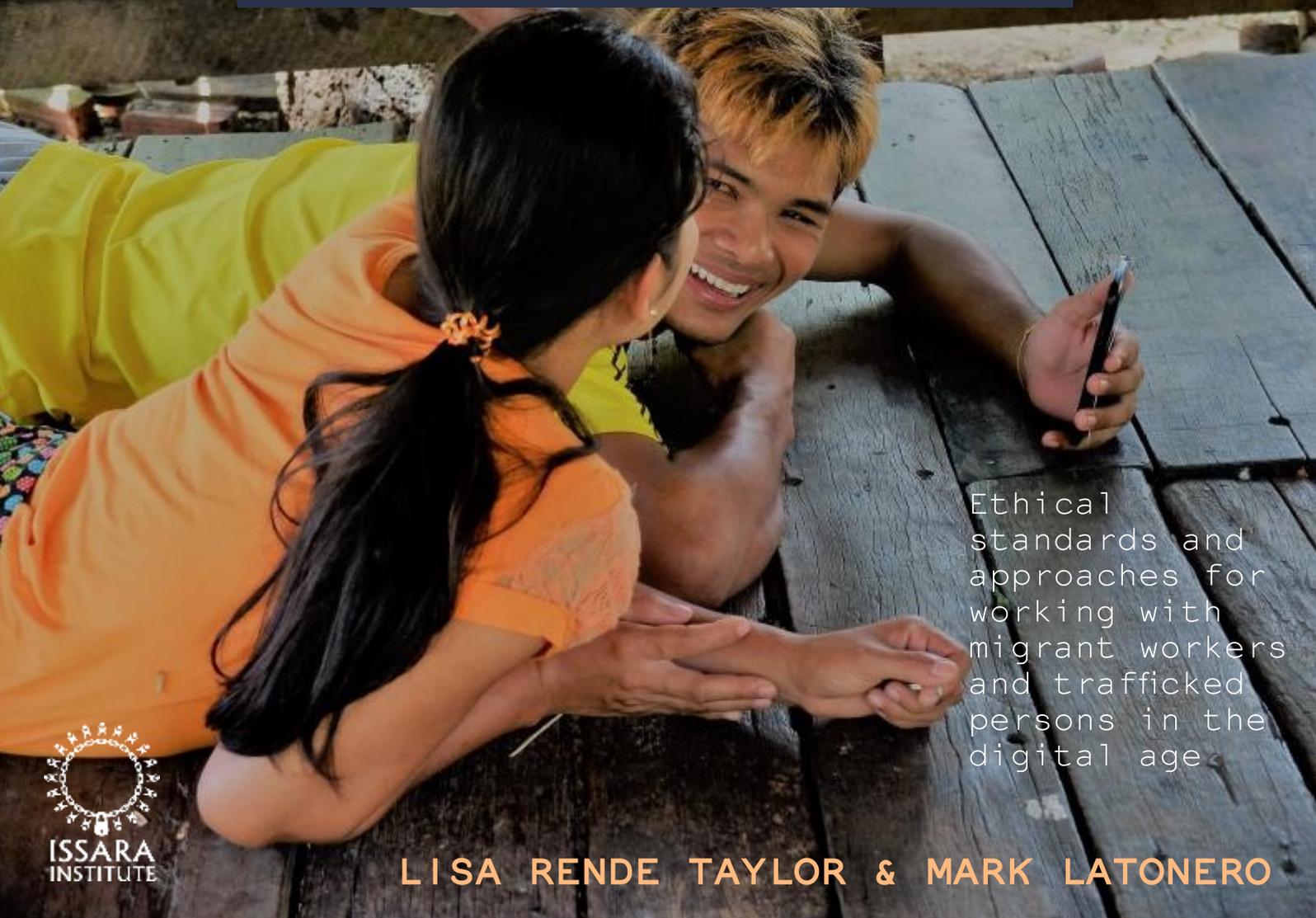


UPDATED GUIDE TO  
**ETHICS & HUMAN RIGHTS IN  
ANTI-HUMAN TRAFFICKING**



Ethical standards and approaches for working with migrant workers and trafficked persons in the digital age

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**Issara Institute** is an independent U.S. not-for-profit corporation based in Thailand, Myanmar, and the United States tackling issues of trafficking and forced labour through data, technology, partnership, and innovation. People—including worker voice and feedback—are at the center of Issara’s data and intelligence work, and at Issara Labs we conduct a wide range of research, analytics, and technology development related to human trafficking in global supply chains—the people, the policies, the impact, and how to eliminate it.



# **UPDATED GUIDE TO ETHICS & HUMAN RIGHTS IN ANTI-HUMAN TRAFFICKING**

Ethical standards and approaches for working with  
migrant workers and trafficked persons in the digital age

Issara Institute  
2018



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# INTRODUCTION & ACKNOWLEDGEMENTS

## *The need for updated ethics and human rights considerations in anti-human trafficking and responsible sourcing in the digital age*

In 2007, the Phase III project team at the Southeast Asia-based United Nations Inter-Agency Project on Human Trafficking (UNIAP) found themselves regularly mired in ethical issues in their routine anti-trafficking work, with no systems and few resources to rely on to navigate their way through these challenging situations. The key resources they had at that time were the 2003 World Health Organization *Ethical and Safety Considerations for Interviewing Trafficked Women*<sup>1</sup>, and the 2006 *Guidelines on the Protection of Child Victims of Trafficking*<sup>2</sup> by UNICEF. Recognizing the fact that a significant number of trafficked persons were men, and not just women and children, and that anti-trafficking work at that point went beyond just protecting children and interviewing women, they drafted and disseminated the UNIAP *Guide to Ethics and Human Rights in Counter-Trafficking*<sup>3</sup> in 2008, authored by Dr. Lisa Rende Taylor, who is also one of the authors of this updated Guide.

UNIAP closed at the end of Phase III, in 2013, and four of the technical staff went on to establish the Issara Institute in 2014, to focus on building effective partnerships

with business to address labour trafficking within global supply chains. New business partners brought new leverage and energy to the fight against human trafficking. Working with exploited migrant workers, their employers, and those employers' global customers evolved significant advancements in the effectiveness of addressing labour trafficking and empowering migrant workers in challenging sectors such as the Thai seafood and fishing industries. However, it also uncovered a plethora of new and challenging ethical issues, such as addressing workers facing serious risk of reprisal after using grievance mechanisms or talking to auditors, and NGOs losing opportunities to help exploited factory workers when supply chain leverage is lost if global buyers "cut and run."

The nascent business and human rights sector has seminal foundational guideline documents to guide more responsible sourcing and drive more positive human rights impacts by business on the ground, with the most prominent being the UN Guiding Principles on Business and Human Rights<sup>4</sup>, also known as the Ruggie Principles

“Protect, Respect, and Remedy Framework.”

The Ruggie Principles lay out State duties to protect human rights, corporate responsibilities to respect human rights, and the importance of access to remedy, which can be provided and facilitated by the State, businesses, and/or other stakeholders and multi-stakeholder groups. Because the Ruggie Principles are aspirational, they are very effective at outlining ideals, but more practical guidance is often needed for those stakeholders within supply chains attempting to navigate the first miles of improvement toward more ethical labour recruitment and management systems, and those requiring considerable technical support.

Other key guideline documents for businesses regarding ethical sourcing include their own Codes of Conduct and Standards for Suppliers, as well as the Codes of Conduct of their customers, in the case of manufacturers and suppliers. These are well understood and regularly referred to by business, as they are the standards used for audits, which suppliers – especially those in the first tier of the supply chain – are well accustomed to. However, as with the Ruggie Principles, audit reports are not designed to be prescriptive or provide specific guidance on how to navigate possible adverse human rights impacts in the workplace or supply chain. They often do not detect a range of worker issues due to the nature of how they connect (or do not connect) with worker feedback and experiences. Given our focus on the experiences and working conditions of migrant workers in global supply chains linking to Southeast Asia, this Ethics Guide is one of several tools that Issara is creating to help fill the gap for businesses and their stakeholders to assess, navigate and improve ethical sourcing and ethical labour management systems and practices.

As digital technologies such as mobile phones and social media are permeating the lives of people across the globe, more organizations working in anti-trafficking and responsible sourcing are seeking to use technology to advance their programs and missions, including to better detect adverse

human rights impacts on workers in global supply chains, as discussed above. However, there is an urgent need to develop ethical standards for researchers and program staff handling digital information and data from the populations they serve. Using digital tools to collect data provides many opportunities to address trafficking and responsible sourcing, yet it always introduces a new set of harms, risks, and threats to vulnerable people. Without putting the appropriate safeguards in place, deploying technology can result in negative consequences. The new data ethics and security section of this guide will focus on key concepts of data responsibility, privacy, and security as critical examples for the protection of human rights in the digital age.

At the same time, in the anti-trafficking world, ethics discussions and debates have advanced since 2007 as well, spurred in part by one of the most well-known critical analyses of the anti-trafficking sector, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights Around the World*<sup>6</sup>. There has been, thankfully, increasing scrutiny of the negative human rights impacts of some aspects of anti-trafficking programs and research, and victim protection services. However, even in 2017, it seems that these analyses and key findings are mostly limited to research reports, and are much more difficult to find in program evaluation reports or donor criteria or standards for program funding.

Thus, once again, there is a need for an updated ethics guide that includes not only new sections and case studies on corporate responsible sourcing and data ethics, but also advancements in more ethical practices and lessons learned in anti-human trafficking. In order to develop a practical tool that would be relevant and updated for a more diverse range of stakeholders, the Issara team convened a consultative process with an expert review group, comprised of academics and practitioners working across the anti-trafficking, responsible sourcing, migrant

rights, and data ethics/security fields. We are grateful for all the advice, contributions, and case studies from our group of volunteer experts, especially Mike Dottridge (independent expert) and Dr. Laura Cordisco Tsai (Harvard University), and also including Dr. David Feingold (Ophidian Institute), Dr. Amanda Flaim (Michigan State University), Dr. Katharine Jones (Coventry University), and Dr. Elena Shih (Brown University), working closely alongside the updated guide's main authors, Dr. Mark Latonero (University of Southern California) and Dr. Lisa Rende Taylor (Issara Institute).

The Guide benefited tremendously from the on-the-ground experiences of Institute Directors and Team Leaders Mark Taylor, Ohnmar Ei Ei Chaw, Brendan Zarni Htun, and Jittrinee Kaeojinda, who are veterans at wading their way through complex ethical issues in supply chains, in high-pressure situations, and sometimes even when lives were at stake. The entire process of developing, improving, printing, and translating the updated Guide was generously supported by Walmart Foundation, as a part of Issara Institute's Ethics and Empowerment Incubator.

'Ethics' is defined as a set of moral principles to help distinguish between right and wrong human actions – in relation to human rights, then, it is a set of moral

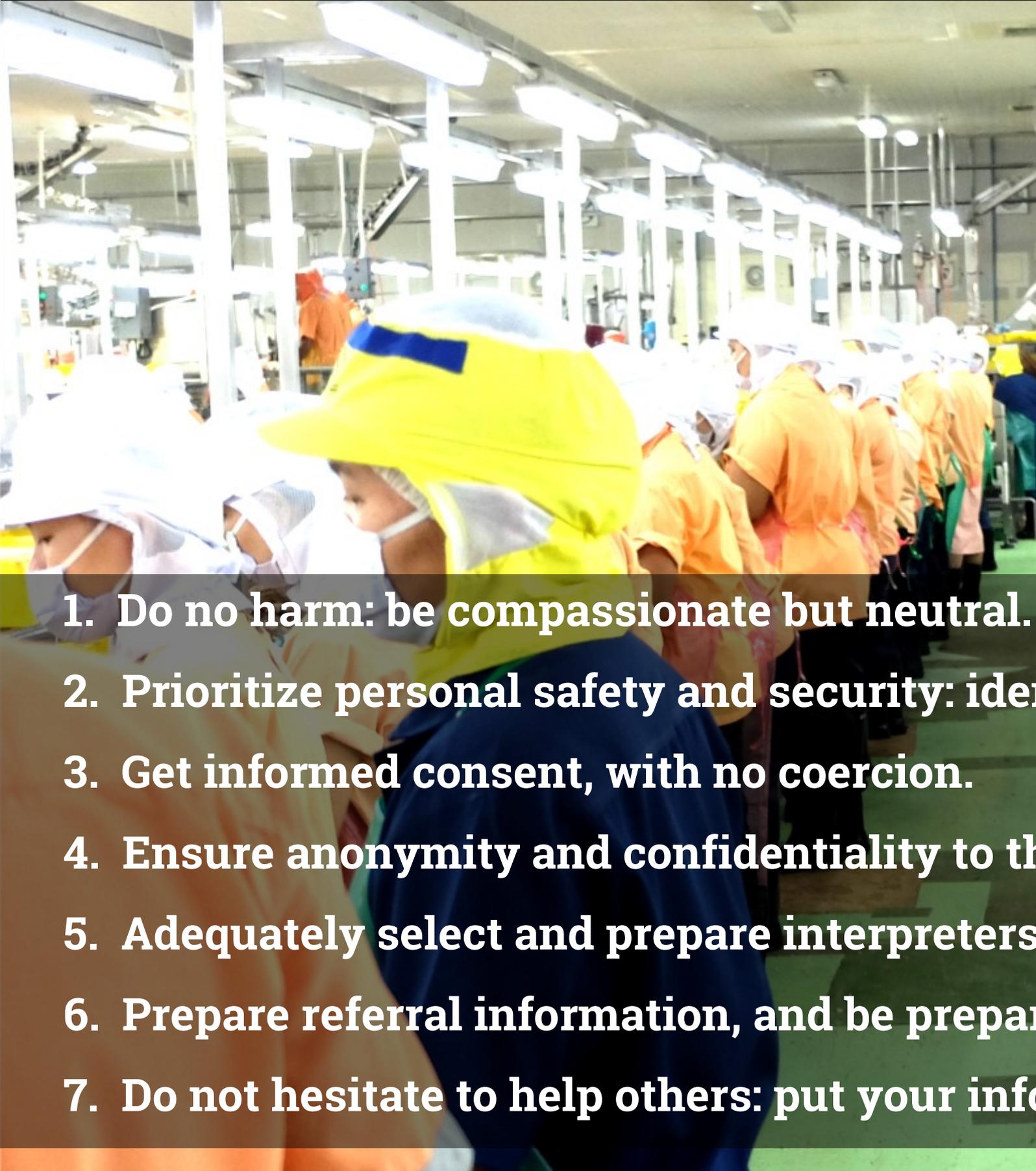
principles to help distinguish the best actions to maximize positive human rights impacts and minimize adverse human rights impacts. The ethical situations that many of us face on the ground today do not have clear and easy solutions. Oftentimes, review and debate of alternative paths forward amongst people well-versed in ethical guidelines, reflecting and course-correcting in an iterative manner along the way, is the best way to maximize our positive impacts and minimize harm while working in the delicate spaces where we operate.

To this extent, and on behalf of the Issara team and our collaborating partners, we hope that you find this guide to be a helpful and practical resource for your teams and other stakeholders who seek to raise the bar on ethical standards and practices within anti-trafficking and responsible sourcing, and in the digital age.

Dr. Lisa Rende Taylor  
Bangkok, Thailand

Dr. Mark Latonero  
New York, NY, USA

# THE 7 ETHICS GUIDING

- 
- A photograph of a factory floor with workers in protective gear. The workers are wearing white hairnets, face masks, and orange protective suits. One worker in the foreground is wearing a yellow protective hood. The background shows a long, brightly lit industrial space with overhead lights and machinery.
1. Do no harm: be compassionate but neutral.
  2. Prioritize personal safety and security: identify and avoid potential risks.
  3. Get informed consent, with no coercion.
  4. Ensure anonymity and confidentiality to the extent possible.
  5. Adequately select and prepare interpreters.
  6. Prepare referral information, and be prepared to refer participants to appropriate services.
  7. Do not hesitate to help others: put your information to use to help others.

# PRINCIPLES

**Identify and minimize risks.**

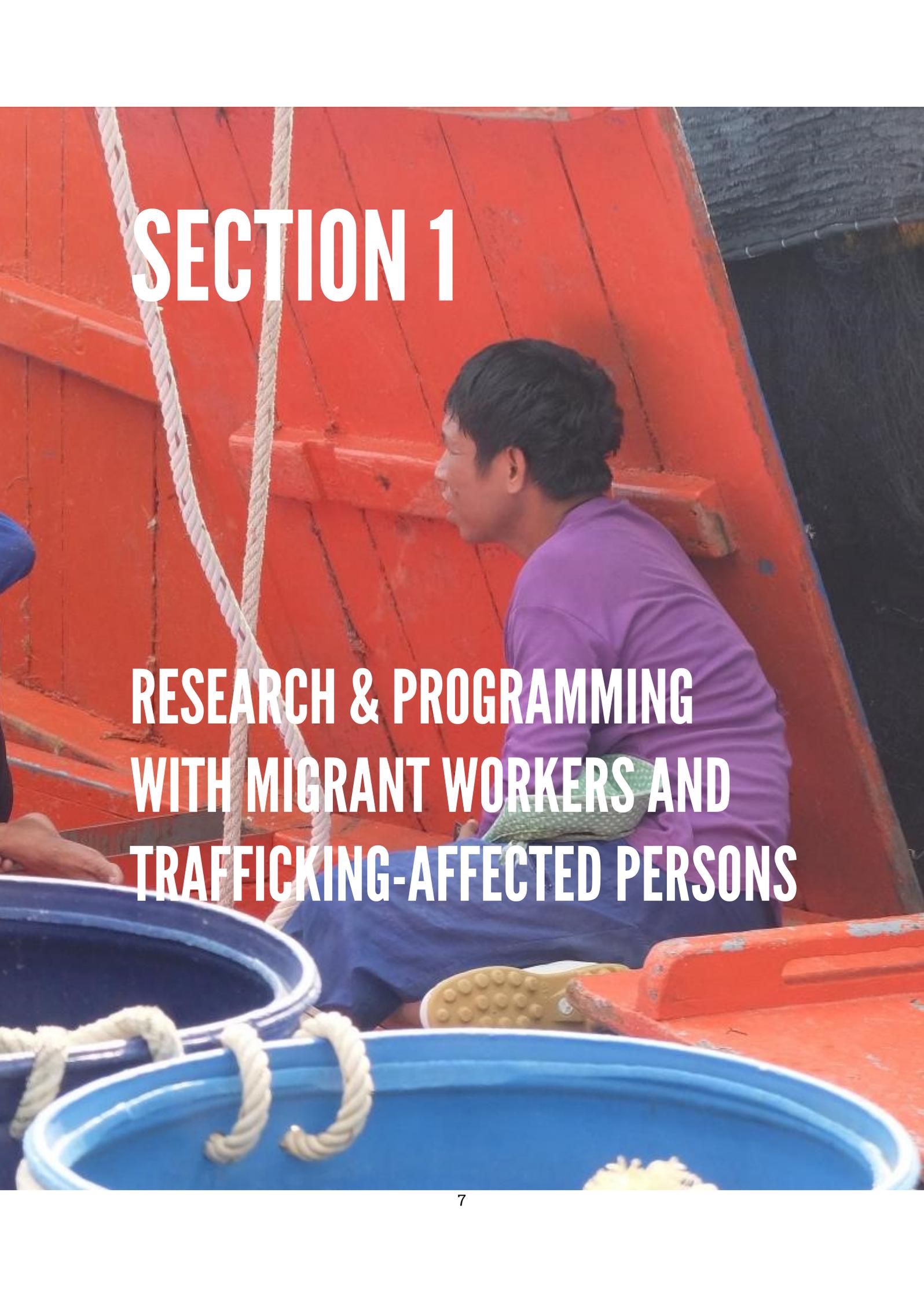
**Reduce risks to the greatest extent possible.**

**Engage workers and field teams.**

**Plan for emergency intervention.**

**Use information to good use.**



A photograph of a man with dark hair, wearing a purple long-sleeved shirt and blue pants, sitting on the deck of a red boat. He is looking towards the left. In the foreground, there are two large blue plastic tubs with white ropes tied around them. The background shows the red wooden structure of the boat and a dark grey tarp.

# SECTION 1

## RESEARCH & PROGRAMMING WITH MIGRANT WORKERS AND TRAFFICKING-AFFECTED PERSONS

# GUIDELINE 1. DO NO HARM: BE COMPASSIONATE BUT NEUTRAL.

*What are the possible ways that harm can be done to migrant workers or trafficked persons by anti-trafficking responders, researchers, journalists, or responsible sourcing programs?*

Virtually all anti-human trafficking and responsible sourcing interventions and programs aim to improve, and not harm, the lives and well-being of migrant workers and trafficking-affected persons. At the same time, we know that harm is done to these vulnerable populations in the name of anti-trafficking and ethical sourcing more than we would like.

How is this possible? For anti-trafficking programming, risk assessments that clearly think through the impact that we have on vulnerable populations are not adequately incorporated into the day-to-day management of anti-trafficking programs and are rarely mandatory. It is becoming increasingly common to find risk assessments within the process of applying for donor funds, but these risk assessments are often high-level, centering on risks to program failure and non-achievement of

program objectives, and less focused on assessing and mediating risks to vulnerable populations at the operational level. As an example, the original 2008 UNIAP Ethics Guide was initially created when the new UNIAP project management team discovered that there was no ethics or human subject review within the UNDP system to ensure the protection of vulnerable populations impacted by UNDP/UNIAP programs. A mandatory ethics review was inserted into the activity pre-requisition process (the process to review and release funds for an activity) to ensure that risk assessment was conducted prior to approval and funds disbursement for each activity impacting vulnerable populations.

In ethical sourcing, company decisions regarding whether to source or not source from a particular supplier have typically centered on product cost, quality, and ability

to meet production demands, with responsiveness to social and labour issues being dependent on (a) how often sites were being audited, if ever, to detect possible ethics issues; and, (b) how strictly the company and its representatives uphold their Codes of Conduct and Supplier Standards. Supply chain length and complexity is another complicating factor, with American, European, and Australian companies having much greater visibility of who their top-tier suppliers are and conditions within those sites, since the majority of these are audited. However, the suppliers of raw materials to those suppliers are often not known to global buyer companies, and so while Codes of Conduct adopted by particular companies are meant to extend to every supplier across their entire supply chain, it is notable that audits rarely extend beyond the first tier because often suppliers have not been fully mapped beyond the first tier.

Getting first-hand information, perspectives, and priorities from migrant workers is crucial for both anti-trafficking and responsible sourcing. At this point, in both the anti-trafficking and responsible sourcing sectors, it has become more widely recognized as best practice to ensure that anti-trafficking program designs and evaluations are informed by worker and

victim feedback, and audits include safe conversations with workers and not just business management. However, because these consultations and conversations entail risks to workers and trafficked persons, anti-trafficking and responsible sourcing programmers and researchers have an obligation to integrate risk assessments into their operational and procurement systems that help the team to anticipate all the possible ways that programming and procurement decisions might result in security, emotional, or social risks to migrant workers or trafficking-affected persons, and safeguard against these adverse impacts.

Sometimes, risks are more obvious – for example, research or interventions that may leave a victim or informant at risk of reprisal, because she/he/they may still be in the harm environment. Other times, risks may be less obvious – for example, the risk of causing mental harm and psychological distress by misleading trafficked persons and giving them unrealistic expectations. In all cases, integrating a risk assessment or ethics review process into research and program development, and engaging multiple individuals who are well-versed in ethics review, will help to ensure that as many risks as possible are identified and mitigated.



## TOOL: ETHICS REVIEW FORM

Appendix A1 is an ethics review form that is a good first step in integrating ethics and human subjects review into anti-trafficking programming and research processes. It goes through each of the 7 Guiding Principles, and was designed to help guide the risk assessment and mitigation process for field teams, case workers, and supervisors, and can be used to plan and risk assess each field mission or program impacting vulnerable populations.



## CHECKLIST: DATA COLLECTION WITH MIGRANT WORKERS AND TRAFFICKING-AFFECTED PERSONS

### **ASK YOURSELF** the following questions:

- ☑ If I interview this migrant worker or trafficked person (or include him/her/them in my program), are there any security, emotional, social, economic, or other risks that I might be imposing on this person? If the answer is, to any degree, yes, then the degree of risk needs to be explored along with the potential participant to see whether it is unacceptably high.
- ☑ If I interview (or include in my program) this parent, relative, or neighbor of a migrant who may or may not be a trafficked person, am I doing harm to any of them in any way or to the migrant him/her/themselves?
- ☑ If I interview (or include in my program) this migrant worker, trafficked person, or trafficking-affected person, am I being absolutely clear and honest about the costs and benefits of his/her/their participation, and ensuring that unrealistic expectations are not being created?
- ☑ Am I revisiting expectations and risks throughout the relationship with the migrant worker or trafficking-affected person on a recurring basis, understanding that expectations, risks, and other conditions can change over time? Although we may try as rigorously as possible to anticipate all costs and benefits in advance, new risks may emerge in the process, which we would have an ongoing responsibility to continue to inform people about.

### **OBSERVE** the Do No Harm Checklist:

- ☑ **Respect the rights of the participant.** Do you already have assumptions about him/her/them that are pre-judged? Are you prepared to hear an unexpected story without passing judgement? Be mindful of pre-judgments and, readjust your thinking as needed.
- ☑ **Look around.** Are there security cameras? Are there people listening in on or observing your conversation (even if not visible)? Does your interviewee look uncomfortable or traumatized in any way? If so, find a more suitable location to ensure privacy and comfort.
- ☑ **Know the security, social, and management environment.** Are there any signs or indicators that your work will increase risks of reprisal or stigma from an employer, supervisor, family member, community member, the authorities, or any others? When in doubt, consider postponing or rescheduling the discussion, or changing locations. Be mindful of the fact that observable conversations may be assumed to be complaints by persons in power, so it is generally safer practice to interview workers out of public view. For migrant workers, even when doing off-site interviews away from the workplace, there may be informers in the community noting who is talking to whom.
- ☑ **Know the participant/beneficiary's expectations.** Are you leading them to believe that you will be providing them with something that you will not? Are you clear about what the person is expecting to gain from this encounter? Be aware, ask, and listen, of this possibility and ensure that the person being interviewed is provided with a clear understanding of the purpose of the discussion.

- ☑ **Pay attention to your own mannerisms and responses.** Are you asking questions in a neutral way? Do your facial expressions and body language convey that you are engaged but neutral and non-judgmental? It is important to practice conducting interviews, and to get feedback from experienced peers on your mannerisms. This will ensure that these factors do not pose problems in a real interview setting.

**When setting up interviews, events, and programs, ENSURE THAT:**

- ☑ **Worker and beneficiary inputs** are gained to ensure that the interview, event, or program accommodates their own personal needs and comfort levels.
- ☑ Nothing takes place that compromises the **anonymity** or **confidentiality** of the respondent, worker, or beneficiary, or his/her/their family.
- ☑ **The media**, if involved in any way, understand the ethical and rights-related considerations associated with addressing exploited vulnerable populations.
- ☑ The interview, event, or program **will not stigmatize** a worker or trafficked person, or **create a feeling of shame**, in any way. This includes asking a trafficked person to present their story without adequate preparation and counseling to ensure informed consent, passing judgment on the decisions that he/she/they made throughout the course of their situation, or disclosing their story to others within their social and community network – for example, employers, village headmen, or even family members – without adequate risk assessment.
- ☑ **Risk and impact assessments** are put in place to demonstrate that the activity does not contribute to a person’s vulnerability and or add an undue burden to their present situation.

**Through the course of program implementation, ENSURE THAT:**

- ☑ There is ongoing risk assessment and collection of feedback from participants.
- ☑ Continuous learning is fed into the adaptation of protocols, as appropriate.
- ☑ There is an openness to finding out if harm has been done in some way throughout the course of the program, despite all planning and attempts to mitigate risk, and if so there are mechanisms and resources for grievance and remedy.



## **CASE STUDY. VIOLATING ‘DO NO HARM’ IN TRAFFICKING VICTIM ASSISTANCE: BROKEN PROMISES AND UNREALISTIC EXPECTATIONS FOR RESCUED BURMESE FISHERMEN<sup>6</sup>**

A team of Associated Press journalists exposed the exploitation and trafficking of thousands of Burmese, Cambodian, Lao, and Thai fishermen on Thai fishing boats in Indonesian waters to a global audience. Many of these men were stranded on remote islands in Indonesia, and the AP’s story led to a massive rescue, which for Burmese fishermen were led by the Government of Myanmar, with support from the International Organization for Migration (IOM). Many of the men were concerned about being rescued all of a sudden, because they had not been paid by their employers for many months, and they felt that if they returned to Thailand with their employer, they would get paid – especially with the intense media attention. However, many of the men eventually agreed to return to Myanmar with the rescue effort, because they were told that they would get their unpaid wages within one or two months. The rescued victims were asked to provide very detailed information on their vessel owner, time at sea, and working conditions. After returning home, however, most of the men were not contacted again by anyone involved in the rescue efforts, and they never received any of their unpaid wages. At the same time, other trafficked fishermen who returned with their boat captain ended up receiving some or all of their unpaid wages, some as much as 20-30 million Kyat (USD \$19,361-\$29,042), which added to the frustration and disappointment of the men who returned with the rescue efforts. As of October 2017, many of these men report still struggling with getting back on their feet at home, and frustration with being misled.



## **CASE STUDY. VIOLATING ‘DO NO HARM’ IN TRAFFICKING VICTIM ASSISTANCE: ALTERNATIVE LIVELIHOOD PROGRAMMING IN CAMBODIA**

An intervention in one of the urban areas of Cambodia sought to provide women in the sex industry with the skills to transition out of the sex trade and into another livelihood. The program reached out to and recruited women in the sex industry, and then provided beautician skills training and an apprenticeship in a beauty shop. The women stopped their work in the sex industry in order to become full-time trainees, and then apprentices, at a beauty shop whose owner agreed to accept the women, train them, and have them apprentice at the shop.

Through an evaluation of this program, it was found that the women had been trained, and had been serving as apprentices for 16 months – but had never been paid. The women explained that they had worked full-time at the shop in the apprenticeship program, but the shop owner took their earnings. Since the women could not make a living under these conditions, several had to return to the sex trade. In re-entering the sex trade, some women re-entered lower in the hierarchy than when they left, thus enduring worse pay and worse conditions than that which they left.

The women reported disappointment, since they had been led to believe the new skills would have translated to a viable new job by this point in time. But with no income to buy hair-cutting supplies, and no time to establish a job or workplace after working without wages, except through the brothels at night, this life transition had not happened for any of the beneficiaries. The beauty shop owner and the program coordinator (an employee of one of the UN agencies) both intimated that these women were lucky to have such a work opportunity extended to women 'like them,' that is, women who have worked in the sex industry.

Ultimately, the social, economic, emotional, and possibly health impacts were harmful to the beneficiary women.



### **CASE STUDY. VIOLATING 'DO NO HARM' IN RESPONSIBLE SOURCING: HARM DONE TO WORKERS IN AUDIT AND INVESTIGATIVE PROCESSES**

Responsible sourcing teams typically rely on social audits to receive information about environmental and social risks. Sometimes, this information is collected from workers through interviews by the auditors, which are usually arranged and/or observed or monitored by the employer. Without clear policies in place regarding the ethics of how these audits should be conducted, there can be unanticipated adverse consequences for workers. For example, workers reported to Issara Institute that when they are asked (or told) to participate in audit interviews by their employer, they are not paid for that time, and they lose other forms of incentive pay as a result of not being able to complete certain targets for that day (which is common if they work on a production line). Further, it is common for workers across Southeast Asia to report being coached on what to say when an auditor or inspector visits, and then to have report on what they told the auditor/inspector. Workers have also reported being harassed, grilled, and intimidated by line supervisors because they were known to have been interviewed by the visiting auditor or inspector. Additionally, foreign workers have reported to Issara that, due to poor interpretation, or no interpretation at all, sometimes only the workers who speak the host language are ever interviewed by auditors. Since these workers are typically nationals or migrants who may have been in the country for a long time, their feedback did not accurately reflect the struggles and treatment of the majority of foreign migrant workers.

As reported by the UN Special Rapporteur in March 2017, "Unfortunately, one single team of auditors is often charged with the evaluation of the complete set of indicators, including those on other issues, such as deforestation or corruption. It is unlikely that auditors with expertise in environmental concerns would have also the same level of experience in evaluating corporate practices that represent risk indicators of trafficking in persons or forced labour, especially considering the subtle ways in which such practices may be concealed and the fact that workers themselves may be unaware of the wrongfulness of corporate practices that are perceived as common businesses practices, such as compulsory overtime or the payment of recruitment fees."<sup>7</sup>



## **CASE STUDY. VIOLATING 'DO NO HARM' IN TRAFFICKING VICTIM ASSISTANCE: FORCING TRAFFICKED PERSONS TO STAY IN SHELTER CARE**

Following police raids, trafficking-affected persons and people who are suspected of being trafficked are often sent to shelter facilities. Research with people who have been trafficked across multiple countries has revealed numerous violations of the principle of 'do no harm' specific to shelter care experiences. Examples include:

- **Forced intake into shelters:** For both minors and adults removed in police raids, presumed victims may be sent to shelters without their consent.
- **Restricted freedom of movement:** Due to safety concerns, many shelters have stringent rules, with some not allowing residents to leave the shelter. Research has shown that being forced to stay inside within shelter grounds is often highly distressing and can mimic aspects of people's trafficking histories and experiences.
- **Inability to contact family:** Shelter residents may be prevented from contacting their families. Residents are often deeply worried about their families and the need to provide financially for dependents, including dependent children. Restricted access to mobile phones to communicate with family members can mimic control exhibited by traffickers.
- **Discharge procedures:** Trafficked persons are in some instances required to stay in shelter facilities for years, well beyond the point in which they are ready to leave and return to their home. An inability to exercise control over one's own life contradicts trauma-informed approaches to providing services and can traumatize individuals who have already experienced exploitation.



## **CASE STUDY. MINIMIZING HARM DONE IN RESPONSIBLE SOURCING: LOSING LEVERAGE AND ENTRÉE FOR ENSURING REMEDIATION AFTER CUT AND RUN**

A buyer received credible information that one of their suppliers was using an illegal labour broker who had indebted workers and forced them to work a second shift at another unknown factory after completing their shift at the supplier's factory. After an investigation, when the supplier was presented with this information, they refused to stop using the services of the labour broker, since they had a decade-long relationship. The buyer, like many businesses, had a protocol in place to engage the suppliers for a period of time after serious labour issues were identified, but if the supplier was unresponsive over multiple pay periods, the buyer would have to cut this supplier from their supply chain. However, this naturally meant that any potential leverage to change this supplier's labour management practices would be lost, and similarly, the workers might be negatively impacted since any incentive for the supplier to change their labour recruitment practices would be gone.

The buyer had concerns with this outcome, since they recognized that the workers who produced product for their company for years remained in a bad situation. The buyer partnered with Issara Institute, which was already working on labour issues in the same industry, and was able to identify other business partners who were also linked to the same exploitative labour broker. Those businesses did agree to cut the labour broker from their labour recruitment systems, making a significant dent in the broker's business. Further, the Institute reported the illegal practices of the labour broker to relevant agencies in both the destination country and source country governments, since these were clear human trafficking cases under both countries' laws. The destination country's law enforcement investigated the case, and the source country placed the labour broker on their official Recruitment Agency Blacklist, thereby prohibiting any formal labour recruitment from their country into the destination using that labour broker. Unfortunately, only some but not all workers in the factory were properly remediated since many escaped and moved on; however, a number of measures were taken to minimize the likelihood of more workers being exploited in the same way, through business partnering with civil society, and each working to their comparative advantage.

# GUIDELINE 2. PRIORITIZE PERSONAL SAFETY AND SECURITY: IDENTIFY AND MINIMIZE RISKS.

*Programming and field research concerning crimes such as human trafficking and labour exploitation carry inherent risks.*

Interventions and investigative activities perceived as a threat to the business interests of those benefitting from labour exploitation or trafficking can put anti-trafficking practitioners, labour rights advocates, and the workers themselves at risk. While elimination of all risks may often not be possible, personal safety must be given paramount importance, and risks must be identified and minimized in advance – both to intervention teams and to migrant workers.

**ASSESS AND IDENTIFY THE RISKS.** Carefully plan your research or intervention efforts, and think through the risks to all parties involved.

- ☑ Consider the locations where work will be carried out and the people that you may potentially encounter. Will your

work require you to travel after dark? Will you have a security escort (police, business, or NGO)? With whom are you likely to interact?

- ☑ Consult with local non-governmental organizations (NGOs) and other local knowledgeable and trusted sources to understand the security situation in the area where research or programming is to be conducted. Understand how your presence in the area is likely to be perceived. Be mindful that, in many countries of the world, local-level police and security may be a risk to workers and possibly even to NGO and research teams.
- ☑ Do not proceed with research or interventions that entail imbalanced risks to the safety and security of yourself or others.

### MINIMIZE RISKS.

- ☑ Consider the locations where work will be carried out and the people that you may potentially encounter. Will your work require you to travel after dark? Will you have a security escort (police, business, or NGO)? With whom are you likely to interact?
- ☑ Know your surroundings. Consult a map and/or ask local NGOs, business partners, or government officials to familiarize you with the local area. Plan in advance what you will do if threatened directly or indirectly.
- ☑ Remain calm and alert, and be cognizant of whether you are being watched or followed.
- ☑ Work with a partner whenever necessary. If lone fieldwork is unavoidable, be absolutely sure that others know your whereabouts and travel plans, and have a clear plan for how to respond in an adverse event.
- ☑ Carry a mobile phone pre-programmed to contact locally based colleagues, partners, your driver, and possibly local authorities, and ensure your phone is charged at all times.
- ☑ Have an emergency security plan: be prepared for a security emergency, and have a clear plan of where to go for safety, how, and who to call for assistance. Try to stay calm and present at all times.



## GOOD PRACTICE & LESSON LEARNED: PERSONAL SAFETY AND SECURITY IN INDIA—ALWAYS STAY WITH YOUR PARTNER IN HIGH-RISK AREAS

A team conducting research on Nepali sex workers in a Kolkata brothel area maintained a strict protocol for adverse events, including working in teams, carrying mobile phones, using highly trained professional researchers, and using NGO back-up when needed.

In one instance, a logistical issue led to an experienced two-woman team being separated from each other for approximately thirty minutes. One woman went into a brothel alone for an interview. She was abducted.

In the words of research team leader John Frederick of Ray of Hope,

*“We had a rowdy time getting her back (with the help of the local mafia). This was one small slip in a strong protection system, and we almost had our own personal trafficking episode. Thus, there are certain situations which must be identified beforehand in which working with a partner is a must. And as the experience shows, even that is not bomb-proof.”*



## **GOOD PRACTICE & LESSON LEARNED: PERSONAL SAFETY AND SECURITY IN MYANMAR—CONDUCTING PRE-DEPARTURE TRAINING WITH EXPLOITATIVE BROKERS IN THE ENVIRONMENT**

CSO teams conducting pre-departure trainings for Burmese migrant workers preparing to migrate through formal channels to Thailand sometimes have to deliver awareness raising messages and materials while exploitative brokers are in the environment. It is well understood by all CSO staff that brokers often collect excessive informal fees from the workers and pressure the workers to not report this to anyone. Hence, during pre-departure training, CSO teams have adapted their message to workers, emphasizing information about the rights of workers in the destination country, and how workers can reach out for assistance if they have questions or need assistance, without using any specific vocabulary that would overtly threaten brokers, such as raising brokering fees and debt bondage. The trainings encourage workers to call the designated hotline if they have any interest to talk through any general topic related to the migration process, and at this time, when migrants call, the team checks for potential risks by asking about the caller's location and sense of safety and security in discussing these matters on the phone.

### ***Safety and security when working on worker reporting and feedback in global supply chains***

The development of technology to enable worker reporting on labour conditions has flourished in recent years, to harness information from workers using, primarily, mobile phones. In some cases, the information is analyzed and packaged for a global buyer, for due diligence purposes. In other cases, the information is exchanged on a platform to provide workers with better information about workplaces and recruiters. Some tools work toward both of these ends – informing business due diligence while empowering and educating migrant workers. In all cases, the new age of technology-enabled worker voice exposes

workers to risks as well as opportunities, which need to be clearly understood and mitigated from a data integrity and ethical perspective. While specific data security issues will be addressed in Section 2, the checklist below presents five key questions to help technology product developers, product users, and donors to be diligent about unintended negative consequences on vulnerable worker populations from asking sensitive questions, sometimes without having both robust, functioning safeguards and a direct pathway to solutions for the workers – clear, safe mechanisms to drive change, remediation, and/or justice.



## CHECKLIST: WORKER VOICE TECHNOLOGY TOOLS—AVOIDING UNINTENDED NEGATIVE CONSEQUENCES ON VULNERABLE WORKER POPULATIONS

- ☑ **Question 1. What does it take to collect credible, reliable primary data from workers?** Look out for inclusivity, cultural appropriateness, appropriate technology, and – importantly – trust already earned from the worker population. The quality and richness of information and insights shared by workers increases significantly after workers see that sharing information is worthwhile and leads to improvements in their life. Conclusions based on one-off data scans of worker feedback should be drawn with care.
- ☑ **Question 2. What are the risks when primary data collected from workers is not credible or reliable?** What is the anticipated behaviour change on the part of the employer/supplier? What is the anticipated behaviour change of the global buyer, who may or may not act on this incomplete or unreliable information? How might these behaviour changes impact the safety and security of the workers targeted by the worker reporting tool?
- ☑ **Question 3. What qualifies as a clear, safe mechanism to drive change, remediation, and justice?** Critically examine relationships with suppliers and recruitment agencies if driving change through employers, with labour and immigration officials if driving change through regulators, or with legal aid and legal authorities if working toward access to justice. Ensure that the requisite technical capacity is present, sufficiently responsive, and able to stay in touch with workers to monitor progress and worker safety/security.
- ☑ **Question 4. What are the risks when data is collected from workers, but there is no clear, safe mechanism to drive change, remediation, and justice?** What safeguards are in place to protect workers from reprisal if employers or others want to suppress worker voice? What entities are receiving or buying the worker voice-driven data? Is there a clear response protocol to protect workers from reprisal after using the worker voice channel? Beyond protection from reprisal, how is the information channeled and processed to lead to improvements on the ground? How is this monitored? Beware of wasting workers' time and possibly getting their hopes up for little to nothing, and/or falling victim to technology for technology's sake. There may be other ways that the market could be negatively disrupted by worker feedback channels that yield no results for workers, for example, creating skepticism among vulnerable workers about such interventions.
- ☑ **Question 5. What needs to happen for the 'worker voice' data to make any real difference in the lives of the workers who reported, and, to workers more generally?** Ensure that you do not get too dazzled by the massive amounts of data that can be collected, and remember data quality, data ethics, and 'so what' – how will this technology directly improve the lives of those using it? Be realistic and true to your organization's mandate – whether corporate, donor, or service provider – in balancing aspirations of scale with erosion of on-the-ground effectiveness in actioning worker data and safeguarding worker safety and security.

# GUIDELINE 3. GET INFORMED CONSENT, WITH NO COERCION.

*Research, programming, and interventions working with vulnerable migrant workers or trafficked persons must be conducted with individuals who freely consent to participation, after becoming fully aware of the possible risks and benefits of their participation.*

It is our ethical responsibility to:

**INFORM** adult<sup>8</sup> workers, participants, and beneficiaries, in their own language, of:

- The purpose of the interview or program.
- Who is interviewing them or providing the program, and who is observing.
- Discussion topics and program topics.
- Potential risks and benefits of participating.
- How his/her/their confidentiality will be maintained.
- His/her/their right to ask any questions at any time.
- His/her/their right to skip questions, end the interview, or drop out of the

program at any time, for any reason.

- His/her/their right to decline photos or interviews.
- How his/her/their information and photos will be used and who will have access to them.

**CONSIDER** how to make the informed consent process as participatory, natural, and understandable as possible, and revisited over time as conditions change.

- Do not just inform the participant; observe and listen to the participant! Ask the questions that are necessary to understand the participant's perception of risks; to understand if the participant's views of confidentiality and consent are consistent with your

own; and, to ensure the full agency and understanding of the participant in the process.

- Revisit informed consent as necessary, particularly if conditions or risks are changing over time. There is sometimes a tendency for some researchers or programmers to see informed consent as something to obtain at the outset but not return to. However, participants' understanding, perceptions, or situation may change during the process of the interview or program, and it may be necessary on some occasions to revisit informed consent, and ensure that participants understand that they can change their mind at any time without fear of judgment or punishment.

**ENSURE** that there are no elements of coercion in your recruitment for participants or beneficiaries, or in your implementation of research or programming.

- Be mindful of how your status may create a sense of obligation to comply, particularly in socioeconomic and political contexts where people are not aware of their rights or accustomed to being able to say 'no.'
- When appropriate, ensure that participants are clear on the differences between researchers and program staff, especially when conducting extended field research, longitudinal field research, and other initiatives where NGOs or service providers may be operating in and interacting with beneficiaries in multiple ways including service provision. Be mindful that if the participant is accustomed to interacting with service providers but has not participated in many research projects before, they may still expect the researcher to engage with them more like a service provider, and provide more assistance than the researcher is trained to provide. Or, they may feel that their receiving services is contingent on their participation with research, which

should not be the case. Open communication can assist with these tricky boundaries, and they may need to be revisited on an ongoing basis with the participant.

- If a fee is going to be offered for interviews or participation in a program, the fee should be based on a rationale that clearly outlines how the amount remunerated compensates for **time, travel, and lost earnings** during the interview or program. A general rule of thumb is that, on balance, the potential participant or beneficiary should not feel like he/she/they will financially gain if they agree to the interview or program, but nor should they lose out financially. They should be agreeing to participation because they are interested in the interview or program.
- Ensure that staff are properly trained to notice signs of distress, even if a participant has provided informed consent. Observing and listening is required throughout the process, not just at the outset.

**MONEY CAN EQUAL COERCION!** Paying too much to interview migrant workers or program participants can do harm in several ways, for example:

- It may make the participant feel indebted to you in an inappropriate way.
- It may make the participant feel they need to go out of their way or exaggerate their story to be included in the program, or, to provide you with what they think you want or expect.
- It may make the participant inconvenience him/her/themselves in a way that is detrimental to him/her/themselves.
- It may make the participant feel that he/she/they have to discuss sensitive, emotional, or traumatic matters that he/she/they are not prepared or equipped to discuss, and that you may not be prepared or qualified to handle.

- It may inappropriately inflate the amount of money expected as remuneration by local officials and community members of other development partners that may be conducting research and programming in the locality.

Instead of a cash-only individual compensation, consider whether a partial-cash compensation, non-cash compensation, or communal compensation may be more appropriate, for example:

- Are the participants located far from a road or market? Consider items they would ordinarily use but have difficulty

obtaining or carrying, such as heavy or bulky food or practical items.

- Do several participants have babies? Consider baby food, supplements, toys, or other items answering to practical baby needs.
- Are there communal entities to which you could contribute, rather than (or in addition to) providing individual compensation? Depending on local sociopolitical governance structures, these might include some contributions to village headmen for redistribution among the community; contributions to local womens' cooperatives; or, contributions to other communal groups or funds.



## **GOOD PRACTICE & LESSONS LEARNED. ARRANGING RESEARCH INTERVIEWS AND REMUNERATION AMONG MIGRANT WORKERS IN THAILAND**

Burmese, Cambodian, and Lao migrant workers in Thailand who work in export-oriented factories typically work six days per week, most often Monday through Saturday, though sometimes having one day off that is not Sunday. Many migrant workers, if asked to accommodate a visit or interview by an NGO with whom they have a relationship, will accommodate the NGO, even if the NGO proposes a time or place that might be inconvenient to the migrant worker or his/her/their family. Before requesting interviews or visits, members of the Issara team makes sure they understand the working schedules and times of migrant workers, and are prepared to work on evenings or Sundays, and travel to the location of the worker, in order to have the migrant worker not have to take too much off their work or free time traveling to meet for the interview.

While the Issara team is always prepared to compensate respondents for their time, travel, and lost earnings, and some migrant workers are happy to get out of the work environment to do an interview, we have learned in practice that migrant workers have so little down time – and sometimes get hassled by supervisors for requesting leave – that it is often best to be ready to have evening and weekend interviews at or near the worker's accommodation. Administratively, the Issara Institute has flex hours and compensatory leave time to ensure that team members can arrange their schedules to accommodate the schedules of migrant workers, while also getting adequate periods of downtime and rest.

Migrant workers have reported that some other NGOs and journalists offer relatively large sums of money to gather migrant workers to be interviewed during the workday, and they often accept because of the money, even if it causes problems in their lives. It is recommended that NGOs and journalists be especially diligent regarding this sort of coercion.



## CHECKLIST: WRITTEN VS. ORAL INFORMED CONSENT: WHICH IS MORE APPROPRIATE, AND IN WHICH SITUATIONS?

**Written informed consent** collects the signature of the participant at the bottom of a written informed consent statement, which outlines all of the key information about the interview or activity required for informed consent. The participant must be literate in order to use written informed consent properly.

With **oral informed consent**, the information required for informed consent is provided orally instead of in writing. Evidence of the participant confirming informed consent to an oral informed consent statement can be collected in two key ways:

1. **Participant's signature:** The participant's signature (or thumb print) can be collected on a receipt or form that does not include the complete informed consent statement, but which states that signing the receipt or form indicates that the participant received full information, was able to ask questions, and consented to the interview or program.
2. **Witnessed oral informed consent:** Witnessed oral informed consent collects the signature of two people: first, the person who delivered the oral informed consent statement, and, second, a witness (usually a colleague) attesting to witnessing the informed oral consent of a participant. Witnessed oral informed consent is appropriate when working in societies with non-written languages; with illiterate populations; when taking written signatures might threaten an informal setting that must be maintained; and in situations where collecting a written signature compromises the security of the participant in a way that may harm more than it protects.

A **five-question oral consent requirement** is suggested, with a witness who can attest to, and sign to, positive responses for each of the five questions (though teams are encouraged to ask these questions in as natural, conversational manner as possible):

1. **Do you have any concerns about me conducting this interview with you?**
2. **Is there anyone you want to talk to before we have this interview?**  
*[Watch for fear of reprisals or concerns about the consent of others]*
3. **Is this a good time and place for the interview?**  
*[Ensure convenience, relaxation, and security, including no inappropriate eavesdropping]*
3. **Do you have any questions about the interview?**  
*Ensure there are no outstanding needs or questions]*
3. **Is it okay to have this interview?**  
*[Bottom-line consent]*



## TOOL: ORAL AND WRITTEN INFORMED CONSENT TOOLS

**Appendix A2—Payment Receipt with Informed Consent Statement** is an example of how to incorporate informed consent language into a written payment receipt, to merge the two forms into one so that only one signature is required by the participant.

**Appendix A3—Witnessed Oral Informed Consent Guidelines** provides guidance on obtaining oral informed consent, and on determining when oral informed consent may be more appropriate than written informed consent.



## CHECKLIST: ETHICAL USE OF CLIENT PHOTOS AND STORIES FOR FUNDRAISING

Ethical concerns around NGO use of client photos and stories in fundraising is a relatively common issue exacerbated by the internet and social media, which can propel the faces of migrants and trafficking-affected persons into the inboxes, feeds, and walls of thousands of people around the world, possibly including their own peers (to whom they may or may not want to disclose their status as a beneficiary or trafficked person). The following checklist of questions can help you navigate these issues:

- While the client may “consent” to having his/her story/photo shared on the NGO’s website/in their marketing materials, is sufficient attention being paid to power dynamics in the relationship with that client?
- If the person feels indebted to the NGO for having provided various services, do they genuinely feel that they can say no when asked to share their photo/story?
- How much control does the client have over what details are included or how the photograph/story presents them?
- The person behind the camera and the person writing the story often have the power. Does the client have the opportunity to review how his/her story is presented or review which photos they’re comfortable with?
- Does the client understand how this information would actually be used in practice in marketing/fundraising, especially in NGOs that adopt a more mass market approach to fundraising (i.e. fundraise from individuals who are often not knowledgeable about the ethical complexities of this issue)?
- What kind of commitment is there to tell an accurate and appropriately nuanced story instead of simply highlighting the most sensationalized details and cases to raise money?



## TOOL: ETHICAL STORYTELLING

Check out [ethicalstorytelling.com](http://ethicalstorytelling.com), a community of non-profit practitioners and storytellers learning how to integrate a new, more ethical standard of storytelling. The website community has resources, podcasts, webinars, and a pledge that can be read and signed by practitioners committed to telling a more dignifying story.



## **CASE STUDY. PHOTOGRAPHING AND FILMING TRAFFICKED PERSONS AND OTHERS ASSOCIATED WITH HUMAN TRAFFICKING**

### **What precautions should be taken with photographs, sound recordings, or films of trafficked persons or others associated with human trafficking?**

First, informed consent should be obtained before taking photographs, videos, or sound recordings of anyone associated with human trafficking, whether victims, vulnerable individuals, responders, or others.

Second, the identity of trafficked persons should be kept anonymous in the recordings, photos, or videos used publicly (such as in reports or on websites) through concealing identifying characteristics, particularly facial characteristics.

Third, disclaimers and false names should be used to protect the identities of victims, and to clarify the identities of individuals whose identities might not be concealed. For example, persons whose faces are displayed in a counter-trafficking report or website but who are not trafficking victims or criminals could easily be wrongly assumed to be victims or criminals – disclaimers must be used to clarify this.

On the other hand, filmmaker and anti-trafficking practitioner Dr. David Feingold notes the right of adult trafficked persons to tell their story if they so choose:

*“While peoples’ identities should be protected, adults have a right to tell their stories unmediated, if they so wish and if they have an informed understanding.”*



## **CASE STUDY. MEDIA PRESENCE AT ANTI-TRAFFICKING OPERATIONS: WHAT IS ACCEPTABLE WITH REGARD TO MEDIA PRESENCE IN ANTI-TRAFFICKING RAIDS, REPATRIATIONS, AND ASSISTED RETURNS?**

Victims of exploitation, interview subjects, and others should always have a chance to decide, in an informed manner, whether they wish to be interviewed, photographed or to interact with media representatives in any way.

Media content and purposes should always be clearly explained. Potential risks and consequences connected to media exposure should also be examined and discussed. Journalists, researchers, NGO workers, employers, and others should be aware that, in some cases, anti-trafficking or other victim protection laws may impose penalties on individuals who risk compromising the identity of a victim of human trafficking, or workers who have spoken to “outsiders,” against the orders of their employer.

Although it may be obvious, it is worth mentioning that it is highly unlikely that informed consent for media coverage can be obtained from all involved parties (including victims) prior to events such as raids and rescues, or repatriations and other assisted returns. Thus, as a general rule, media should not be present at these types of operations.

# GUIDELINE 4. ENSURE ANONYMITY AND CONFIDENTIALITY TO THE GREATEST EXTENT POSSIBLE.

***Anti-trafficking researchers, programmers, and ethical sourcing personnel should ensure confidentiality and anonymity of vulnerable workers and trafficked persons to the greatest extent possible, and should discuss these issues with participants in a clear and transparent manner.***

Protecting the identity and responses of participants is often crucial to ensuring their safety and security. At the same time, competing obligations may arise, and even the most experienced and well-intentioned researchers, programmers, or auditors could be faced with ethical dilemmas in some instances, for example, concerning disclosure of research sources and/or content to police or upstream supply chain customers.

As a general rule, confidentiality should be protected, but where an overriding ethical reason compelling disclosure arises, researchers are advised to consult professional codes of ethics. Authoritative sources include:

- *Code of Ethics of the American*

*Anthropological Association (1998)*<sup>9</sup>

- *Ethical Principles of Psychologists and Code of Conduct (2002)* of the American Psychological Association<sup>10</sup>
- *American Sociological Association Code of Ethics (1997)*<sup>11</sup>
- *Ethical Guidelines for Good Research Practice*, The Association of Social Anthropologists of the UK and Commonwealth<sup>12</sup>
- *Ethical Conduct for Research Involving Humans (2005)*, Tri-Council Policy Statement of the Government of Canada<sup>13</sup>
- *National Statement on Ethical Conduct in Human Research (2007)*, Australian Research Council and National Health

and Medical Research Council

- *The Belmont Report Ethical Principles and Guidelines for the Protection of Human Subjects of Research*<sup>14</sup>

To ensure the confidentiality of participants, check your interview notes, research instruments, interviewee and program participant rosters, and how you discuss case elements with others.

**ENSURE** that the participant understand what they can expect in terms of confidentiality and anonymity, at the beginning of an interview or discussion.

- **Explain this in appropriate terms.** Participants should understand that no one will know exactly what they answered for each question, and that no one will be able to read their responses on paper and see their name attached. The purpose is for others to learn and benefit from the research through the compiled responses from the whole sample, combined anonymously, yielding percentages and other information that will not have names attached.
- If others have had access to the questions that they will be responding to (for example, authority figures), this should be disclosed.
- **Both you and the participant have the same understanding of “confidential”** and who exactly you are proposing will have access to their information. For example, the participant may understand “confidential” as meaning that you tell absolutely no one, but you may understand “confidential” as pertaining to your organization, and you in practice would share the information with certain other colleagues in your organization. Client trust may be broken if they learn that others know their

details but he/she/they did not intend for the details to be shared with anyone else.

**DO NOT** discuss individual cases with anyone, including village officials, village headmen, local authorities, human resource managers, or any others who are not bound by the same duty of confidentiality, unless the participant gives express and specific consent to disclose elements of their information with one of these people.

- It is often more appropriate to speak generally only—such as about the circumstances and phenomena of the overall situation in a community.

**ALTER** personal details and identifying characteristics for any public presentation, of anyone who might be presumed to be a victim of trafficking or labour exploitation. Please see example photo of three individuals with their identities obscured on the following page.

- This includes names in interview information, and personal (i.e., eyes) and locational (i.e., landmarks and signs) identifying characteristics in photographs. Be mindful that informed individuals and local persons in power – for example, brokers or corrupt local authorities – might be able to ascertain the identity of individuals on the basis of very few personally identifying details, such as the shape of a tree in a photo. In some cases, for example in a survey of recent Southeast Asian media reports, the faces of complainants/harmed workers are blurred and the name is not mentioned, but the faces of other relatives are still shown clearly in the photos, making it relatively easy to ascertain the identify of complainants/harmed workers.

*Obscuring the identities of subjects in your photos may often include obscuring faces, but also remember to look for details in the background which may provide clues to specific locations, owners, families, or other details that you may also want to remain anonymous.*



## **GOOD PRACTICE & LESSONS LEARNED: FICTITIOUS NAMES IN THAILAND AND THE PHILIPPINES**

Academic researchers at Chulalongkorn University in Bangkok, Thailand interviewing trafficked persons have asked respondents to pick a name they prefer to be called, such as pop stars or generic nicknames (as are common in Thai culture). In addition to providing anonymity, the respondent's fictitious name choice also provided researchers with an ice-breaker conversation about the name, to increase rapport and trust..

This approach has also been used in participatory research with trafficked persons conducted by Eleison Foundation in the Philippines.



## **GOOD PRACTICE & LESSONS LEARNED FROM THE RED CROSS: OBSCURING INTERVIEWS THAT ARE COMPLAINTS BY KEEPING ALL INTERVIEWS OUT OF PUBLIC VIEW**

Sometimes, insisting on having an entirely confidential conversation increases the risk to the interviewee, if there are managers present (whether factory managers, shelter managers, or other persons in power) who might get suspicious. For this reason, the International Committee of the Red Cross (ICRC) insists that all conversations with prisoners/detainees should be in a confidential location, to obscure the portion of prisoners/detainees who may be giving complaints. This may be a difficult standard to observe in the anti-trafficking and responsible sourcing worlds, but conducting interviews with workers out of public view and away from the work place is generally safer practice in protecting the safety and security of migrant workers and trafficked persons.



## CHECKLIST: ANONYMITY & CONFIDENTIALITY IN THE CONTEXT OF GRIEVANCE MECHANISMS AND WORKER FEEDBACK IN WORKPLACES & SUPPLY CHAINS

For NGOs and other development partners and researchers who may be working with businesses on labour issues in supply chains, there are additional considerations to be taken in the workplace and with human resource management. In workplaces across the developing world, workers often do not have access to, or do not trust in the Human Resource grievance processes that are meant to support them. Manufacturers and suppliers may have little to no formal training or background in Human Resource management, and they may put rights-respecting policies in place because they are requested to do so by their customers, without truly understanding the benefits that such policies can have for their business and the productivity of their workforce. Grievance mechanisms such as (often poorly located, overly conspicuous) complaint boxes, or worker welfare committees, may be set up to tick a box, something that is evidenced by the low numbers of complaints actually raised through these channels. Workers in this case may understandably have little faith that submitting a grievance in this manner will lead to results, and are often fearful that raising an issue will lead to reprisals, particularly if safeguards for protecting the identities of complainants are poorly planned and/or articulated to workers.

In some cases, companies work in partnership with NGO or trade union partners to better understand worker grievances; companies may also contract the services of technology-enabled worker reporting tools, such as Labor Link, Labor Voices, or Ulula. In other cases, workers may proactively seek assistance from organizations independent from their employer. In all cases, workers should have access to confidential grievance mechanisms in the workplace, and should have the ability to provide anonymized feedback as well, in order to help improve the system while avoiding reprisal or stigmatization.

With regard to ethics and specifically anonymity and confidentiality, manufacturers and suppliers, and organizations supporting their ethical practices, are advised to:

- ☑ **Protect and respect worker anonymity, wherever possible.** Be mindful that while some complaints made by workers to NGO or trade union partners are ultimately aiming for remedy of some sort, meaning that their identity would need to be known at some point, in the beginning there may be little faith in the system and the worker may require anonymity for some time so as to not be “outed” before a safe remedy can be assured.
- ☑ **Implement a comprehensive grievance policy which takes note of ethical principles.** A comprehensive grievance policy should include reference to key ethical principles such as the need for an impartial investigation, provisions for protecting the anonymity of complainants, and clear timelines for resolution and provisions of feedback to workers. Sections 29-31 of the Ruggie Principles (UN Guiding Principles on Business and Human Rights<sup>15</sup>) provides further guidance on operational-level non-state-based grievance mechanisms. The Checklist of Guidelines for More Ethical Workplace Interpreters on page 37 of this Guide may also be useful here, since it will often be interpreters who are interfacing directly with foreign workers in workplace grievance mechanisms.
- ☑ **Provide ethics and human rights training to HR staff, line supervisors, and other relevant staff.** It is recommended that training provided should be interactive, featuring case studies that have been tailored to the relevant context based on workers’ previous experiences in that same workplace. Openness to reform at the firm-level and department or line-level may be limited, and so generic trainings are often of limited utility in these cases.

- ☑ ***If safeguards for complaining workers and their data cannot be adequately obtained, it is not ethical to hand over the worker feedback data to the business.*** This is a fundamental challenge to technology-enabled worker reporting tools, many of which sell worker feedback data to companies for the purpose of their due diligence absent a mechanism for ensuring that employing businesses do not retaliate against workers. In a multi-stakeholder discussion by a range of global buyer, supplier, recruitment agency, government, civil society, and worker representatives at the Issara Global Forum in November 2017, the conclusion was that worker reporting data should not be sold to businesses absent robust mechanisms on the ground for safeguarding all participating workers from threats, intimidation, and harm.



## **CASE STUDY. GRIEVANCE MECHANISMS GONE WRONG DUE TO LACK OF TOP-DOWN TRAINING AND MONITORING**

The Human Resource staff of supplier businesses in the developing world often have not been properly trained to handle worker grievances in a professional way that respects ethical principles and standards including confidentiality. There are sometimes official grievance policies in place, but no ethics training or monitoring has ever been provided to ensure that key principles upholding the rights, dignities, security, and fundamental value of workers are well-understood and implemented by staff. As a result, Issara Institute, an NGO working in Southeast Asia, reports that many of the cases they handled with some large exporting factories were caused by top-down promotion of a new policy to take grievances to HR, but then when workers did so, they were improperly treated, sometimes to the point of being humiliated to the point of tears, or terrified of reprisal after “outing” themselves as a complainant. In several cases, workers at the plant reported that, after taking a grievance to HR, they began being harassed by their line supervisor, being asked why they complained, then being yelled at more, having overtime payments docked, and enduring a range of other punishments and indignities. In one illustrative case in particular, a worker reported the abusive behaviour of his line supervisor to HR, and the HR department assigned a factory translator to investigate the case. However, it turned out that the translator assigned to investigate the case was the husband of the abusive line supervisor, which led to the worker being threatened by the line supervisor and the translator for reporting the issue to HR. Throughout all this, the senior management of the company continued to encourage the new policy of taking complaints to HR while threatening workers who sought assistance from NGOs.

The Institute luckily had relationships with the factories and was able to monitor and report the situation to those companies’ leadership, which invited Issara to implement ethics and human rights training for HR staff, line supervisors, and interpreters. The trainings reportedly had some immediate benefits for a period of time, according to workers. Backsliding of the behaviour of some line supervisors helped to clarify the need for the company’s leadership to go beyond their policies and strengthen their systems for monitoring, responding to, and investigating how their new worker rights policies were being implemented in practice on the line by HR and supervisory production staff.

# GUIDELINE 5. ADEQUATELY SELECT AND PREPARE INTERPRETERS AND FIELD TEAMS.

*Any research project or anti-trafficking program is only as good as the interpreters and field teams that interface directly with migrant workers and trafficked persons. Their preparedness and professionalism is key to developing and maintaining trust, and ensuring the rights and dignities of workers and trafficking-affected persons.*



## TOOL: DO'S AND DON'TS IN THE FIELD

Appendix A4—Do's and Don'ts in the Field—is a great first step for implementing Guideline 5. It is recommended that readers review Appendix A4, then proceed with the rest of this chapter.

The majority of this chapter proceeds like a checklist, since the topic of preparing interpreters and field teams lends itself to a preparatory checklist format.

The preparation and investment into the professionalization of interpreters and field teams is key for any anti-trafficking or migrant rights research project or program. It is the interpreters and field teams who will be directly interfacing with migrant workers and/or trafficked persons, explaining the program, encouraging and

answering questions, and representing the organization to the target population. No matter how well-designed a program or research study is, if the interpreters, enumerators, and field teams are not properly prepared at every level, there is risk of adverse consequences for participants, misrepresentation of the program or the participant's rights within the program, and possibly loss of trust that could jeopardize the integrity and effectiveness of the program.



## CHECKLIST: PREPARATION OF INTERPRETERS, ENUMERATORS, AND FIELD TEAMS

- ☑ Ensure that all interpreters and field staff are oriented and trained to follow these guidelines for the conduct of interviews and programs. It is recommended to make the discussion very practical, concrete, scenario-based, and specific to the task at hand, to help interpreters and field staff develop sound instinct and reflexes to respond well to ethical dilemmas they may face in their work.
- ☑ With your entire team, review the guidelines and discuss with your field teams how the guidelines might be relevant to the situation you in which you will be working.
- ☑ Clearly discuss the vocabulary that will be used for technical and/or sensitive topics, in English and/or the local language as appropriate.
- ☑ Work out seating arrangements for the interviewee/participant in relation to the primary interviewer, interpreter, note-taker, secondary interviewer, and anyone else involved.
- ☑ Use your best efforts to ensure that there is not a crowd of people around the interviewee/participant, nor anyone in the vicinity who might cause the interviewee/participant to modify what he/she/they say in order to please or meet that person's expectations.
- ☑ Snacks, drinks, toys, or other props might be appropriate: purchase and prepare beforehand to create a comfortable environment.
- ☑ If interview 'observers' are present (sometimes these will be unavoidable, such as interested relatives or government minders), it is essential to discuss potential issues and contingencies with your team beforehand. Adopt methodologies to reduce risks, for example, using smaller field teams and less formal interviewing approaches, or obtaining information through a series of brief, informal encounters rather than long conversations.
- ☑ Walk through other potentially difficult scenarios and obstacles, taking the time to carefully observe, train, and test all interpreters and field team members to ensure that they are able to respond appropriately to a possible emergency.
- ☑ Devise eye contact and other signals between team members to ensure that multiple interviewers and interpreters maintain an optimal interpretation and questioning pace. Take care to ensure interviewers and interpreters stay neutral, keep each other on topic, and do not overtalk each other or the respondent. Ensure that team members know how to signal to each other if there is an urgent problem.
- ☑ Maintain consistent, careful supervision of field teams to ensure that ongoing issues that arise during the process are appropriately addressed. Even with the best possible advance planning, there are always unexpected events that occur and field teams should have access to staff who can help them figure out how to respond, and that all protocols have been followed in practice and adapted if needed. Be sure to have a supervisor on-call 24/7.
- ☑ Inform field teams of the risk for vicarious traumatization from field interviews. Provide training and access to resources to help field teams cope with vicarious trauma if/when it arises. Ensure that field teams are being properly monitored for vicarious trauma symptoms, and that those who are experiencing symptoms are coping with it in a healthy manner so that there are no adverse impacts upon other participants or team members.
- ☑ Review the sample fieldwork photos on the following page and ensure that your team carefully considers seating arrangements, conversation "geometry," and body language—including key interviewers, secondary interviewers, note-takers, interpreters, and photographers.



*Sometimes crowds can be unavoidable, but physical placement of notetakers can help to close off the interview space. Still, some questions and topics should be avoided if some people in a crowd are listening in.*



*Sometimes crowds are desirable, depending on composition and the topic of interest—and, if the facilitators are prepared to engage a large group energetically. Note placement of interpreter is not between the main facilitator and the respondents; both interpreter and facilitator are well-positioned to engage the group and hear each other without losing eye contact with the respondents.*



*Facial expressions do not have to be robotically neutral. Generally, showing your engagement and responsiveness to the content and tone of respondents' message can be achieved without showing too much emotion.*



## **GOOD PRACTICE & LESSONS LEARNED FROM THE PHILIPPINES: PREPARING INTERVIEWERS**

Academics conducting research in the Philippines have taken precautions to ensure that field teams are properly trained prior to conducting interviews. Prior to commencement of research studies, interviewers are trained in topics such as: establishing and maintaining rapport; communication regarding informed consent; standards for maintaining and explaining confidentiality; data protection and management; dynamics of human trafficking; maintaining proper boundaries with research participants; managing distress and conducting crisis referrals; detecting, handling and reporting adverse events; basic crisis intervention skills; processes for safely and ethically making referrals to partner agencies; and boundaries of collaboration with referring partners. Prior to commencing any data collection, research assistants practice implementing interviews/surveys within the research team, where they are provided feedback. Interviews subsequently practice interviewing community members, who are then asked for their feedback on their experience being interviewed.

In addition to developing emergency protocols prior to the commencement of the study, a list of possible scenarios are prepared at the outset with general guidance for field staff on how to handle such events (i.e. how to respond if a participant discloses that he/she does not have a safe place to sleep, etc.). Prior to commencing interviews, interviewers are trained in implementation of violence safety planning protocols. As a part of this training, research supervisors conduct role-plays with field teams on how to respond to case study scenarios, such as witnessing bruises on the participants, disclosures of being afraid of a family member, etc. An emergency budget is prepared in advance for emergency expenses that might arise for research participants or field team members.

Even with the most meticulous planning, situations sometimes arise that are not covered in pre-study training. Careful, consistent supervision is provided to field teams, including regular team debriefings with a trained research supervisor. Research team members are given the opportunity to reflect on their experiences in a safe, non-judgmental environment. A research supervisor remains on call 24 hours in case any emergency situations arise. Training is also provided on secondary trauma (ST) given the potential for field teams to experience ST. Team members are trained in how to monitor one another for ST symptoms and what to do if they notice ST symptoms in their colleagues. A culture of open communication regarding ST is fostered within the research team – both for the safety and well-being of field team members, as well as research participants themselves. Funding is allocated in the budget to cover self-care activities for field teams when needed.



## DISCUSSION: RESEARCH ACCESS VS. RESEARCH QUALITY

### **Who should be conducting anti-trafficking research: those with community access and commitment, or those with formal research training?**

The issue of who should be conducting anti-trafficking research has been hotly contested in the anti-trafficking sector for years. Often, the options available have been presented in a black-and-white manner: on the one hand, there are academically trained experts who are independent consultants or from academia, with the training in quantitative and qualitative data collection and analytical skills needed to design and conduct rigorous counter-trafficking research. Academically trained researchers often have experience in ethical conduct checks and human subject research reviews as well.

On the other hand, there are NGOs with a presence in the locality and access to local populations, but whose staff often lack the training to conduct rigorous research using systematic sampling frames and analytical frameworks that allow for extrapolation and generalization from research findings. NGOs also often lack experience in ethical conduct checks; proper data storage; and testing, refinement, and documentation of instrumentation and methodologies for replicability.

Since the NGO world has the corner on a large percentage of human trafficking program implementation around the world, NGOs are sometimes assumed to be qualified to do trafficking research of any kind, even if they lack the technical expertise to do so. This assumption often results in so-called research initiatives, often with no ethical checks, that are in reality little more than non-representative situation analyses unsuitable for informing national-level or higher-level program design or policy-making.

However, does this mean that we need more academically trained researchers and consultants in the counter-trafficking sector? While many are appropriately trained, some are not: having an academic background does not guarantee the skills and ethical instinct needed to conduct successful anti-trafficking research. Even with proper training, without local ties and rapport with the community, academics 'parachuting' into communities simply may not be able to collect good information due to lack of trust or local understanding.

Over the past ten years or so, the amount of systematic and replicable research within the human trafficking sector has grown, but the overall proportion of studies based on rigorous, refined research methodologies is woefully small. Likewise, data and statistics on human trafficking continue to be poor, and few countries publish reliable national figures and trend data on human trafficking that can truly be substantiated. Somehow, this must be rectified, whether through more innovative solutions such as academic-NGO joint research teams; or, simply, greater investments in NGO research capacity or longer-term (including longitudinal) studies on human trafficking that allow for research teams to establish long-term relationships and rapport with hotspot communities, community leaders, NGOs, and trafficking-affected persons.



## DISCUSSION: COLLABORATING WITH TRAFFICKING-AFFECTED PERSONS IN RESEARCH

Partnership with trafficking-affected persons during the research process is vital. Participatory research approaches acknowledge that trafficking-affected persons are more than just “subjects” of research, but active stakeholders in the research process. Participatory methodologies may be especially appropriate for research with trafficking-affected persons given the vital importance of trust building during the research process for the safety and comfort level of trafficking-affected persons, as well as the validity of the data.

Researchers in the Philippines have used the participatory research methodology *photovoice* in research with people who have been trafficked. In one project, photovoice was used to understand trafficking-affected persons’ experiences participating in an economic empowerment intervention called BARUG. The goal of the photovoice study was to not only enhance programmatic effectiveness by gathering vital feedback from program participants themselves, but also to build ownership over the project and have the research process itself be an empowering process. In the photovoice study, trafficked persons served as active members of the research team, along with academics and practitioners. Trafficking-affected persons collected data for the photovoice study, were trained in data analysis, analysed data themselves along with a research team member, provided feedback on all reports about the project, and presented the research findings themselves in community forums.

### *The importance of interpreters in the workplace for foreign migrant workers, and why it’s an ethical issue*

Workplace interpreters play a critical role in human resource management, particularly in workplaces that are heavily reliant on foreign migrant labour. When workplace interpreters are qualified, impartial, and adequately trained to fully comprehend the rules and policies of the company, as well as the rights and benefits of workers, they are a key facilitator of smooth, positive employer-worker relations. However, shortfalls in the qualifications of interpreters expose the human resource system to a range of risks that can be particularly challenging because human resource managers are unable to understand the communications between

the interpreters and the workforce. The importance of having professional, ethical, impartial, knowledgeable, and safe interpreters is raised here as an ethical issue, and not just a business and human rights good practice vs. bad practice issue, because of the ease with which interpreters can abuse their power and totally subjugate foreign migrant workers: doing harm to workers, threatening their safety and security, coercing them, and making decisions on their behalf and without informed consent in a way that employers may struggle to grasp immediately given language barriers.

In these situations, an independent and credible grievance mechanism in the native language of the migrant workers is absolutely vital to uncovering risks and possible abuses stemming from inadequate workplace interpreters.

The following criteria are suggested to manufacturers and suppliers, and those supporting them in more ethical workplace management, to help guide the selection and training of workplace interpreters:



## CHECKLIST: GUIDELINES FOR MORE ETHICAL WORKPLACE INTERPRETERS

- ☑ **PROFESSIONAL.** Qualified and trained to serve as a professional interpreter. Professional language proficiency can be ascertained through standardized testing. A clear terms of reference and training can ensure that the interpreter understands his/her/their specific roles and responsibilities, ethical and procedural guidelines, and expected outcomes and results.
- ☑ **ETHICAL.** ‘Doing no harm,’ seeking informed consent with no coercion, and maintaining worker confidentiality at all times. Interpreters play an important role in ensuring that workers truly understand all the things they are required to voluntarily consent to in fair labour situations, for example overtime, being shifted to other lines or departments, and changes in contract terms.
- ☑ **IMPARTIAL.** Unbiased and uncompromised. When interpreters refrain from judgment when hearing the perspectives of workers, workers will likely feel more fairly treated and may speak more openly and honestly to the interpreter and company management. Interpreters must always be neutral and non-discriminatory, and should not have any real or perceived conflicts of interest that may compromise his/her/their ability to behave ethically and provide migrant workers with impartial, fair treatment. Precautions should be made to ensure that interpreters are not tied up in corrupt relationships that take advantage of the interpreter’s “middleman” position between the worker and the company.
- ☑ **KNOWLEDGEABLE.** Fully informed of workplace rules and worker benefits. Trained on all rules and regulations relevant to their job, as well as all company policies related to migrant workers. In addition, interpreters working in the HR office should understand factory floor operations, in order to better understand worker grievances.
- ☑ **SAFE.** Prioritizing safety, confidentiality, and efficient response to urgent issues. Trained and provided with clear protocols and procedures for managing urgent worker-related issues.

# GUIDELINE 6. PREPARE REFERRAL INFORMATION, AND BE PREPARED FOR EMERGENCY INTERVENTION.

*Be prepared for the possible situations below—and more, according to the specific context and nature of your work with migrant workers and/or trafficked persons.*

Consult with local labour rights and development practitioners, community members, and service providers to collect appropriate referral information, and understand how to be well-prepared for emergencies such as if the participant:

1. **Looks ill or physically abused.**

Ascertain if the person is in need of medical assistance through conversation and questions. If the person declines, but it is apparent that this need exists (signs of fever, trauma, disorientation, bruising, etc.), a medical professional should be sought immediately. Individuals might want to avoid attention from medical personnel. This might be caused by embarrassment; fear of what the

treatment might be (such as needles); wanting to avoid any further contact with those outside his/her support circle; or fear that if abuse is identified and documented, others might be implicated, bringing negative outcomes at a later time.

2. **Shows signs of extreme mental or emotional distress.**

Ascertain the person's present mental and emotional state through conversation and questions. Signs of disorientation, confusion, paranoia, depression, or anger can often be detected with limited effort. The person's state of mind could be the result of excessive abuse, stress, depression, fear of reprisals, and/or substance abuse. Under these

circumstances, attempts should be made to seek immediate psychosocial support by a trained professional. Prior to any interview, seek and plan options to address this emergency beforehand.

3. **Asks to call his/her/their family, or asks you to call his/her/their family.**

Try to accommodate this request if possible. Having on-hand a mobile phone with long-distance capability can be useful. Prior to the call, clarify with the person what information he/she wants to pass on to family members. This helps to ensure that the intended message is not lost or forgotten in the emotions that the call might precipitate. Ideally, it is best that the person makes the call him/her/themselves.

4. **Asks for help returning home, begs you to take them with you, tells you they do not feel safe or secure, or does not have a safe place to sleep.**

Prior to any interview session, discuss options to address the possibility of these requests being made. Consider any request for assistance of this type important, and act on it immediately. Action could be through local partners. Determine beforehand who is capable of reliably providing the assistance that might be required.

5. **Tells you they need to pray but is not allowed to practice their religion.**

If this request is made, determine why prayer has not been possible. Based on the responses, seek a solution that respects the person's right to practice his/her religion. Have referral information on hand.

6. **Asks for food or money, or for food for his/her/their baby.**

Interviews and programs set up to take a significant amount of the participant's time should already be providing casual drinks and snacks as needed to ensure a comfortable environment. Parents bringing children to interviews and programs will hopefully have age-appropriate food as needed. If the

parent is facing a particular challenge in feeding his/her/their child, referrals could be made to other agencies who could provide appropriate support. If money is requested, make the determination based on the compensation agreed upon prior to the interview.

7. **Tells you they were rescued in a raid or initially arrested and ended up being forced to leave the door to their house unlocked, to leave their valuables or documents behind, etc.**

Try to assist them if possible. First speak with the shelter personnel or the authorities of where they are being held to determine if there are procedures in place to resolve these problems. Determine the circumstances of the situation, and assist them in contacting a trusted family member or neighbor that could help look after their baby or property, if possible.

8. **Says they were beaten, raped, or abused by the police, shelter staff, their employer, their broker or other authorities; or was forced to have a body inspection or HIV test.**

The details of this violation should be documented. Discuss with the person what he/she would like to do – pursue the case, or not? Be sure to not raise expectations, but respect the wishes of the individual. Before sharing case information with the local authorities and/or employer, if agreed by the victim, have a discussion among trusted informants to determine the most appropriate agency or individual to which to report the violation. This might include the local police, an NGO that focuses on human rights violations, the head of Human Resources, or a national department or agency that addresses cases against the police. The determination should be made based on the local context, for example, whether there is an existing history of corruption, misuse of power, threats, or risk of reprisal after your departure.

## BE PREPARED!

### Common emergencies encountered in anti-trafficking programs and research

1. Research or program monitoring visits to any **victim protection program** (shelters, alternative livelihood training programs) can yield emergencies. Always be prepared for encounters with inadequate shelter facilities and services, and try to have the space for private conversations with some of the victims without close supervision by the program manager or other authority. Trafficked persons are also sometimes entered into alternative livelihood programs before they are psychosocially prepared for the work and the environment; be vigilant for signs of distress.
2. Prison **interviews with convicted traffickers** may uncover where trafficked persons, scapegoats, or the innocent may be imprisoned due to corruption or some other weakness in the criminal justice response. Be prepared to document and deal with such cases.
3. Post-return or post-intervention **victim tracing and follow-up** can uncover how the trafficked person's life may still be fraught with challenges and threats. Be prepared to deal with requests for assistance with stigma, unemployment, cash shortfalls, debt, psychosocial troubles, marital or family troubles, or other issues which may or may not be connected to assistance received at some point. Ensure that staff are trained and ready to deal with disclosures of intimate partner violence or family violence (sexual, emotional, and physical abuse) if these are possibilities. Also, be mindful of the fact that the extent to which the person feels open to fully disclosing their situation and needs to you often changes with regard to their current physical situation, employment status, family status, and so on.
4. Any **visit to a hotspot community** (source or destination) by a known counter-trafficking agency may leave a footprint of stigma, reprisal, or some other negative impact. Mitigate the potential of this negative impact by desensitizing community leaders and members to the nature of the visit as much as possible and appropriate. Develop a means to check up on this, whether through follow-up field visits or phone calls.
5. In situations where a referral to a service provider may be appropriate, ensure that **no service providers are engaged until obtaining the participant's informed consent**. The participant may have some reason why they may not be comfortable with their information being shared with the other organization.

## BE PREPARED!

### Common emergencies encountered in ethical sourcing and supply chain work

1. **Visits to factories**, whether by a buyer, auditor, inspector, or NGO, may include interviews with workers who have been pre-selected and arranged by the factory management, either in groups or individually. Either way, if you agree to do the interviews, be careful of what you ask workers to disclose in front of others, and what you ask them to disclose in general. Be aware of possible risks of reprisal to the worker, and be ready to handle the situation if a worker discloses an urgent issue or an emergency. It may be helpful to ask workers if they are aware of what has happened when a worker has complained or questioned the action of a supervisor, and whether any sorts of retaliation have ever been noticed in the past.
2. **Visits to migrant workers in their housing** areas during off-hours and days off allows migrants to talk more freely and confidentially with you. We have found that emergencies are much more likely to be disclosed in these environments, as compared with in workplaces – so be ready. In addition, there are sometimes brokers and controllers milling around the premises, so be aware of possible risks of reprisal to the worker.
3. Migrant worker housing may also be in **high-crime areas**. If so, when talking to workers, whether in person or over a hotline or grievance mechanism, be prepared to receive and refer (if a researcher) or handle (if an implementing agency with such responsibilities in its remit) reports of non-labour-related issues such as petty theft, muggings, sexual assault, or whatever is occurring in the area.
4. Organizations (whether business or NGO) running **hotlines or grievance mechanisms** or hotlines for migrant workers or other vulnerable populations need to be ready for a whole range of emergencies being reported. Have a clear case management protocol in place, with case escalation procedures and timelines, to reduce the stress of grievance mechanism responders having to think on the fly for each case.
5. Foreign migrant workers often struggle with **poor interpretation services** in Southeast Asian factories, leading to a lot of mis-information and rumours circulating regularly around the workforce. This can sometimes lead to widespread panic when major decisions are passed down from factory management to the workforce about things pertaining to job positions, documentation, contracts, and other serious matters. Business managers should try to minimize mis-information and rumours through well-planned, well-executed, professionally-interpreted communication of major issues and decisions to migrant workforces, orally and in writing.

# GUIDELINE 7. DO NOT HESITATE TO HELP OTHERS: PUT YOUR INFORMATION TO GOOD USE.

*What is the most good that can come from your anti-human trafficking or migrant rights research or program?*

## **FOR RESEARCH, CONSIDER...**

- ☑ Informing participants of the eventual results and next steps, and engage them as partners in disseminating findings and coming up with next steps.
- ☑ Feeding your findings, with clear and practical recommendations, to development partners who could improve their interventions from learning from your findings.
- ☑ Training local researchers, academic institutions, and NGOs on your field and analytical methods, so that they can continue and/or expand more rigorous and ethical approaches where appropriate.

- ☑ Publishing in international and local publications, and give presentations on results in international and local fora in the appropriate language.
- ☑ Prepare and disseminate publications in multiple languages and formats suitable to different stakeholder groups, which may include clients, practitioners, academics, donors, policy makers, employers, global buyers, etc.

## **FOR PROGRAMS, CONSIDER...**

- ☑ Conducting objective, independent evaluations and impact assessments, and widely share good and bad practice with development partners, donors, and governments.

- ☑ Asking the participants and beneficiaries to evaluate the effectiveness of the program, and request their advice about how it could have been improved.
- ☑ Replicating and expanding that which is demonstrated empirically to have had a positive impact, and revise or discontinue those aspects that do not.

**FOR WORK WITH MIGRANT WORKERS IN SUPPLY CHAINS, IN ADDITION TO THE ABOVE, CONSIDER...**

- ☑ Ensuring that the results of supply chain improvements, especially those informed or driven by worker voice, are communicated back to the workforce. It's even better when workers are also able to provide further feedback in an iterative manner, to increase the pace of improvements as well as the goodwill between workers and employers.



## **GOOD PRACTICE & LESSONS LEARNED. SURVIVOR PARTICIPATION IN THE SHAPING AND DISSEMINATION OF TRAFFICKING REPORTING**

A 2017 research paper by a University of Ottawa team in collaboration with the Issara Institute<sup>16</sup> explored insights and experiences of Burmese fishers with coercion and deception in both the trafficking process and the post-trafficking/anti-trafficking process. It was discovered that trafficked persons interviewed in the study had been widely interviewed and broadcast in various international media stories about trafficking in the Thai fishing industry, but they felt they had no real voice regarding their situation and abuse, and that in a sense they felt disempowered, with their true insights unheard. The lesson learned was that “...journalists whose stories are heavily reliant on or focused on the abuse and suffering of others should allow those victims some voice in shaping the story – for example, sharing their views on what outcomes should be gained from telling their personal stories to audiences of thousands or millions.”

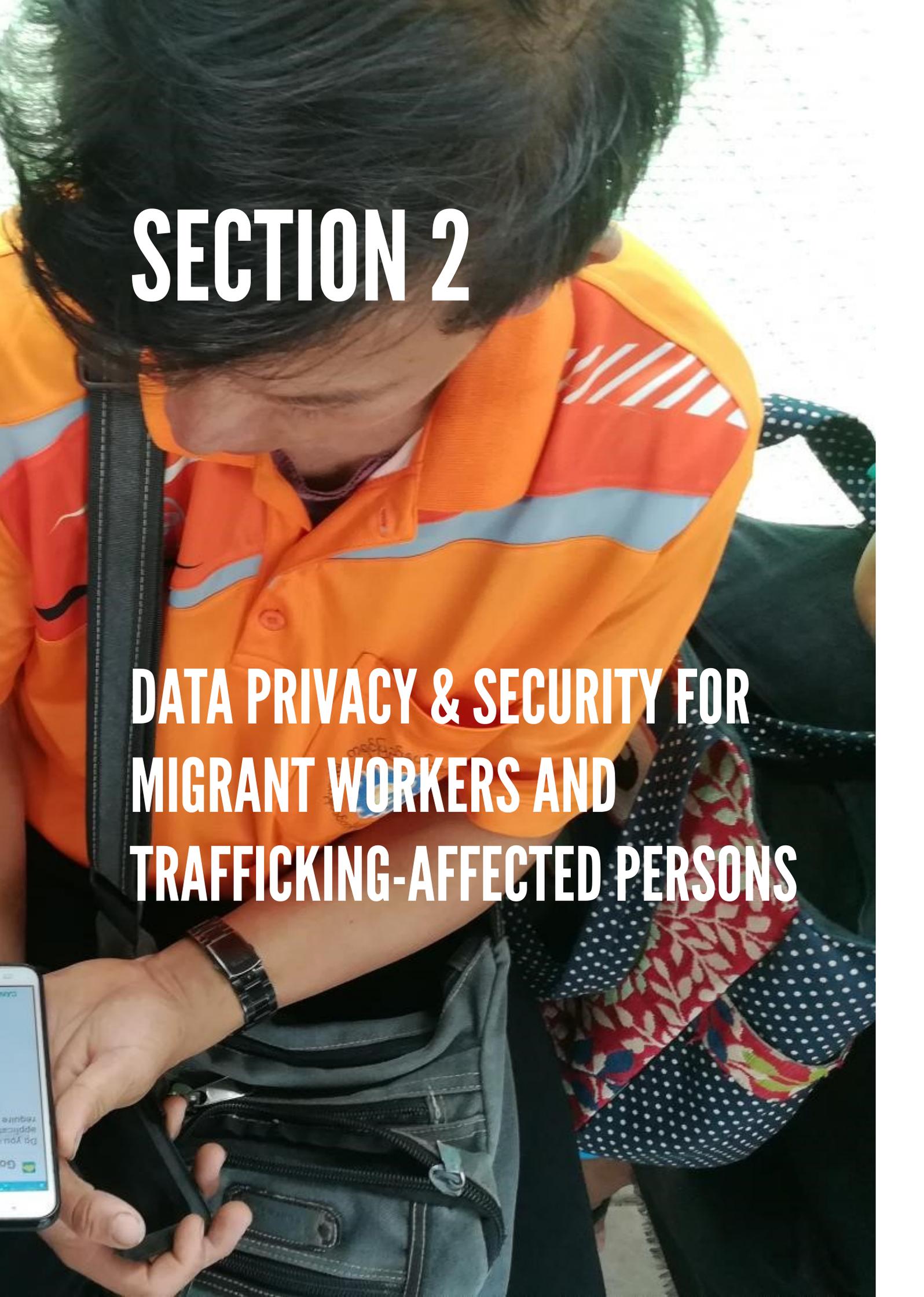
In gaining this insight during the course of the research, the University of Ottawa–Issara team analysed the data and wrote a draft report, then returned to the field to share the draft analysis and key findings with contributing respondents, to collect their feedback and insights for the completion of the paper. The results were positive in a number of ways: the respondents were empowered and their voices were heard, the insightfulness and quality of the report was improved, and a more inclusive process for engaging survivors in trafficking reporting was created that could help set a higher standard for the future.





နည်းလမ်းများအတွက်



A person with dark hair, wearing an orange high-visibility polo shirt with reflective blue and white stripes, is looking down at a smartphone held in their hands. They are also wearing a black watch on their left wrist and a grey bag. The background is slightly blurred, showing other people in patterned clothing.

# SECTION 2

## DATA PRIVACY & SECURITY FOR MIGRANT WORKERS AND TRAFFICKING-AFFECTED PERSONS

## ***Data privacy and security is a new area of human rights that anti-trafficking and responsible sourcing practitioners need to understand well***

As more organizations working in anti-trafficking and responsible sourcing are handling digital information and data from the populations they serve, there is an urgent need for ethical standards and approaches. Digital technologies, such as mobile phones, social media, and data analytics software, provide many opportunities to address trafficking and responsible sourcing. These tools also introduce a new set of harms, risks, and threats to vulnerable people. Since every technology has dual uses, which can result in both positive and negative consequences, appropriate safeguards need to be developed and put into place. This section will discuss key concepts of data responsibility, privacy, and security, and provide examples for the protection of rights.

### ***PRIVACY AS A HUMAN RIGHT***

The international community has long recognized the right to privacy, enshrining protections against “arbitrary interference with...privacy, family, home or correspondence” and providing for legal protections against such.<sup>17</sup> This guarantee is an important protection that serves to further other basic rights, like freedom of expression, conscience, and religion, and protects political activity and the physical safety and security of persons. There are also various standards and conventions regarding the privacy of trafficked persons that have long been recognized. The UN Office of the High Commissioner for Human Rights (OHCHR), in 2002, highlighted the need to protect the privacy of trafficked persons, particularly in relation to NGOs who often are better positioned to identify potential victims but have responsibility to protect the victim’s privacy. OHCHR upheld that the privacy of trafficked persons “should be respected and protected to the extent possible, while taking into account

the right of any accused person to a fair trial,”<sup>18</sup> elevating the right to privacy alongside that of more established rights.

The world has changed since the right to privacy, and related rights, were included in the UN Universal Declaration on Human Rights. Technology offers new opportunities to address human trafficking and responsible sourcing. And technology can help address the crucial need for better data on human trafficking. But technology has also vastly increased the threats to personal privacy faced by vulnerable populations and anyone else who interacts with anti-trafficking organizations.

A recent 2015 report, Data Protection in Anti-trafficking Action (DataCT), addresses the concerns around data protection challenges in anti-trafficking efforts and offers a comprehensive overview of data protection provisions and guidelines within a European Union context. The report outlines relevant laws and provides useful guidance to implement the general right that “individuals are safeguarded by a general right to have their personal data processed fairly and lawfully, and only for legitimate purposes.”<sup>19</sup>

### ***PRIVACY AND SECURITY IN A DIGITAL AGE***

Using digital technologies to address human trafficking and responsible sourcing generally involves some form of collecting, storing, manipulating, and sharing data and information. Because social media and mobile phones also reach vast numbers of people, data-driven tools using these ubiquitous technologies are a powerful way to identify and provide services to target populations. These tools also present hard challenges. Information stored digitally is vulnerable to surveillance, misuse, and interception.

The low cost of data collection and storage using digital technologies can also encourage the collection of sensitive information, which may not have a clear and necessary use to the task at hand.

The collection and storage of digital information, even with a clear and compelling purpose, increases the risk of negative or adverse impacts on rights and safety. Information collected can be used for advertising purposes, to reveal private information, further criminal activity, or even to target dissidents.<sup>20</sup>

Anti-trafficking organizations often have good reason to collect and share personal information or sensitive data, and may do so with the best of intentions. Data of this sort can help identify potential victims, enable research, help target aid, facilitate oversight and transparency, and assist in program and intervention planning.

Yet the collection of data for those same requirements can create more risks for the privacy and security of data subjects. A UN report on cyber-threats to humanitarian organizations calls attention to this paradox: "effective response in the 'Network Age' requires open data and transparency, but the more information that is shared the more risks and challenges for privacy and security emerge. Finding the right balance requires a clear definition of what information needs to be protected and what should be open."<sup>21</sup>

A worker or migrant facing abuse may provide or inadvertently expose their identity while communicating with an NGO over digital technologies. Yet if the worker's identity is unprotected and is then revealed

to the abusive employer (or to one of their agents or associates) it could put that worker at risk or even in mortal danger.

Organizations serving vulnerable populations should make it a priority to incorporate responsible data principles and practices in their work. Responsible data is "[t]he duty to ensure people's rights to consent, privacy, security and ownership around the information process of collection, analysis, storage, presentation and reuse of data, while respecting the values of transparency and openness."<sup>22</sup> Learning and applying responsible data principles is an important step in gaining and keeping the trust of data subjects; it means empowering them to make their own decisions and to take part in determining how their data is used, and it means protecting them from new harms and not exacerbating existing ones. These principles include planning, determining what data—if any—is necessary to collect, getting consent, and preparing for unexpected turns that could disclose data. For example, an organization dedicated to transparency may create visual maps or graphics that display the location where workers have lodged complaints. Yet even if those creating data visualizations have attempted to anonymize individuals' personal information, the information could still reveal specific locations, which may put these individuals at risk of retribution from employers operating those work sites. Thus, projects need careful planning to minimize risks and understand that ethical considerations need to be fully examined when any digital technology is deployed.

# GUIDELINE 1. DO NO HARM: BE COMPASSIONATE BUT NEUTRAL.

*Technology can expose people to new risks to privacy and personal safety. How can anti-trafficking organization and workers anticipate and mitigate the risk of harm?*

Before beginning to collect information digitally, it is important to understand the new set of harms brought about by data-driven technologies. At every step of the process—collection, storage, analysis, sharing, and possible future uses—there are risks to be considered and mitigated.

- **At the collection stage**, insecure methods can leak personal, sensitive data. Or data can be over-collected, exacerbating risks later in the process. For example, not collecting names of data subjects, or collecting and storing them separately from other information, may provide some protection against the risk of personal information being used against a particular person. Beware, however, that advanced data analysis techniques may enable the re-identification of data presumed anonymous, especially in combination
- with other data sets.
- **Stored data** may be targeted by adverse actors who want to use the data for their own purposes. Stored data can be mistakenly leaked or may also be available to a third party if it is stored in the cloud.
- **Sharing data** also exacerbates risks, as it increases the number of copies of the data that exist and allows more people—who may not have done the same work to plan for its use—to make decisions that can affect data subjects. In addition, the data may be put to some new use in the future that was unimagined by the original collectors or the data subjects, and can carry a new set of risks.

It is important to understand these risks as they apply to the data subjects, the particular data being collected, and the local social and legal norms that govern where the data is collected. Understanding local context is necessary to fully comprehending risk and planning to mitigate it. Technology choices themselves may also have to depend on local context. For example, messaging apps like WhatsApp may seem like the appropriate means to communicate with beneficiaries. Yet, depending on the type of apps or smartphones needed by the target audience, those messaging apps can still exclude people based on hardware (smartphone) costs, operating system, national laws banning access to websites, access to electricity, availability of reliable

data connections, gender, or age.

Once data is collected, it is difficult to predict what negative consequences may occur. Planning ahead and having consistent standards that apply to the collection, storage, and use of data can help prevent unintended consequences. Think about security for collecting and storing the data, and also how data will be transferred between organizations and made available for use.<sup>23</sup>

The exact policies and standards for collecting, storing, and using data will necessarily vary from project to project, but some principles should always be considered, for which the checklist below may be useful:



## CHECKLIST: ETHICAL COLLECTION, STORAGE, AND USE OF DATA

- ☑ **LAWFULNESS, FAIRNESS, AND CONSENT.** Data should always be collected according to local legal and social norms, and with the actual consent of the data subject.
- ☑ **PURPOSE.** Data should be collected for a particular purpose. Information not necessary to carry out that purpose should not be collected. Collecting more data than is necessary exacerbates risk to data subjects should the data somehow become available to the wrong actors or put to an unintended future use.
- ☑ **SECURITY.** Data should be secured to prevent unintended access and uses. It should be secured during every step of the process, and measures should be in place to make data available to the specific people/organizations that need it while maintaining proper security. Further, interacting with vulnerable individuals using platforms owned by private technology companies may expose them to corporate tracking, which itself can be intercepted by government surveillance mechanisms.
- ☑ **QUALITY.** Only accurate data should be used. This may entail instituting procedures to allow data subjects to review and correct their data. It may also include keeping data up to date.
- ☑ **DELETION.** Data that is no longer needed for its intended purpose should be deleted.
- ☑ **ACCOUNTABILITY.** Organizations and the workers who collect data should understand their responsibility to use the data with respect to privacy rights. It should be clear within the organization who is responsible for privacy concerns at each step of the project. In assigning goals and setting standards, keep in mind that there is a responsibility not only to the organization, but to the data subjects themselves. Consider ways that data subjects can express concerns, provide feedback, or seek redress or remedy if they are harmed by a project.<sup>24</sup> For those organizations committed to listening to worker voices, it is important to provide a mechanism for accountability to those workers who are providing data and information.

# GUIDELINE 2. PRIORITIZE PERSONAL SAFETY AND SECURITY: IDENTIFY AND MINIMIZE RISKS.

*Data leakage and misuse—even when unintentional—can lead to risks to personal safety. What steps can be taken to ensure that adverse actors do not take advantage of data for their own purposes?*

One of the biggest risks to data subjects is that their safety and security could be compromised by the digitizing of their data. As discussed above, information collected by organizations could be used by exploiters or groups looking to target vulnerable persons. Data collection and use can, even unintentionally, exacerbate or continue existing bias or discrimination against people or groups.

To help mitigate these types of risks, and to determine what actions, from encryption to data minimization, need to be taken, a Privacy Impact Assessment (PIA) or other similar risk assessment should be undertaken. PIAs help ensure compliance with applicable laws, determine risks and effects, and evaluate means to mitigate risks and protect data subjects.<sup>25</sup>

PIAs are a practical means to incorporate

privacy by design, and are an important aspect of taking “into consideration the impact that data use can have not only on individuals but also on groups of individuals,” and ensuring that the “risks and harms are not excessive in relation to the positive impact of the project.”<sup>26</sup> An assessment will help determine that data is collected for the purpose it is intended and is “adequate, relevant, and not excessive in relation to the legitimate and fair purposes for which [it] was obtained,”<sup>27</sup> along with helping target other practices, like data security training for personnel.

Sample PIAs may be available from local governments, international organizations, or professional organizations. UN Global Pulse has developed a “Risk, Harms and Benefits Assessment Tool” “meant to help minimize the risks of harms and maximize the positive impacts of innovation projects.”<sup>28</sup>

Before beginning a project, it is important to determine what type of assessment would best help in the design of the project and to carry the assessment out rigorously.



## TOOL: SUMMARY OF THE UN GLOBAL PULSE TOOL—RISKS, HARMS, AND BENEFITS ASSESSMENT

**Appendix A5** contains a condensed version of the UN Global Pulse *Risk, Harms, and Benefits* Assessment Tool, to help determine possible risks and impacts of an intervention on the privacy of data subjects.

This assessment tool, created by UN Global Pulse, provides a useful checklist, along with explanatory material, that can be used before the launch of a project to help determine the risks posed by data collection. As UN Global Pulse notes, “[d]ata use should always be assessed in light of its impact...on individual rights.” It provides a check to help understand and minimize risks, but is not itself a complete review nor a legal document; it “provides only a minimum set of questions and guiding comments.”

The questions in this checklist and the Guidelines in this Guide, while separate documents, reflect a similar concern for privacy and security in the digital age, particularly for vulnerable populations. The checklist is divided into six sections that covers:

1. Type of data
2. Data access
3. Data use
4. Communication
5. Third parties
6. Risks and harms

A final assessment is then made about the project.

# GUIDELINE 3. GET INFORMED CONSENT, WITH NO COERCION.

*Informed consent is a necessary step to ensuring that data subjects understand the risks they are taking in proportion to their expected benefit. But technology can exacerbate the power differences between data collectors and data subjects; how can those gaps be bridged?*

Individuals need to be made aware of risks and harms that can arise from their participation in online research or digital communication. Informed consent has long been an important cornerstone of research, but historical sources of law and guidance on this topic, including the Nuremberg Code and the Belmont Report, need to be considered within the context of the digital age.

We have discussed how collecting and sharing digital information comes with inherent risks for vulnerable people and groups. Yet it remains challenging to fully understand and explain privacy and security implications to the general public let alone those at risk of trafficking and exploitation. In this way, technology usage can expose the power differences between those with high and low digital literacy. Nevertheless, it is incumbent upon anti-

trafficking organizations to inform their beneficiaries and clients about potential risks and harms as data subjects for digital monitoring or research.

When thinking about how to obtain consent, consider the following circumstances:

- People share information with friends, loved ones, and communities on social media platforms, online forums, and other gathering places on the web; is informed consent needed to collect this data?
- Some organizations have the means of gathering data remotely such as satellites, cameras, mobile apps, or access to proprietary data. Is informed consent possible and needed to use data from such sources for anti-trafficking purposes? How might this data reveal information about a population that is

unintended? How can project planning address how to meaningfully inform beneficiaries, maintain trust, and mitigate risks from the collection and use of this data?

- How can risks be clearly communicated to populations with low digital literacy? How can the risks of data breaches, new uses based on emerging techniques and capabilities, and other risks be articulated in an easily understandable fashion?

A project may demand urgency, but is forging ahead without informed consent worth the risk to the data subjects? In some cases, organizations in other domains have addressed this issue. The United Nations Office for the Coordination of Humanitarian Affairs noted that in rare cases like outbreak investigations, consent might be waived “during the acute emergency phase...but only for a short period of time.”<sup>29</sup> When considering the urgency of a situation, think about *proportionality* and whether the time saved will truly outweigh the possible risks of not obtaining informed consent. In some cases, it may not be possible to obtain informed, un-coerced consent. The relationship between the data subject and the humanitarian group may make it “unrealistic to assert that they have the freedom to choose to participate or not.”<sup>30</sup>

When collecting data already posted online, it is also important to consider the context

of the original post and the intended audience. On social media platforms, the lines between public and private can blur or even collapse altogether. For example, someone posting to a social media site may have an expectation a message is sent privately but is actually visible to the public. The perceived intimacy of social media communications may lead an individual to post sensitive information about abuse or exploitation, which may then be seen or shared by others who were not the intended audience. Conversely, someone posting a message may try to edit the post for fear of that message being seen by others, which may render that message devoid of key information and is thus overlooked by an NGO. These situations may lead to misunderstandings, use of data for unintended purposes, and possibly harm to the speaker. Thus the use of social media to communicate with potential victims should be assessed for these risks.

Before beginning data collection via social media, mobile, or other digital tools, an organization should establish ethical guidelines for informed consent. These guidelines should be developed with the input of the beneficiaries/data subjects themselves whenever possible, as a method of building trust and encouraging participation, but also to ensure that local concerns, needs, and practicalities are taken into account.



## **LESSON LEARNED. NGOs EXPOSING MIGRANT WORKERS TO RISKS THROUGH SOCIAL MEDIA, WITH LACK OF INFORMED CONSENT**

Two community-based organizations (CBOs) in Thailand are known to have Facebook live streaming and video clips of raid-and-rescue operations, as well as handling of labour disputes between employers and employees. It is apparent that no informed consent from any identified party is obtained, and each post is often followed by negative comments, some which blame the victims and workers shown in the posts. Workers in the geographic area where these organizations are based express serious concern to other CBOs about being exposed on Facebook, fearing reprisals from supervisors based on that which has occurred due to the actions of these two CBOs.

There was a case where one of these CBOs posted the information, statements, and complaints of some migrant workers on Facebook, and when they returned to their home country they were actually sued by the source-side recruitment agency for slander, since, under local law, it is a crime to create or alter electronic information which harms the dignity of any person or organization, with a penalty of a five-year prison term.



## CHECKLIST: ETHICAL GUIDELINES GOVERNING CONSENT AND DIGITAL DATA

### **CONSIDER THESE FACTORS WHEN DEVELOPING ETHICAL GUIDELINES GOVERNING INFORMED CONSENT AND DIGITAL DATA:<sup>31</sup>**

- What are the topics of the data collection?
- What is the purpose of the data collection?
- What are the risks and benefits?
- How will confidentiality and privacy be maintained?
- How might your status and/or program create a coercive effect?
- How might technological aspects of a data collection (for example, a web form with required fields) prevent data subjects from participating only in questions they wish to participate in?

### **EDUCATE YOUR CLIENTS AND BENEFICIARIES ON HOW THEY CAN PROTECT THEIR OWN PERSONAL DATA WHEN BEING ASKED TO CONSENT. THE DatACT REPORT SUGGESTS INDIVIDUALS BE MORE RESPONSIBLE IN PROTECTING THEIR DATA THROUGH:**

- Thinking before disclosing your information.
- Only disclosing information that is needed by the organization involved.
- Questioning why someone might ask for your particular personal information.

# GUIDELINE 4. ENSURE ANONYMITY AND CONFIDENTIALITY TO THE GREATEST EXTENT POSSIBLE.

*Anonymity and confidentiality are important to protecting privacy and safety, and guarantees of such may be why people agree to participate in a project. What can be done to protect anonymity when technology collects so much data?*

Protecting confidentiality in the data and technology context is challenging. The vast amount of data and metadata available may make it possible to re-identify data that has been anonymized or de-identified, especially when multiple data sources can be used in combination (called the Mosaic effect<sup>32</sup>). However, following anonymity protocols and procedures can play an important role in protecting privacy and security.

When designing a project that involves data collection, it is important to “[c]onsider the context and needs for privacy of personally identifiable information [and to] mitigate accordingly. Ensure equity and fairness in co-creation, and protect the best interests of the end-users.”<sup>33</sup>

New technology will expand the number of people with input into how data is collected

and with access to data, requiring reliance on developers, internet service providers, cloud storage companies, and government regulators. Project design must take into account how each of these actors will impact privacy and security, particularly when one actor may not adhere to responsible data principles or another actor engages in practices that present a risk to privacy.<sup>34</sup>

When designing to protect anonymity, some practical methods to consider are:

- Need for digital security training for personnel involved.
- Whether to use encryption, and how to implement it.
- Responsible data training or guidance for developers and other third parties involved.

- Not collecting personally identifiable information in the first place, or collecting it separately from other responses.
- Work with technology providers that understand and meet your needs and standards for privacy and data security.
- Develop a plan of action or response protocol in the event of a data breach.



## **CASE STUDY. USING SOCIAL MEDIA TO COMMUNICATE WITH COMMUNITIES, INTERVIEW INDIVIDUALS FOR POTENTIAL CASES OF TRAFFICKING, CONDUCT RESEARCH, AND CREATE AWARENESS**

Given the global reach of social media, many anti-trafficking organizations are using Facebook to advance their mission and programs. Some organizations report that Facebook is not only convenient way to communicate with the communities and individuals they serve, it is sometimes the only means to reach certain clients or beneficiaries who may not own a smartphone or laptop themselves, but find a way to check their Facebook accounts on others' mobile phones. For the particularly disadvantaged, Facebook is often the only portal to digital information – indeed for some who lack digital literacy, Facebook has become synonymous with the entire internet.

In the course of using Facebook to establish relationships, foster dialogue, and build trust between an organization and local communities, some use the platform as a means to report exploitation. While posting such abuses to a public Facebook page clearly has risks of revealing sensitive information, some organizations use closed Facebook messenger chats to conduct individual interviews and identify possible cases of exploitation. Organizations, who may have tens of thousands of followers, see a unique opportunity to create awareness or even conduct research using online surveys and questionnaires. The social media site can also be a way to distribute research and updates to a worldwide community of anti-trafficking organizations, governments, and donors.

Both anti-trafficking organizations and clients are right to worry about privacy when using Facebook and all social media. Individuals may not understand the ramifications and risks of reporting abuse through Facebook's platform. Facebook users may be concerned whether exploiters are monitoring their Facebook pages or whether closed Facebook groups can be infiltrated. Some may be concerned about Facebook's business model that make changes to privacy settings, encourages sharing too much personal information, filters content from newsfeeds, or facilitates false news and rumors.

To examine the risks, costs, and benefits of using Facebook, organizations should consider the following:

### **DO NO HARM**

- Study potential harms and unintended consequences for using Facebook in relation to alternative communication platforms.
- Organization staff should undergo information security training to understand the full range of risks and benefits of using social media and how adversaries may use social media platforms to discredit or exploit.

### **PRIORITIZE PERSONAL SAFETY AND SECURITY: IDENTIFY AND MINIMIZE RISKS**

- Conduct a Privacy Impact Assessment for Facebook use—see Appendix A5.
- Create rules and mutual understanding for communicating over Facebook. If Facebook is deemed to be too insecure to report exploitation, organizations should develop a protocol for moving sensitive conversations off Facebook to other more secure platforms – while understanding that no platform is 100% secure.
- Educating clients and beneficiaries about the risks and harms of sending personal and sensitive information over Facebook, sharing messages with outside parties, or sharing smartphones or mobile devices to access Facebook. Also educating communities about the potential for rumors or falsehoods to be spread over social media and creating an awareness of individual rights to privacy and data protection.

### **INFORMED CONSENT**

- Implement informed consent procedures when interviewing, conducting surveys, or receiving reports or images of exploitation over social media. Organizations collecting information over Facebook should be aware that their clients may have specific ideas - or may not be aware - of what constitutes a public or private post on social media. This is important for organizations who are monitoring social media for potential cases of exploitation. While some clients or beneficiaries would welcome such monitoring, others might find it an intrusion.
- Be aware of local laws about admissibility of social media evidence to law enforcement or for court proceedings.
- It is critical that organizations speak with their clients and beneficiaries about all these issues to understand the risks and maintain a shared sense of trust.

### **ENSURE ANONYMITY AND CONFIDENTIALITY**

- Organizations should only collect the minimum amount of data and information needed for a specific purpose; however, they should be aware that any information shared on social media leaves a trace or record of that data, which can be used to identify individuals even after attempts to anonymize.
- Encourage beneficiaries and clients to take great care when sending sensitive messages or images and following protocols of deleting that material, while understanding that any post to social media is never confidential and is always collected by the proprietary platform (which can be shared to third parties) and can be captured by any entity monitoring the site.

To be sure, interactions over social media or any digital platform brings both positive and negative consequences. Decisions about whether or not to use digital technology are often not black and white, but ultimately about trade-offs. This is particularly important since digital technologies are

constantly changing and rapidly evolving. Creating awareness about risks and harms, and developing policies and procedures to safeguard fundamental human rights, should be seen as requirements to meet the ongoing responsibilities for data privacy and security in the anti-trafficking space.

# APPENDIX A1

## ETHICS REVIEW FORM FOR ANTI-TRAFFICKING RESEARCH AND PROGRAMMING

1. Carefully review the Guide, with attention to all 7 Guiding Principles.
2. Review your own proposed field and research methods, and reflect on the security and ethical checks and considerations that are required for your work to best protect the rights, interests, and dignities of migrant workers and trafficked persons.
3. Complete, this form, using as much space as you need and noting the required attachments, such as informed consent forms or statements in English and local language.
4. Respond to further ethics-centered inquiries from the reviewer/approver if needed.

### **GUIDING PRINCIPLE 1. DO NO HARM: BE COMPASSIONATE BUT NEUTRAL.**

Question 1: What security, emotional, or other risks do you anticipate facing in your interviews with migrant workers or human trafficking-affected persons? Describe the physical environment, topics to be raised, sensitivities, and other critical matters of your interview or program; the anticipated risks; and, your plan for mitigating risks.

[Insert your response here, using as much space as you need]

### **GUIDING PRINCIPLE 2. PRIORITIZE PERSONAL SAFETY AND SECURITY: IDENTIFY AND MINIMIZE RISKS.**

Question 2: Describe security risks and dangers you may potentially encounter or expose migrant workers and trafficked persons to, and your plan for minimizing these risks. Also describe your plans for responding to potential security emergencies.

[Insert your response here, using as much space as you need]

### **GUIDING PRINCIPLE 3. GET INFORMED CONSENT, WITH NO COERCION.**

Question 3: Describe if you are going to remunerate participants. If so, how much, and what is the rationale behind the remuneration? Also, will you provide written or oral informed consent? Attach the informed consent forms you will use in English and local language, and describe your approach.

[Insert your response here, using as much space as you need]

**GUIDING PRINCIPLE 4. ENSURE ANONYMITY AND CONFIDENTIALITY TO THE GREATEST EXTENT POSSIBLE.**

**Question 4:** Describe the assurances concerning confidentiality and anonymity you plan to give to your research/program participants. Provide details on any limitations you foresee concerning your ability to maintain confidentiality and anonymity. Also describe your data collection and storage system, and how it ensures anonymity and confidentiality.

[Insert your response here, using as much space as you need]

**GUIDING PRINCIPLE 5. ADEQUATELY SELECT AND PREPARE INTERPRETERS AND FIELD TEAMS.**

**Question 5:** Describe the criteria and process by which you will select, hire and train your interpreters and field team. Provide details about the number of people on your team, their titles and responsibilities, their credentials, and chain of authority.

[Insert your response here, using as much space as you need]

**GUIDING PRINCIPLE 6. PREPARE REFERRAL INFORMATION, AND BE PREPARED FOR EMERGENCY INTERVENTION.**

**Question 6:** Will you be interviewing or working with exploited workers who might still be in the harm environment? If so, describe how you will handle emergency situations such as discovering extreme abuse, or receiving requests for urgent assistance. Will you be interviewing persons who may disclose information constituting evidence of a crime, and/or possibly implicating themselves in a crime? If so, describe how you will handle such information, and explain what you would do if the police or employers asked for such information from your team.

[Insert your response here, using as much space as you need]

**GUIDING PRINCIPLE 7. DO NOT HESITATE TO HELP OTHERS: PUT YOUR INFORMATION TO GOOD USE.**

**Question 7:** Describe how you plan to maximize the positive impact that your research or program results have on the intended beneficiaries.

[Insert your response here, using as much space as you need]

# APPENDIX A2

## PAYMENT RECEIPT WITH ORAL INFORMED CONSENT STATEMENT

*The following template is an example of how payment receipts to participants can be combined with informed consent statements, so that only one form and one signature is required of the participant – and the signature ensures that the participant only accepted the compensation after fully understanding and consenting to the interview or program.*

- The signature must be obtained *before* the interview or program, not after.
- If the participant cannot read the form, or has difficulty in doing so, read it to them and follow witnessed oral informed consent guidelines (Appendix A3).
- When the participant signs the sheet, there should be no other participant names or signatures on the sheet – one consent form and name per slip only.
- Ensure that it is clearly understood that the person is not expected to do anything other than tell the truth – they are not expected to be able to tell a story or provide any sort of particular information in exchange for compensation.

<b>ORGANIZATION NAME AND LOGO</b>	
<b>DATE:</b>	
<b>LOCATION:</b>	
<p>I acknowledge receipt of ..... [insert compensation].... for my time speaking with ..... [insert names of interviewers]..., who work with ..... [insert affiliation].... and are interested in ..... [insert the purpose of the research or program].</p>	
<p>I understand that I will only answer the questions that I want to answer. I am only expected to answer the questions honestly, and if I want to skip a question or end the interview, I will tell the interviewer. If I have any further questions or concerns about the interview, I will contact the interviewer by ..... [insert contact information].</p>	
_____	_____
Printed name	Signature or thumbprint

# APPENDIX A3

## WITNESSED ORAL INFORMED CONSENT GUIDELINES

### PURPOSE

The purpose of the Witnessed Oral Informed Consent procedure is to ensure that the respondent (who may be illiterate, nervous, frightened, or feeling under pressure) gives full, free, and fully informed consent to the interview.

### INSTRUCTIONS

Ideally, this form should be memorized and recited orally (in a natural way) to the participant, to maintain informality and rapport.

If the participant wishes to postpone, change the venue, or not conduct the interview, this should be respected.

The interview should be conducted only if the participant gives full and knowledgeable consent.

If possible, another interviewer or colleague should be present to witness the Oral Informed Consent procedure. A person in authority should not be present, as this might unduly influence the respondent to grant an interview.

Both the lead interviewer and the witness should sign the consent form, which should eventually be scanned and securely stored as per the approved ethical protocols for the research or program. The other interviewer does not need to be present for the remainder of the interview, after completing the witnessed oral informed consent procedure.

### GUIDANCE ON GENERAL STRUCTURE & CONTENT OF WITNESSED ORAL INFORMED CONSENT STATEMENT

#### INTRODUCTION

- Explain your name, position, and organization. Describe your organization.
- Introduce the names, organizations, and positions of all attendant colleagues and interpreters.

#### EXPLANATION OF THE INTERVIEW PROCESS

- Explain what you would like to do, and how long it will take.
- Explain what the interview or program is, and how it will run.
- Explain that if the respondent wants to stop the interview at any time, they can say so.

#### REASON FOR THE INTERVIEW

- Explain the reason or purpose of the interview and the larger program it fits into—what is it trying to achieve?

#### CONTENTS OF INTERVIEW

- Provide a general summary of the questions, including what will NOT be asked—for example, problems he/she might have had during the recent trafficking episode, due to the possibility of traumatic impact.

**USE OF INFORMATION**

- Explain how the information will be used, and with whom it will be shared.
- Note that if the information is published in any format, or given it to anyone else than those people already mentioned, it will be anonymous, and nobody will know the nature of our discussion.

**CONFIDENTIALITY**

- Explain that everything that the respondent tells you will be confidential, meaning that nobody will know that they did the interview.
- Explain that his/her/their name is not needed.
- Explain with whom the contents of your interview will be discussed with, and confirm that nobody else will know about the interview, including other staff of the same organization, friends, family, shelter managers, police, village leaders, or anybody else.

**PROTECTION CONCERNS**

- Confirm that the respondent feels safe and relaxed for this interview/program, and understands to speak out if conducting the interview or participating in the program at the current time and location could cause any problems from other people.

**CONSENT OF OTHERS**

- When applicable, note if you have received the permission of a guardian or custodian to conduct the interview/program, and ensure the respondent understands that the guardian or custodian will not be told what the respondent says.
- Check where there is anyone else the respondent wants to consult with before the interview/program.

**CONVENIENCE FOR RESPONDENT**

- Check whether this is a good time and place for the interview, rescheduling time and place if requested.

**ANY FINAL QUESTIONS / REQUEST PERMISSION TO PROCEED**

- Check whether the respondent has any other questions before proceeding

*Permission for this interview has been granted by the participant, as witnessed by:*

\_\_\_\_\_  
*Lead interviewer*

\_\_\_\_\_  
*Witness*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

# APPENDIX A4

## DO'S & DON'TS IN THE FIELD

- ☑ **Ensure informed consent!** Meet your ethical responsibility to ensure the free, informed, and fully participatory consent of all participants in your research or program.
- ☑ **Introduce yourself and all of your colleagues** at the very beginning of any interview or discussion, and outline the purpose of your questions or your program. This may start as an informal conversation.
- ☑ **Ask one question at a time**, particularly if using an interpreter, and use **easily understandable words and grammar** rather than technical terminology and jargon.
- ☑ Treat your subject as you would treat a friend. **Help them feel comfortable and make culturally appropriate eye contact when you talk to them.** Use language that helps them feel at ease, and do not make eye contact with only your interpreter.
- ☑ Have food and drinks available, and make any other efforts necessary and appropriate to **maintain an environment that is natural and at ease.**
- ☑ **Make no assumptions.** Avoid letting your own past experience and assumptions prevent you from gaining the information from the participant in an unbiased way. Do not hear what you want to hear and ignore other facts.
- ☑ **Use varied questioning techniques.** Use open questions to explore feelings and attitudes, and employ probing follow-up questions to elicit more detailed information. When a subject area is exhausted, move on to the next topic in as natural a manner as possible.
- ☑ **Avoid having more than one person directing questions** at any one time to the participant. If the conversation diverges from the topic you wish to discuss, allow the conversation to flow as naturally as possible without forcing the question at an awkward point. For any questions unanswered, these can be noted and asked at a later time.
- ☑ Interpreters should translate the questions and answers as best possible. Interpreters should **refrain from answering the questions on behalf of the interviewee** despite any previous knowledge and experience they may have. Their knowledge can be solicited after the interview.
- ☑ **Allow the participant to continue speaking without interrupting** – never finish their sentences. You do not know what other information may come to light, and you also do not want to be rude.
- ☑ **Be humble, friendly and gracious.** The participant is giving you their time and knowledge; take only what you need. Do not make the participant sit through your extensive side conversations or analyses with colleagues and interpreters, with the participant not understanding your language or what is transpiring.
- ☑ It is usually best to **use the vocabulary that your participant uses.** For example, if they refer to a “middleman”, do not refer to the same person as an “agent,” “broker,” or “trafficker.”

- ☑ **Do not cross ethical boundaries** with the questions that you ask participants. Clearly identify areas of necessary versus unnecessary information required for your work beforehand. Questions regarding details on torture, physical or sexual abuse, or rape may cause re-traumatization and are often not necessary or relevant to most counter-trafficking research or programming. This information should only be obtained from qualified, professionally trained counselors and/or psychologists.
- ☑ **Be culturally sensitive.** For example, in most countries of the Greater Mekong Sub-region, it is impolite to sit with your feet pointing towards another person. Be observant and follow the mannerisms of other local people around you: in the way you sit; the way you handle your hands, gesturing, and posture; and the way you speak and maintain eye contact.
- ☑ If the subject matter is potentially sensitive, use questions that lead the subject to shed light on the issue in a **non-direct** way. This is particularly relevant when speaking to officials, those in positions of authority, or people who were potentially exploited.

# APPENDIX A5

## UN GLOBAL PULSE DATA INNOVATION RISK ASSESSMENT TOOL (CONDENSED)

*UN Global Pulse recommends the following checklist be considered before a project is launched, when new sources of data or technology are incorporated, or when a project is substantially changed. Further, the assessment “should be considered by a diverse team comprised of the project leader as well as other subject matter experts, including—where reasonably practical— a representative of the individuals or groups of individuals who could be potentially affected.” This assessment is only one step of a process that should include expert consultation, legal and standards compliance, and other appropriate precautions. An abbreviated version of the checklist is provided below. We recommend reviewing and using the full version of the checklist before assessing a particular project, which can be found on the <http://unglobalpulse.org> website.*

### SECTION 1. TYPE OF DATA

1. Will you use (e.g. collect, store, transmit, analyze, etc.) data that directly identifies individuals?
  - Yes
  - No
  - Don't know
  - N/A
2. Will you use data that does not directly identify an individual, but that could be used to single out a unique individual by applying existing and readily accessible means and technologies?
  - Yes
  - No
  - Don't know
  - N/A
3. Will you use sensitive data?
  - Yes
  - No
  - Don't know
  - N/A

### SECTION 2. DATA ACCESS

1. How was the data obtained?
  - A—Directly from individuals
  - B—Through a data provider
  - C—Don't know

*[If A, proceed to Q2. If B, skip to Q3. If C, consult with your legal expert before proceeding further.]*

2. Do you have a legitimate, lawful, and fair basis for your data access and use?
  - Yes
  - No
  - Don't know
  - N/A
  
3. Do your data provider have a legitimate basis to provide access to the data for the purpose of the project?
  - Yes
  - No
  - Don't know
  - N/A

### SECTION 3. DATA USE

1. Have you defined the purpose for which you will use the data as narrowly, reasonably, and practically as possible?
  - Yes
  - No
  - Don't know
  - N/A
  
2. Is the purpose for which you will be using the data compatible with the purpose for which you obtained the data?
  - Yes
  - No
  - Don't know
  - N/A
  
3. Are all the data that you will be using (including its storage) necessary and not excessive?
  - Yes
  - No
  - Don't know
  - N/A
  
4. Is use of the data compliant with applicable laws and the terms under which you obtained the data?
  - Yes
  - No
  - Don't know
  - N/A
  
5. Is your data adequate, accurate, up to date, reliable, and relevant to the purpose of the project?
  - Yes
  - No
  - Don't know
  - N/A

6. Have you employed appropriate and reasonable technical and administrative safeguards (e.g. strong security procedures, vulnerability assessments, encryption, de-identification of data, retention policies, confidentiality/non-disclosure, data handling agreements) to protect your data from intentional or unintentional disclosure, leakage, or misuse?
- Yes
  - No
  - Don't know
  - N/A

#### SECTION 4. COMMUNICATION

1. Did or will you communicate about the data use (publicly or to other appropriate stakeholders)?
- Yes
  - No
  - Don't know
  - N/A
2. Are there any risks and harms associated with the publication of the collected data or resulting reports and are they proportionately high compared to the benefits?
- Yes
  - No
  - Don't know
  - N/A

#### SECTION 5. THIRD PARTIES

1. Are your partners, if any, compliant with at least as strict standards and basic principles regarding data privacy and data protection as outlined in this checklist?
- Yes
  - No
  - Don't know
  - N/A

#### SECTION 6. RISKS & HARMS

1. Does your use of data pose any risks of harms to individuals or groups, whether they can be directly identified, visible, or known?
- Yes
  - No
  - Don't know
  - N/A
2. Is your project unlikely to cause harm to individuals or groups of individuals, whether the individuals can be identified or known?
- Yes
  - No
  - Don't know
  - N/A

## FINAL ASSESSMENT

*Answering “Yes” in Sections 1 and 6, and to Section 4 Question 2, and answering “No” to all other sections indicates that the risk is present. Do not make a final decision based on this checklist if any answer is marked “Don’t know.”*

*Answering N/A should be accompanied by an explanation as to why the question is not applicable.*

Any risks found through the use of this checklist should be assessed for likelihood, magnitude, and severity of possible harms, and those risks should be mitigated before the project begins. However, mitigation measures should be implemented whenever possible for all risks, even if the likelihood, magnitude, or severity of the risk is low, in order to safeguard against unintended consequences. If any risks are high or unclear, conduct a more comprehensive risk assessment.

Remember to consult subject matter experts, including data privacy and legal experts, with any questions raised, and do a full review of the project in light of applicable local laws and standards.

# REFERENCES & ENDNOTES

1. World Health Organization (2003). *Ethical and Safety Considerations for Interviewing Trafficked Women*. Geneva: WHO.
2. UNICEF (2006). *Guidelines on the Protection of Child Victims of Trafficking*. New York: UNICEF.
3. UNIAP (2008). *Guide to Ethics and Human Rights in Counter-Trafficking*. Bangkok: UNIAP.
4. United Nations Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. New York and Geneva: United Nations. [ohchr.org/Documents/Publications/GuidelinesPrinciplesBusinessHR\\_EN.pdf](http://ohchr.org/Documents/Publications/GuidelinesPrinciplesBusinessHR_EN.pdf)
5. Global Alliance Against Traffic in Women (2007). *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*. Bangkok: GAATW.
6. Tran, Olivia, M Marschke, and Issara Institute (2017). *From Trafficking to Post-Rescue: Insights from Burmese Fishers on Coercion and Deception in (Anti) Trafficking Processes*. Focus on Labour Issues in the Fishing Industry, Series Paper 3. Bangkok: Issara Institute.
7. UN Human Rights Council by the UN Special Rapporteur: Report of the Special Rapporteur on trafficking in persons, especially women and children. UN document A/HRC/35/37, 28 March 2017.
8. Ibid 2.
9. <http://www.aaanet.org/committees/ethics/ethcode.htm>
10. <http://www.apa.org/ethics/code2002.pdf>
11. <http://www.asanet.org/galleries/default-file/Code%20of%20Ethics.pdf>
12. <http://www.theasa.org/ethics/guidelines.htm>
13. [http://pre.ethics.gc.ca/english/pdf/TCPs%20October%202005\\_E.pdf](http://pre.ethics.gc.ca/english/pdf/TCPs%20October%202005_E.pdf)
14. <http://www.unav.es/cdb/usotbelmont.html>
15. Ibid 4.
16. Ibid 6.
17. Article 12, Universal Declaration of Human Rights, states: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." See also Article 17, International Covenant on Civil and Political Rights, which states: "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks."
18. <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>, p. 9.
19. [http://www.dataact-project.org/fileadmin/user\\_upload/pdf/datAct\\_engl\\_Online.pdf](http://www.dataact-project.org/fileadmin/user_upload/pdf/datAct_engl_Online.pdf), p. 83.

20. See, e.g., United Nations Human Rights Council, "Summary of the Human Rights Council panel discussion on the right to privacy in the digital age," Dec. 19, 2014, [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/HRC/28/39](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/28/39). "digital platforms were vulnerable to surveillance, interception and data collection...surveillance practices could have a very real impact on peoples' human rights, including their rights to privacy to freedom of expression and opinion, to freedom of assembly, to family life and to health. In particular, information collected through digital surveillance had been used to target dissidents and there were credible reports suggesting that digital technologies had been used to gather information that led to torture and other forms of ill-treatment"
21. <http://www.unocha.org/publication/policy-briefs-studies/humanitarianism-age-cyber-warfare>, pp. 5-6.
22. The Hand-Book of the Modern Development Specialist, Responsible Data Form, available at <https://responsibledata.io/resources/handbook/chapters/chapter-00-introduction.html>.
23. Ibid 21, p.10-11.
24. For example, the European General Data Protection Regulation, which comes into force in 2018, requires any organization collecting data on a person in the EU to appoint a Data Protection Officer who, among other things, should be "available for inquiries from data subjects on issues relating to data protection practices, withdrawal of consent, the right to be forgotten, and related rights." <https://iapp.org/news/a/top-10-operational-impacts-of-the-gdpr-part-2-the-mandatory-dpo/>
25. <https://www.dhs.gov/privacy-impact-assessments>
26. <http://www.unglobalpulse.org/privacy-and-data-protection>
27. Ibid 26.
28. <https://www.unglobalpulse.org/privacy/tools>
29. <http://www.unocha.org/publication/policy-briefs-studies/humanitarianism-age-cyber-warfare> at fn. 23, citing Research Ethics in Complex Humanitarian Emergencies: Summary of a Workshop (Washington, DC, The National Academies Press, 2002).
30. Ibid 29, pp. 10-11.
31. [http://www.endvawnow.org/uploads/browser/files/Ethics\\_Guidelines\\_Trafficking\\_UNIAP\\_2008.pdf](http://www.endvawnow.org/uploads/browser/files/Ethics_Guidelines_Trafficking_UNIAP_2008.pdf)
32. For the Mosaic effect and privacy see Ed Felton <http://www.princeton.edu/news-and-events/news/item/mosaic-effect-paints-vivid-pictures-tech-users-lives-felton-tells-privacy>
33. <http://digitalprinciples.org/wp-content/uploads/2015/05/Principles-Overview.pdf>.
34. Ibid 29, p. 7 and [http://hhi.harvard.edu/sites/default/files/publications/signal\\_program\\_humanitarian\\_principles\\_white\\_paper.pdf](http://hhi.harvard.edu/sites/default/files/publications/signal_program_humanitarian_principles_white_paper.pdf)







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