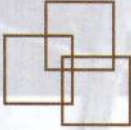




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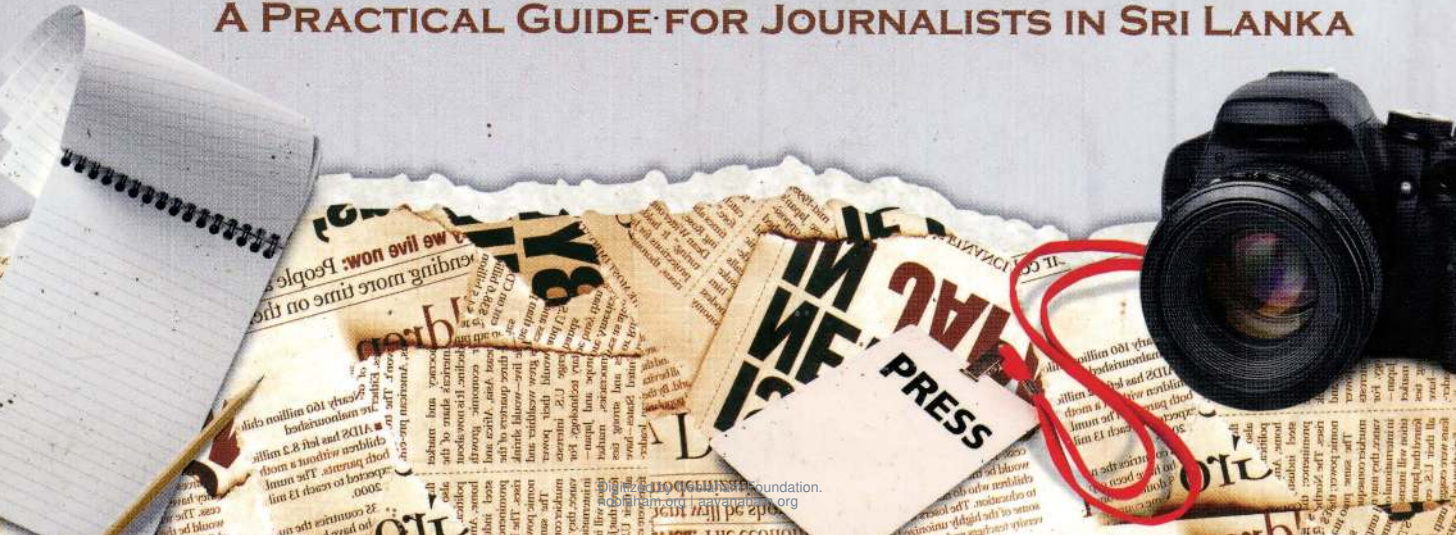


International
Labour
Organization



Reporting on Human Trafficking and Forced Labour

A PRACTICAL GUIDE FOR JOURNALISTS IN SRI LANKA





Reporting on Human Trafficking and Forced Labour

A PRACTICAL GUIDE FOR JOURNALISTS IN SRI LANKA

AUGUST 2012

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Message from the ILO Country Director for Sri Lanka and Maldives

Human Trafficking & Forced Labour is a topic that is gaining increased attention the world over. According to ILO estimates, there are at least 2.4 million victims of trafficking & forced labour at any given point in time. Yet, there are only a few thousand convictions of traffickers every year. Despite growing awareness and more effective law enforcement responses, trafficking remains a low-risk criminal enterprise with high returns. The ILO estimates that annual profits generated from trafficking in human beings are as high as 32 billion USD, thereby making it one of the most lucrative criminal industries in the world. The ILO has addressed trafficking in human beings early on in its history. As such, the ILO has a wealth of experience in assisting in the fight against human trafficking & forced labour, globally. The ILO Conventions that are ratified widely enunciate ILO's role in combating the phenomenon internationally. ILO has been supporting the Government of Sri Lanka to strengthen its efforts in combating human trafficking since 2001. It is indeed commendable that Sri Lanka has been upgraded to Tier 2 in the annual global ratings in the Trafficking in Persons (TIP) Report released by the United States Department of State for the years 2010 and 2011.

The ILO places great emphasis on addressing all forms of forced labour and exploitation beyond mere sexual exploitation, and approaches the issue as a violation of a fundamental labour right that demands zero tolerance. The ILO is a tripartite organization of the United Nations, in that it works in collaboration with Government, Workers, and Employers. This unique tripartite structure of the ILO can help harness the labour inspectorate and our social partners including labour prosecutors, criminal justice officials, employers and the workers to support action against all forms of trafficking.

Combating trafficking of persons is a huge challenge for law enforcement worldwide, mainly because the forms of coercion are so subtle, and difficult to capture without clear guidance and indicators, ILO's approach is to combine law enforcement with the route to social and labour justice.

Towards this end, the ILO believes that the media has a significant role to play reaching out to the public and creating awareness of the menace of human trafficking. The gravity of the crime and the strict penalties associated with it must be publicized so as to deter potential offenders, encourage the reporting of cases, and protect victims and potential victims from exploitation. The support of the Media in creating awareness and reporting incidents are integral to combat human trafficking.

It is praiseworthy that the ILO Prevention of Trafficking in Persons Project has been successful in strengthening the fight against human trafficking and using the lessons learnt from the project to publish a Guide of this nature for the media. I wish to thank ILO consultant, Mr. Gehan Gunatilaka for his outstanding efforts in developing this Guide. I am also thankful to Ms. Chandrika Karunaratna, National Project Coordinator for the ILO Human Trafficking & Forced Labour project for the initiative and coordination taken to develop this Guide.

A handwritten signature in black ink, appearing to read 'Li Donglin', is positioned above the name of the signatory.

Donglin Li

Country Director, ILO Office
Sri Lanka and Maldives

Message from the Director of SLPI

Both Human Trafficking and Human Smuggling are very emotional as well as unfortunately topical issues in today's context. Covering such issues for the fourth estate is both a challenging but inescapable fact of their day to day lives. Every emotional tale will be woven, propagated and digested by different segments of the population. Therefore it is incumbent upon the journalist whether he/she is from the print, electronic or online mediums to report responsibly so that victims are protected while at the same time the truth is reported as it unravels and the full background to every story is meticulously recorded and revealed to society.

Having identified the lack of a comprehensive guide to reporting on Human Trafficking and Forced Labour ,we were indeed privileged to be able to work with the International Labour Organization (ILO), which specifically focuses on the prevention of Human Trafficking and Forced Labour.I wish to particularly thank Ms. Chandrika Karunaratna from the ILO for the tremendous amount of efforts she and the ILO consultant to this project Mr.Gehan Gunatilleke have put in to make this publication such a success. It goes with saying that our thanks also go out to Mr.Sukumar Rockwood the CEO of the Press Complaints Commission of Sri Lanka who has advised the compilers of this worthy publication.

The media could potentially play an important role in preventing human trafficking and forced labour by drawing public attention towards these issues and by assisting law enforcement authorities to identify perpetrators and protect victims and vulnerable groups. I am confident that both journalists as well as non-journalists who will use this publication in their day to day activities will be find it useful and informative and the future reportage of Human Trafficking and Forced Labour in Sri Lanka will be significantly more professional and objective than it is today.



Imran Furkan

Chief Executive Officer

About SLPI

The Sri Lanka Press Institute (SLPI) was established by the Newspaper Society of Sri Lanka, The Editors' Guild of Sri Lanka, the Free Media Movement, and the Sri Lanka Working Journalist Association, to provide direction and leadership in media related activities. This includes the Press Complaints Commission of Sri Lanka (PCCSL), which encourages self-regulation and accountability and provides readers the right to challenge or correct reporting, while the Sri Lanka College of Journalism (SLCJ) is the training arm focusing on skills development for the journalistic profession. Overall, the mandate of the Sri Lanka Press Institute is to create a professional body of journalists who are responsible and accountable to the public.

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Introduction

Trafficking in persons remains one of the most persistent and pressing challenges faced in Sri Lanka. Growing trends toward uninformed and ill-prepared migration have created the space for the trafficking in persons, particularly of children and women. Victims routinely find themselves in exploitative labour environments, including sexual exploitation, as a result of trafficking. Hence the prevention of human trafficking has become an urgent priority. In the case of forced labour, egregious practices including debt bondage and certain forms of modern slavery continue to prevail globally.

The International Labour Organisation (ILO) specifically focuses on the prevention of human trafficking and forced labour. It is responsible for numerous studies on human trafficking and forced labour and has been instrumental in drawing global attention to the issue.¹ Moreover, through its *Special Action Programme on Forced Labour*, the organisation has sought to tackle forced labour and the conditions and phenomena, including trafficking, which give rise to it.

As part of its strategy to prevent human trafficking and forced labour in Sri Lanka, the ILO aims to sensitise the media on both these issues. The media could potentially play an important role in preventing human trafficking and forced labour by drawing public attention towards these issues and by assisting law enforcement authorities to

identify perpetrators and protect victims and vulnerable groups.

This guide has the following key aims:

- To raise awareness amongst journalists on the issues of human trafficking and forced labour with the intention of informing and guiding media responses to these issues
- To provide direction to journalists on how to ethically report on human trafficking and forced labour
- To enhance cooperation between the media, state agencies and other relevant stake holders including civil society
- To improve protection and referral of victims
- To serve as a resource book and guide for further reading

The guide is presented in five parts: (1) Understanding human trafficking and forced labour; (2) The legal framework; (3) Writing about human trafficking and forced labour; (4) Ethical considerations for journalists; (5) Following up on violations.

¹ See for example, ILO, *Trafficking in Human Beings: New Approaches to Combating the Problem* (2003); ILO, *A Global Alliance Against Forced Labour* (2005); ILO, *Human Trafficking and Forced Labour Exploitation: Guidance for Legislation and Law Enforcement* (2005).

UNDERSTANDING HUMAN TRAFFICKING AND FORCED LABOUR



I. Understanding Human Trafficking and Forced Labour

I.1 Definitions

I.1.1 Forced Labour

Though this guide focuses more on the phenomenon of human trafficking, it is essential to first understand the definition of forced labour, as forced labour is often an integral part of human trafficking.

The definition of forced labour is provided in **Article 2(1)** of the ILO Forced Labour Convention 1930 (No. 29):

Forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Forced labour can take a variety of forms. Debt bondage is a classic example of forced labour. The UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery (1956) defines 'debt bondage' in the following terms:

A situation that arises when a person provides a loan to another and uses his/her labour/services, or those of another person over whom the debtor has control, to repay the debt. When the value of the work, as reasonably assessed, is not applied towards the liquidation of the debt, the situation becomes one of debt bondage.

I.1.2 Human Trafficking

Generally speaking, trafficking in persons refers to the movement of people, often illegally, across borders or within a country, treated as a commodity and resulting in labour or sexual exploitation.

With the adoption of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, two innovations in the field of trafficking were introduced.

First, a basic and comprehensive international definition of trafficking in persons is now available.



Article 3(a) of the **Palermo Protocol** provides the following definition for human trafficking:

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

Second, the Palermo Protocol definition is very broad in its scope of application, as it contains forced labour as one purpose of trafficking besides sexual exploitation. While the Protocol draws certain distinctions between trafficking for sexual exploitation on the one hand, and trafficking for forced labour and services (and also slavery and slavery like practices and servitude) on the other, this should not be taken to imply that coercive sexual exploitation does not constitute forced labour.

1.2 Understanding the root causes

The channels for safe and legal migration have rapidly diminished over the years due to a growing demand for cheap labour in the developed world and increasingly restrictive visa regulations.

Private recruitment agencies, intermediaries and employers may take advantage of this predicament, and lure potential migrants into exploitative employment.

The movement of people for the purpose of forced labour and services usually involves the trafficking in persons. Hence there is often a direct correlation between forced labour and human trafficking.

A recruitment agent, a transporter or a final employer, who will derive a profit from the labour or sexual exploitation, may orchestrate the trafficking in persons. In some cases, the same person carries out all these trafficking activities. In other instances, a network of various parties may be involved in the trafficking operation.

For victims of trafficking, the journey itself can be hazardous, whereas the work in the destination country is most likely to be irregular and dirty, degrading and dangerous ('3D jobs'). There is a persistent demand for a labour force willing to accept low-paid and insecure jobs in developed countries. Since nationals of these developed countries are reluctant to do the '3D jobs', victims of trafficking often supply the demand. Hence victims of trafficking do not face

competition from nationals regarding their jobs, but rather from other victims of trafficking. This phenomenon creates a supply surplus, which leads to a downgrading of working conditions, often referred to as the 'race to the bottom'.²

A difficult issue regarding the protection of victims of trafficking concerns the consent of the trafficked victim. Even if the victim has given his or her consent initially, this does not in any way rule out the presence of trafficking. The Palermo Protocol should not be interpreted as placing a burden of proof on the victim. Generally speaking, the consent by an adult victim of trafficking is not at all relevant when any of the means—such as coercion, abduction, fraud or deception—set forth in the Palermo Protocol have been used.

1.3 Common misconceptions

There are several misconceptions relating to forced labour and human trafficking. Inaccurate reporting may therefore dilute the issues or harm victims. Some of the most common misconceptions are listed below.

1.3.1 Human trafficking is not the same as human smuggling

According to Article 3(a) of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000), 'Smuggling of migrants' means:

[T]he procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

Smuggling of persons is seen to involve a voluntary agreement, to which the smuggled person has been a party. Hence, at least in theory, smuggling should not be confused with trafficking, which by definition involves deception, fraud or coercion. Smuggling occurs when migrants, due to legal restrictions and lack of knowledge of legal channels, cannot freely move across borders. Therefore, these migrants pay a smuggler to help them to get across the border.

Smuggling	Trafficking
Involves illegal entry into the country and is always trans-boundary	May occur either within the country or trans-boundary
The smuggler only facilitates the transport	There is always deception, fraud or coercion, and exploitation
The migrant consents to being smuggled	The victim does not consent, or consent is obtained by way of deception, fraud, or coercion

In practice, however, it is often difficult to distinguish between smuggling and trafficking, since the former may lead to the latter. Media reports frequently confused the two issues precisely for this reason.

² Ibid. at 8.

Illustration 1:

A family of four including two daughters pays an individual to transport them from the east coast of Sri Lanka across the Pacific to Australia. They board a small vessel at Kataragama and begin their journey. However, around three miles off the Sri Lankan coast, they are intercepted by the Sri Lankan Navy and arrested. The incident can only be termed smuggling, as the migrants clearly entered into a voluntary agreement with the 'smuggler' and did not encounter any of the elements in human trafficking.

Illustration 2:

A family of four including two daughters pays an individual to transport them from the east coast of Sri Lanka across the Pacific to Australia. They board a small vessel at Kataragama and begin their journey. They get past the Sri Lankan coast guard. However, they stop in Thailand and the so-called smuggler tells them there has been a change of plan. The parents are then forced to leave their two daughters behind in Thailand before proceeding further to their final destination. The daughters are forced into prostitution. The incident is clearly a case of trafficking, as there is deception and exploitation.

Judging from the two illustrations above, it is clear that a set of facts initially involving smuggling could later transform into a case of trafficking. However, until there is clear evidence of deception, fraud or coercion, and exploitation, the case remains an instance of smuggling and not trafficking.

Illustration 3:

The following article appearing in News.lk on 14 June 2012 is a good example of the media conflating human trafficking and human smuggling.



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Sri Lanka police bust an attempt of human trafficking

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3

Details Published on Thursday, 14 June 2012 11:52 Hits: 513



Sri Lankan police Wednesday busted a human trafficking attempt by arresting a group of 27 Afghans Pakistanis in Colombo and Negombo. According to Police they are believed to be heading towards Australia via Sri Lanka

He said 21 Afghans and five Pakistani nationals arrested on shore were suspected of using Sri Lanka as a trans# point.

"We have seen an increase in the attempts by people smugglers to take boatloads of people to Australia in recent months," Rohana has said AFP.

Late last month, police busted another people-smuggling ring and arrested 113 men who were preparing to board a trawler heading for Australia.

A senior naval official told AFP that authorities expected an increase in illegal boat operations from Sri Lanka to Australia after an Australian court shot down a local scheme to send illegal immigrants to Malaysia.

1.3.2 Migration is not a bad thing!

Another common misconception is the belief that migration should be discouraged. Migration is a right and should not be discouraged. International migration has many positive features and could be beneficial to both the source and destination countries.

Hence it is important not to prevent safe and legal migration in an effort to curb human trafficking or human smuggling.

Moreover, misconceptions on illegal migration can often cloud the circumstances of the illegal migrants and prevent the detection of trafficking victims. According to a recent report released by the United States State Department:³

Prevailing concerns about illegal immigration continue to guide governments' initial responses to potential trafficking victims. Trafficking indicators are missed and victims are wrongly classified as illegal migrants and criminals. Narrow definitions and continued stereotypes of trafficking as a problem confined to women and girls in prostitution result in the mistreatment of other victims of trafficking. For example, instead of receiving protective services they need, migrant men in forced labour may face immigration charges or deportation if not identified as trafficking victims.

1.4 Illustrations of human trafficking and forced labour

The following illustrations provide a useful insight into typical cases of trafficking and forced labour:

Illustration 4:

A woman applies through a recruitment agency for a job in Lebanon to work as a domestic servant for a family in Beirut. She pays a sum of Rs. 150,000 to the recruitment agent for his so-called services. She thereafter obtains her visa and travels legally to Beirut. However, on arrival, her circumstances change dramatically. Instead of meeting the family she is supposed to work for, she is picked up at the airport by someone who described himself as her new 'employer'. He confiscates her passport and places her in a brothel within the city.

Illustration 5:

A young boy is promised employment in Thailand as a restaurant worker or factory worker. The recruitment agent tells him that he has to pay a 'brokerage fee' of 12,000 baht and that he must work on a fishing vessel to pay off the fee. The boy reluctantly agrees to the proposal and boards a fishing vessel bound to Bangkok. However, while onboard the vessel, the boy is forced to work throughout the day with almost no sleep and very little food. He lives in cramped quarters and is constantly beaten. Even when the fishing vessel docks, the boy is never permitted to leave the vessel and is locked in a room onboard until the vessel sets out again.

³ U.S. Department of State, *Trafficking In Persons Report* (June 2012), at 25.



THE LEGAL FRAMEWORK

2. The Legal Framework

2.1 International standards

2.1.1 Key international instruments

The international standards applicable to the prevention and prosecution of human trafficking and forced labour, and the protection of victims, are contained in a series of international instruments. The following key international instruments warrant mention:

- The UN Protocol to Prevent, Suppress & Punish Trafficking in Persons (The Palermo Protocol)
- ILO Convention 182, Elimination of Worst Forms of Child Labour
- The Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography
- The Optional Protocol to the Convention the Rights of the Child, on Armed Conflict
- ILO Convention 29, Forced Labour
- ILO Convention 105, Abolition of Forced Labour

2.1.2 Key provisions

Certain key provisions in the above international instruments—particularly the Palermo Protocol and the ILO Convention 29 on Forced Labour—contain the most important standards pertaining to human trafficking and forced labour.

• The Palermo Protocol

Article 6: *Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - a. Information on relevant court and administrative proceedings;
 - b. Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social

recovery of victims of trafficking in persons, including, inappropriate cases, incooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- a. Appropriate housing;
 - b. Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - c. Medical, psychological and material assistance; and
 - d. Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
 5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
 6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 9: *Prevention of trafficking in persons*

1. State Parties shall establish comprehensive policies, programmes and other measures:

- a. To prevent and combat trafficking in persons; and
- b. To protect victims of trafficking in persons, especially women and children, from re-victimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, under development and lack of equal opportunity.
5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

- ILO Forced Labour Convention No. 29 (1930)

Article 2

1. ...the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and or which the said person has not offered himself voluntarily.
2. Nevertheless ... the term forced or compulsory labour shall not include –
 - a. Any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - b. Any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - c. Any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - d. Any work or service exacted in cases of emergency, that is to say, in the event of war

or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

- e. Minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

2.1.3 The tier system

The U.S. Department of State places each country in the 2012 Trafficking in Persons Report onto one of four tiers.⁴ This placement is essentially based on the extent of government action to combat trafficking, as opposed to the size of the problem in each country. The analyses are based on the extent of governments' efforts to reach compliance with minimum standards for the elimination of human trafficking contained in the U.S. Trafficking Victims Protection Act of 2000 (TVPA). These standards are consistent with the Palermo Protocol.

Sri Lanka is currently placed at Tier 2 for the second year running. The tiers may be described as follows:

- **Tier 1**

Countries whose governments fully comply with the TVPA's minimum standards for the elimination of trafficking.

- **Tier 2**

Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

- **Tier 2 Watch List**

Countries where governments do not fully comply with the TVPA's minimum standards, but are making signifi-

cant efforts to bring themselves into compliance with those standards, and whose:

- a. The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b. There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- c. The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.

- **Tier 3**

Countries whose governments do not fully comply with the TVPA's minimum standards and are not making significant efforts to do so.

⁴ U.S. Department of State, *Trafficking In Persons Report* (June 2012), at 37-43.



The minimum standards envisaged by the TVPA are the following:

- The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
- For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
- For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
- The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

The following factors should be considered as indicia of 'serious and sustained efforts to eliminate severe forms of trafficking in persons':

- Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts..
- Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.
- Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as:
 - Measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons;



- Measures to establish the identity of local populations, including birth registration, citizenship, and nationality;
 - Measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking; and
 - Measures to prevent the use of forced labour or child labour in violation of international standards.
- Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.
 - Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes.
 - Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.
 - Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking.
 - Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.
 - Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described above and makes available publicly a periodic assessment of such efforts.
 - Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.
 - Whether the government of the country has made serious and sustained efforts to reduce the demand for (A) commercial sex acts; and (B) participation in international sex tourism by nationals of the country.

2.1.4 Indicators of possible forced labour situations

The overall assessment of whether a situation constitutes 'forced labour' is essentially based on the question of whether a worker has given a free and informed consent when accepting work and is free to leave the employment relationship.⁵

The ILO Committee of Experts on the Application of Standards has provided some guidance with regard to the indicators of possible forced labour situations. There are six over-arching indicators, each of which is linked to a sub-set of questions that are more specific. These indicators were initially developed as a guide for labour inspectors, but may be extremely useful to journalists investigating situations of forced labour. Some examples are given below:

• Physical violence, including sexual violence

- Does the worker have any sign of maltreatment, such as bruises?
- Does the worker show signs of anxiety?
- Is there any other sign of mental confusion or traces of violence?
- Do supervisors/employers demonstrate violent behaviour?

• Restriction of freedom of movement

- Is the worker locked up at the workplace?

- Is the worker forced to sleep at the work place?
- Are there visible signs that indicate that the worker is not free to leave the work place due for example to barbed wire or the presence of armed guards or other such constraints?
- Is the worker constrained to leave the work place?

• Threats

- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Do the workers report any threat against themselves, their co-workers or family members?
- Is there any sign that the worker is subject to racketeering or blackmailing (with or without the complicity of the employer)?

• Debt and other forms of bondage

- Does the worker have to repay high recruitment or transportation fees?
- If so, are these deducted from the salary?

⁵ Beate Andrees, *Forced Labour And Human Trafficking: A handbook for Labour Inspectors*, International Labour Organisation (2008), at 18.



- Does the worker show anxious behaviour?
- Are workers forced to work excessive (unpaid) overtime or to carry out tasks that they prefer not to do, and are the workers threatened if they refuse?
- Is the worker in an irregular situation (e.g. migrant workers) and threatened with denunciation to the authorities?

• Debt and other forms of bondage

- Does the worker have to repay high recruitment or transportation fees?
- If so, are these deducted from the salary?
- Is the worker forced to pay excessive fees for accommodation, food or working tools that are directly deducted from the salary?
- Has any loan or advance been paid that make it impossible to leave the employer?
- Are work permits bound to a specific employer? Has there been any complaint about the employer before?

• Withholding of wages or non payment of wages

- Does the worker have a regular employment contract? If not, how are wages being paid?
- Is there any illegal wage deduction?
- Has the worker received any wage at all?
- What is the amount of the wage in relation to national statutory requirements?
- Do the workers have access to their earnings?
- Have the workers been deceived about the amount of their wages?
- Are wages paid on a regular basis?
- Is the worker paid in-kind?

• Retention of identity documents

- Are the identity documents of workers in their own possession?
- If not, are they kept by the employer or supervisor? Why?
- Does the worker have access to the documents at all times?

Based on these criteria, it is possible to assess whether a work environment amounts to forced labour.

2.2 Domestic law

Apart from the international legal framework, certain domestic standards also bind the State to prosecute offenders. The focus of this section would be on the offense of trafficking, particularly in light of the amendment introduced to the Penal Code No. 11 of 1887 in 2006.⁶

• Section 360C of the Penal Code:

- I. Any person who commits the following acts commits the offence of trafficking:
 - a. Buys, sells or barter or instigates another person to buy, sell or barter any person or does anything to promote, facilitate or induce the buying, selling or bartering of any person for money or other consideration;
 - b. Recruits, transports, transfers, harbours or receives any person or does any other act by the use of threat, force, fraud, deception or inducement or by exploiting the vulnerability of another for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation or any other act which constitutes an offence under any law; or

c. Recruits, transports, transfers, harbours or receives a child or does any other act whether with or without the consent of such child for the purpose of securing forced or compulsory labour or services, slavery, servitude or the removal of organs, prostitution or other forms of sexual exploitation, or any other act which constitutes an offence under any law.

2. Any person who is guilty of the offence of trafficking shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding twenty years and may also be punished with fine and where such offence is committed in respect of a child, be punished with imprisonment of either description for a term not less than three years and not exceeding twenty years and may also be punished with fine.

Section 360C of the Penal Code also provides the definition for the following key terms:

- Child

Means a person under eighteen years of age

- Exploiting the vulnerability of another

Means impelling a person to submit to any act, taking advantage of such person's economic, cultural or other circumstances.

⁶ See Amending Act No. 16 of 2006.

The 2006 amendment introduced another new offence: 'Kidnapping or abducting in order to subject a person to grievous hurt, slavery, debt bondage, serfdom, forced or compulsory labour, slavery and recruitment of children for use in armed conflict.'

• **Section 358A of the Penal Code:**

- I. Any person who –
 - a. Subjects or causes any person to be subjected to debt bondage or serfdom;
 - b. Subjects or causes any person to be subjected to forced or compulsory labour;
 - c. Subjects or causes any person to be subjected to slavery; or
 - d. Engages or recruits a child for use in armed conflict,

shall be guilty of an offence.

2. Any person who is guilty of an offence under paragraph (a), (b) or (c) of subsection (1), shall on conviction be liable to imprisonment of either description for a term not exceeding twenty years and to a fine. Where the offence is committed under paragraphs (a), (b) or (c) of subsection (1) in relation to a child or where the offence is committed under

paragraph (d) of subsection (1), be liable to imprisonment of either description for a term not exceeding thirty years and to a fine.

Section 358A of the Penal Code defines forced or compulsory labour in the identical terms used in the ILO Convention 29, Forced Labour. The section also provides the definition for the following key terms:

• **Debt bondage**

Means the status or condition of a debtor arising from a pledge by the debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not set off against the debt and the length and nature of those services are undefined.

• **Serfdom**

Means the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person whether for reward or not and is not free to change his status.

• **Slavery**

Means the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

Apart from the Penal Code offences discussed above, the Sri Lanka Bureau of Foreign Employment Act No. 21 of 1985 also criminalises the use of 'coercion, fraud or wilful misrepresentation' to induce a person to emigrate for the purpose of employment. Though this offence is not nearly as grave as trafficking or abduction for the purpose of forced labour, the State could use this provision to prosecute bogus recruitment agencies and even potential traffickers.

• **Section 63 (b) of the Act:**

Any person who –

By means of intoxication, coercion, fraud or wilful misrepresentation, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate or leave any place with a view to emigrating for the purpose of employment, shall be guilty of an offence under this Act, and shall on conviction after summary trial by a Magistrate be liable to a fine not less than one thousand rupees and not exceeding one thousand five hundred rupees and to imprisonment of either description for a term not less than twelve months and not exceeding two years.

WRITING ABOUT HUMAN TRAFFICKING AND FORCED LABOUR



3. Writing about Human Trafficking and Forced Labour

3.1 Why is the media important?

The media forms a crucial part of the campaign against human trafficking and forced labour. Through credible and accurate reporting the media could:

- Give a face to the issue, shape the discourse and help determine the choices available
- Raise awareness on the issue amongst vulnerable groups and law enforcement agencies, which is crucial to the prevention of trafficking and forced labour

Reports on human trafficking and forced labour often overlook the finer nuances of the issue due to a focus on securing the attention of the readers and meeting demanding deadlines. Hence it is important that journalists cover certain key aspects when writing about trafficking. From a human-interest angle, the victim's story needs to be compellingly told. Additionally, however, a journalist should consider several other aspects of the trafficking or forced labour operation, some of which are discussed below.

3.2 Focusing on the victim

Journalists should try to capture as far as possible the victim's story. A typical victim of trafficking is a person

lured by false promises or by necessity arising out of poverty. Often he or she has been abducted. Either way, he or she has been forced to leave his or her social set up and taken to an alien environment to be exploited. A trafficking victim loses his or her identity and rights and eventually faces permanent physical or psychological harm, isolation and restricted movement.

The feature of trafficking is that it targets the most vulnerable segments of society. The poor are generally susceptible to trafficking due to the desperation they have to secure a better standard of living outside the country. More specifically, women and children are the main target groups of traffickers, due to the high demand for such groups in the sex industry. Additionally, women and children from the estate sector and children of migrant workers are often considered to be particularly vulnerable to trafficking.

In the case of forced labour, specific economic sectors in which forced labour has been identified as a significant problem include:⁷

- Construction, including brick kilns
- Agriculture and horticulture
- Mining and logging
- Food processing and packaging industry
- Domestic service and other care and cleaning work
- Factory work, mainly textiles and garments
- Restaurants and catering

⁷ Beate Andrees, *Forced Labour And Human Trafficking: A Handbook for Labour Inspectors*, International Labour Organisation (2008), at 9.

- Sex and entertainment industry
- Transportation
- Various forms of informal economic activities, such as organised begging or hawking

Accordingly, journalists should accurately profile victims of trafficking and forced labour and introduce victims' perspectives into their writing.

3.3 Focusing on the trafficker

Traffickers are not always easily identifiable. It is easy to imagine a 'typical' profile of a trafficker—perhaps an adult male with a criminal track record. However, a trafficking operation often involves persons that do not fit this profile. Women may also be involved in the trafficking operation, particularly in order to build trust amongst victims. In some cases, even youths may be involved in scouting for victims.

It would be a mistake to assume that all instances of trafficking involve abduction. A trafficker's preferred method would be to provide false promises to the victim or to his or her family in order to lure the victim out of his or her home.

Victims may be trafficked with the connivance of relatives. Often, a family member may be involved in identifying a victim and luring him or her into the trafficking operation.

Traffickers may also target particular locations for the purpose of scouting for and luring victims. Typically, entry points such as airports, railway stations and bus terminals may be monitored by traffickers to lure girls into sex work and boys into crime and forced labour.

3.4 Focusing on the relationship between trafficking and forced labour

The relationship between human trafficking and forced labour can often be confusing. Journalists should be aware of this relationship, so as to avoid misleading readers.

All instances of human trafficking involve exploitation. Forced labour is one of the many forms of exploitation, although other forms of exploitation, such as prostitution and slavery, certainly incorporate elements of forced labour. Hence, it is safe to presume that most—if not all—cases of human trafficking either lead to, or are intended to lead to, forced labour.

3.5 Focusing on context

Human trafficking is uniformly illegal and results in the violation of all human rights. It remains one of the most serious contemporary issues, as the quantum of people being trafficked on a global scale is enormous.

In Sri Lanka, the crisis surrounding human trafficking has intensified, with incidents of trafficking being reported in the media regularly. Yet understanding the context and root causes of human trafficking is key to successfully combating the phenomenon.

Journalists should consider clearly articulating the global context in which trafficking takes place. Globalisation remains a major factor contributing to the increased incidence of trafficking. Technological developments have also facilitated trafficking, as modern forms of

communications—for example, television broadcasting and a high use of mobile phones—have enabled traffickers to become more efficient and organised. Travelling has also become easier and faster, thereby enabling traffickers to transport victims with relative ease. Hence, while globalization has contributed to an increased standard of living in the developed world, it has also contributed to growing inequality. Globalization has also led to relaxed policies on migration. Yet alongside options for safe migration, the space for exploitation has dramatically increased.⁸

Journalists should focus on the factors giving rise to trafficking. First on the ‘supply’ side, the following factors should be highlighted:⁹

- **Ineffective, absent or corrupt public administration**

Poor governance structures in the source country create a climate in which traffickers may prosper.

- **Inadequacy of the legal and judicial system**

Poor law enforcement and the inability of the criminal justice system to prosecute offenders and secure convictions encourage traffickers to continue operations.

- **Unemployment, underemployment and underpaid employment**

The state of the labour market in a source country may determine the number of potential victims who come into contact with traffickers.

- **Gender-based discrimination in employment, education and information**

Biases in formal employment opportunities in favour of men, makes women more vulnerable to exploitation and easier targets for traffickers.

- **Inefficient or non-existent legal migration channels**

Inability to migrate through safe and legal means compels persons to seek unsafe channels, thereby becoming vulnerable to trafficking.

- **Social and economic factors**

Socioeconomic factors such as poverty, indebtedness, illiteracy and low levels of education contribute to the vulnerability of potential victims and create the perfect environment for human trafficking.

Second, on the ‘demand’ side, the following factors should be highlighted:¹⁰

- **Market patterns**

Competitive market pressures in the developed world lead to cost cutting, which in turn creates exploitative labour environments.

- **Employment preferences**

The tendency amongst locals in developed countries to refuse ‘manual’ jobs due to increased education, improved welfare schemes and heightened expectations, creates a vacuum likely to be filled by victims of trafficking.

⁸ See *Trafficking for Forced Labour: How to Monitor the Recruitment of Migrant Workers* (2005), at 9.

⁹ *Ibid.* at 9-10.

¹⁰ *Ibid.* at 10.

- Growth of sex trade

Exponential growth in the sex industry creates greater demand for sexual services, which in turn is met by victims of trafficking.

- Indifference in administration

The absence of an effective regulatory framework and lack of enforcement; the lack of respect for human rights, particularly of illegal immigrants; and corruption of immigration and customs officials, each contribute heavily towards creating a conducive environment for trafficking in persons.

3.6 Focusing on the mechanics of trafficking

Journalists should understand the various stages in which a trafficking operation takes place. A proper understanding of the mechanics of trafficking is crucial to investigating and reporting incidents. The trafficking cycle has three consecutive stages, following the elements of crime as outlined in the Palermo Protocol:

3.6.1 The recruitment stage

In this stage, traffickers focus on identifying and targeting potential candidates for employment abroad.

Journalists should become accustomed to methods and strategies adopted by traffickers during this stage.¹¹

- Deception, fraud and coercion

Traffickers often use fraud and coercion as a means to carrying out their trafficking operation.

Alternatively or additionally, traffickers lure victims through false promises of high paying jobs overseas. Hence one of the most common methods used by traffickers is deception.

Journalists should be aware of the varied relationship dynamics that could exist between the trafficker and the victim depending on the methodology of the trafficker.

In some cases, the relationship would be hostile from the very beginning. For example, a victim may be abducted by traffickers for the purpose of being sold into prostitution.

Yet in most cases, owing to deception, there is some degree of cooperation between the trafficker and the potential victim at the recruitment stage. Enticed by prospects of a better life, many victims voluntarily go with recruiters; they even seek them out and pay for expenses. Particularly in cases where victims become indebted to the recruiter, coercion may be used to force the victim into exploitative work environments.

¹¹ Ibid. at 11.

Journalists should therefore be mindful not to downplay the victimization inherent in trafficking merely due to this apparent complicity of victims at the recruitment stage.

- **Prostitution and trafficking**

Traffickers often target particular vulnerable groups. Amongst these groups, women working in the sex industry of the country of origin are particularly at risk of being trafficked. This vulnerability is particularly due to the fact that 'pimps' are often part of criminal networks and sex workers have often already been trafficked internally.

Hence journalists should be aware of the special vulnerability of sex workers to trafficking. Moreover, it is important that journalists refrain from implying that sex workers voluntarily participate in trafficking operations merely because of their trade. Journalists should be mindful of the exploitation inherent to the sex industry and treat the trafficked sex workers as victims rather than accomplices.

- **Forged documentation**

Traffickers usually prepare forged documents to facilitate the victim's recruitment. Such documentation may include forged passports and visas, work contracts, and marriage certificates.

Journalists should also report on the network of support services such as forging of documentation and corruption in government offices in order to highlight and raise awareness on the mechanics of trafficking.

- **Enforcement of procedures**

Traffickers often adopt certain measures to enforce the arrangement with the victims. Journalists should be aware of such measures in order to detect potential trafficking operations. Such measures include:¹²

1. Sponsorship by a representative of the trafficking network in the country of destination
2. Obligatory employment in the destination country on terms dictated by the traffickers
3. Occupation in sectors selected by the traffickers with no right to complain
4. An 'oath of silence' which, if broken, generates police arrest and deportation

3.6.2 *The transport and transit stage*

In this stage, traffickers focus on transferring the workers to their assigned jobs abroad. Sri Lanka may in fact be a transit point for trafficking operations involving the transfer of workers from countries such as Afghanistan and Pakistan to other parts of the world.

¹² Ibid.

Journalists should be aware of the mechanics of the trafficking cycle during this stage. The means and methods adopted by traffickers include the following:¹³

- **Mode of transportation**

Traffickers use a variety of modes of transport in their operation. Often, the method of transportation itself can be exploitative, as victims may be subjected to serious health risks, physical abuse and sexual abuse. Victims may find themselves in extremely hazardous conditions.

For example, victims may be compelled to travel on makeshift rafts or inside containers on board ships or trucks. Moreover, victims may have to travel long distances on foot to avoid boarder patrols.

- **Duration of transportation**

Journalists should also focus on the ‘ordeal’ faced by the victim during the transportation stage. The time between departure and arrival may be several months or even years.

- **Profit motivation**

The traffickers, and not the victims, make the decisions pertaining to the mode of transportation and final destination. The motivation is always profit and is never the victim’s comfort. Hence traffickers

would seek to minimise costs by selecting cheaper yet more dangerous means of transporting victims.

3.6.3 The reception stage

This stage involves the receipt or harbouring of migrants in order to put them to work under coercive, exploitative or forced labour conditions.

Journalists should keep in mind that the abusive conditions of each stage of this trafficking cycle do not necessarily have to be met in order to constitute a situation of trafficking.

Even when a worker voluntarily travels to a destination country, coercion and exploitation can still take place at a later stage of the trafficking cycle when starting to work. This is mainly due to the fact that traffickers often disclose their coercive, exploitative and abusive methods only after the migrant worker arrives at destination.¹⁴

Hence it may be the case that a worker, although having been recruited and transported in a regular way, finds him or herself working under forced labour conditions. In fact, many of those who end up in situations of forced labour migrate voluntarily and become victims during their journey or at their destination.¹⁵ What appeared at the outset to be a case of smuggling can in reality turn into trafficking.

¹³ Ibid. 11 – 12.

¹⁴ Ibid. 12.

¹⁵ Ibid.

Thus journalists should pay particular attention to the trafficking cycle and take note that its three stages are somewhat fluid.

One of the key elements of trafficking is the actual exploitation that takes place at the destination stage. This exploitative environment commonly includes the following features:¹⁶

- **Dependency and bondage**

Traffickers often place victims in a web of dependence in order to control them and prevent retaliation. For example, traffickers as well as employers at the destination country often subjugate victims by introducing them to drugs. Victims are therefore compelled to depend on the trafficker or employer to sustain their addictions.

Other methods used by traffickers and employers to create dependency and bondage amongst victims include:¹⁷

1. Confiscation of passports or identity documents so that the victim is unable to travel back home
2. Threats of denunciation to the authorities of the country of employment
3. Threats of or actual physical violence against the victim
4. Threats of physical harm to the migrant's loved ones

5. Social isolation and detention

6. Withholding of payment or excessive wage deductions for non-compliance with employers' demands

- **Breach of the initial contract**

The exploitative work conditions in which the victim is placed often stems from a breach of the original agreement. Upon arriving at the destination country the initial contract may be dramatically changed. The new working conditions may involve the victim working too many hours, not getting paid or getting paid a significantly lower salary than originally agreed upon. Moreover, the victim may end up working in a completely different sector to what was originally agreed upon. For example, the victim could have been promised employment in the hospitality trade, whereas she is compelled to work as a domestic servant after arriving at the destination country.

- **Exploitative working conditions**

Exploitative working conditions at the destination country remain one of hallmarks of human trafficking. These conditions include the denial of sick leave and holidays, physical, mental and sexual abuse, seclusion and sub-standard accommodation, forced drug use and inadequate food or starvation.

¹⁶ Ibid

¹⁷ Ibid

3.7 Writing the story

Bearing the forgoing in mind, a journalist writing a story on human trafficking or forced labour should also adhere to certain cardinal principles in investigative reporting Clark Mollenhoff suggests seven basic rules for investigative reporting:¹⁸

- Rule 1

Avoid Political Partisanship. You will cut off 50 percent of your effectiveness if you investigate only one political party or even have a special leaning toward investigations of one party.

- Rule 2

In seeking facts and answers make a conscientious and determined effort to be equally aggressive whether the public officials involved are people you admire or distrust. You will do your friend a favour by asking him tough, direct questions because you will be demonstrating that he will be held accountable.

- Rule 3

Know your subject, whether it is a problem of city, county, state or federal government or whether it involves big labour or big business. If you are in a highly technical area or are dealing with a

complicated fact situation, you may make unintentional mistakes simply because you did not understand what you heard.

- Rule 4

Don't exaggerate or distort the facts of the law. Efforts to sensationalize will discredit your investigation in the long run.

- Rule 5

Deal straight across the board with your sources and investigation subjects alike. Don't use tricks or pretence to get people off guard. Don't use a false name or identity or impersonate a law enforcement officer. If you deal straight with your subjects of your investigation, it is quite likely that they will be your best sources of inside information at some time in the future.

- Rule 6

Do not violate the law unless you willing to take the consequences. Any time you violate the law to obtain information you develop a vulnerability that can destroy your credibility as well as the story you are pursuing.

¹⁸ Also see Friedrich-Ebert-Stiftung & Transparency International Sri Lanka, *Resource Book on Investigative Journalism* (August 2011).

• Rule 7

Use direct evidence when writing a story that reflects adversely upon anyone and give that person an opportunity for a full response to the questions raised. Direct testimony is often unreliable, even when the witness has no personal interest, and the chances for error increase geometrically as your source is removed one, two or three steps from the event.

Illustration 6: The following article appears in the *Daily Mirror* on 1 May 2012.

2012 05 01 2012 The CBI arrested a man who arrived at Sri Lanka's International Airport after he was believed to have been trafficking 100 female migrants. The man identified as Thirunathanan Resendran alleged to operating a human trafficking racket in Malaysia, Thailand, Singapore and India.

2012 05 01 2012 The multi-day fishing trawler which was to be used to take 10 women seafarers was taken into custody by the Sri Lanka Navy off the coast of Point Galle.

2012 05 01 2012 The Madagascan king and his officials are opposing the findings of the Human Trafficking Panel. A certain team found in a hearing held. The police said the accused seafarers, a Sri Lanka, were in the prison arrested in the case.

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POLICE BUST HUMAN TRAFFICKING RACKET

By Suran Dan and M.S. Prem

PEOPLE SMUGGLING

A major human trafficking racket has been detected after the Colombo Fraud Bureau (CFB) arrested three men who are suspected of LTFB links and operating from Togo and New Guinea.

They are alleged to have taken Sri Lankans especially Tamils to West African countries on the promise that they would be sent to Canada.

Police said the records they had managed to recov-

“ Taken Sri Lankans especially Tamils to West African countries promising they would be sent to Canada ”

er showed that 200 Tamils had been taken to Togo and Niger countries in Western Africa and were left stranded in Mali.

The racket was busted when the CFB on Saturday arrested Jaffna resident Mohan Raju while he was looking out for people who were interested in going to Canada.

Conceded on PAGE 6



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POLICE BUST HUMAN TRAFFICKING RACKET

Conceded from Page 1

Police said Mr Raju was arrested in a hotel at Welisara after coming to Sri Lanka for a forged passport after the other human trafficking suspect Velupillai Prabhakaran had been arrested by the New Guinea police. The New Guinea

police said according to their reports the suspects had brought the prospective victims to the coast for overboard ships and strand them. On Saturday a couple with suspected links to the LTFB were arrested at the Bandaranaike International Airport as they arrived from Mali.

The couple are known to have befriended the victims to meet the main suspects and acted as intermediaries and collecting their payments.

One of them Nadaraja Jayalath was produced before the Colombo Chief

“ On Saturday a couple with suspected links to the LTFB were arrested at the BIA ”

Magistrate on Saturday and was remanded till May 9.



There are a number of positive features in this article. It is informative and draws attention to the dangers inherent in unsafe migration. The tone of the article is dispassionate and professional. Moreover, the article characterises the migrants as 'victims' and therefore avoids insinuating victim collusion or sensationalising their motives.

However, the article only refers to the victims being 'stranded' in Mali and makes no reference to the exploitative situation, i.e. forced labour, sexual exploitation or slavery etc., that these victims face or potentially may face. Without this crucial element, the situation described in the article appears to fall short of human trafficking, and may only be an instance of human smuggling where the clients are defrauded. In this respect, the article is inaccurate and misleading. The readers are left to interpret these facts themselves. It may have been useful to quote government officials and victims to further elaborate on the context in which this incident took place.

ETHICAL CONSIDERATIONS FOR JOURNALISTS



Code Of Ethics

4. Ethical considerations for Journalists

4.1 General ethical considerations

The ethical standards by which journalists in Sri Lanka are bound are contained in the Code of Professional Practice of The Editors Guild of Sri Lanka ('the Code'). These standards apply to reporting on human trafficking and forced labour, and ought to be complied with in full.

Some of the key standards that apply in general are discussed below. For the purposes of this guide, these standards are adapted to apply to reporting on human trafficking and forced labour.

4.1.1 Accurate reporting

First and foremost, a journalist is required to practice accurate reporting. The standards that apply in this context are as follows:

- **Taking reasonable care**

Journalists should take all reasonable care to report news on human trafficking and forced labour accurately and without distortion.¹⁹ When using statistics, journalists should look for authentic sources and reliable information. Statistics may often create a sensational or 'alarmist' expression, particularly when used out of context.

¹⁹ The Code of Professional Practice of The Editors Guild of Sri Lanka, at clause 2.1 (See Annex 3).

²⁰ Ibid. at clause 2.2 (See Annex 3).

²¹ Ibid. at clause 2.3 (See Annex 3).

²² Ibid. at clause 3.1 (See Annex 3).

²³ Ibid.

- **Verification**

Every reasonable attempt should be made by journalists and editors to verify the accuracy of reports prior to publication. Where such verification is not practicable, the fact that verification could not be obtained should be stated in the report.²⁰

- **Avoiding falsities or inaccuracies**

Journalists and editors should not publish material that they know or have reason to believe to be false or inaccurate.²¹

4.1.2 Corrections and Apologies

In the case of inaccurate reporting, journalists and editors are required to publish corrections promptly and with due prominence and with an apology where appropriate.²²

However, reporting on human trafficking and forced labour may in any event involve sensitive information, which, if revealed, could be harmful to the victims concerned. Hence the only exception to the general rule on corrections and apologies is when publishing such is against the wishes of the aggrieved party.²³ Yet, if the party 'aggrieved' by the inaccuracy is the trafficker, the journalist or editor should publish the correction in the public interest.

Illustration 7:

A news item contains the wrong identity of a victim and misleads the readers. The journalist or editor concerned is usually bound to publish a correction with the correct identity of the victim. However, in the event that the victim wishes to remain anonymous—depending on the nature of the exploitation—the journalist or editor should refrain from publishing a correction that reveals the identity of the victim. Instead, the correction should inform the public that the previous identity ascribed to the victim was incorrect, but that owing to ethical considerations, the true identity of the victim has been withheld.

Illustration 8:

A news item contains the wrong information about a trafficker and misleads the readers. The journalist or editor concerned is bound to publish a correction with the correct information about the trafficker. Even in the event that the trafficker objects to correct information about him being released, the journalist or editor concerned should publish accurate information about the trafficker in the public interest.

4.1.3 Opportunity to reply

Even in the unlikely event that a victim of trafficking or forced labour, or some other affected party wishes to reply to a news item or feature article in respect of factually incorrect statements endangering their reputation, dignity, honour, feelings, privacy and office, the journalist or editor concerned should afford a fair and reasonable opportunity to the person concerned to reply to the news item or article.²⁴

4.1.4 Confidential sources

Every journalist has a moral obligation to protect confidential sources of information, until that source authorises otherwise.²⁵

Illustration 9:

A victim who escapes a trafficking ring approaches or is referred to a journalist in order for her story to be told. However, the traffickers may be at large and may even have powerful allies in government. If such a victim provides crucial information to a journalist about an ongoing trafficking operation, the journalist ought to write the story whilst maintaining his sources confidential, as revealing the name of the source would place her at risk.

²⁴ Ibid. at clause 4.1.

²⁵ Ibid. at clause 5.1.

4.2 Reporting on offenders and suspects

4.2.1 Offenders

In general, publishing details about traffickers may be in the public interest, as ‘naming and shaming’ offenders creates an important deterrent against engaging in human trafficking or forced labour. In this context, it is important to highlight the penalties associated with the crime.

However, journalists have certain clear ethical considerations when it comes to reporting on those convicted of offences relating to human trafficking and forced labour. It is important that journalists realise that even offenders have certain rights.

Two specific ethical prohibitions contained in the Code of Ethics may be considered in particular:

- **Reporting on young offenders**

Journalists should not knowingly name any young person accused of a criminal offence who is below the age of 16 and who has no previous convictions.

It is possible that young persons who are already victims of trafficking later become accomplices in the trafficking operation. These persons are victims as much as they might technically be offenders. Hence, even though the involvement of young persons

in trafficking or forced labour might be rare, this ethical prohibition protects such persons from undue exposure in the media.

Illustration 10:

A young boy of fifteen who himself is a victim of trafficking is trained to seek out young children on beaches and befriend them. The children are led to a more remote location where traffickers await to abduct them. A journalist who uncovers the story may be tempted to reveal details about the fifteen-year-old boy, as he plays an integral part in the trafficking operation. However, the journalist is bound by the Code of Ethics not to reveal the identity of the young boy.

- **Reporting on the relatives of offenders**

Journalists should not identify without consent relatives of a person accused or convicted of a crime. This prohibition would certainly apply to the relatives of a person accused or convicted of offences relating to trafficking or forced labour.

4.2.2 Suspects

In view of the fact that the conviction rate in Sri Lanka with respect to the offence of trafficking is extremely low, the actual number of 'offenders' may be almost negligible. Hence the question arises as to how much information about a 'suspect' should be released into the public domain in order to maintain deterrents against human trafficking and forced labour.

Journalists must be aware of the cardinal principle in criminal law that all those accused of crimes are presumed innocent until proven guilty. Journalists should therefore refrain from reporting on suspects in a manner that prejudices his or her case, given this presumption of innocence.

4.3 Reporting on victims

Several ethical standards relating to reporting and writing on victims apply to journalists covering incidents of human trafficking and forced labour. Some of the key standards are listed below:

4.3.1 Sensitivity and discretion

Journalists are bound to take special care to present facts, opinions, photographs and graphics with due sensitivity and discretion when dealing with issues of a particularly shocking or emotionally painful nature.²⁶ Journalists should also take particular care to ensure that in cases involving grief or shock, inquiries and approaches are handled with sensitivity and discretion.²⁷

Human trafficking and forced labour certainly fall into this category. Hence journalists should be careful not to cause psychological or reputational harm to victims and to only publish information that is important in the public interest.²⁸ Journalists should also avoid using language that reinforces stigmas and stereotypes detrimental to the affected.

For example, journalists should not use terms such as 'prostitute' to describe victims, but instead should use positive terminology such as 'survivor'.

Moreover, journalists are bound by a general ethical obligation to respect the privacy of individuals. Intrusions on this right to privacy without consent could be justified only by some overriding public interest.²⁹

²⁶ Ibid. at clause 6.1 (See Annex 3).

²⁷ Ibid. at clause 7.3 (See Annex 3).

²⁸ Ibid. at clause 6.1 (See Annex 3). 'Public interest' according to the Code of Professional Practice means: 'Protecting democracy, good governance, freedom of expression and the fundamental rights of the people and of keeping them informed about events that would have a direct or indirect bearing on them, and that of their elected government, and detecting or exposing crime, corruption, maladministration or a serious misdemeanor; Protecting public health and security and social, cultural and educational standards; Protecting the public from being misled by some statement or action of an individual or organisation.

²⁹ Ibid. at clause 7.1 (See Annex 3).

4.3.2 Naming victims

The Code of Professional Practice only prohibits journalists from naming victims of sex crimes.³⁰ There is no specific prohibition on naming child victims of other crimes.

Many victims of human trafficking and forced labour happen to be children. Hence journalists must be particularly mindful about protecting the identities of child victims of trafficking & forced labour.

³⁰ *Ibid.* at clause 6.2 (See Annex 3).

FOLLOWING UP ON VIOLATIONS



5. Following up on violations

Journalists have a distinct responsibility to follow up on violations, both in terms of responding to the reported incidents and preventing future violations.

Combating human trafficking and forced labour involves a multi-pronged strategy. This strategy necessarily involves prevention, protection and prosecution.

Prevention must take place at the very inception of the trafficking process—virtually at the doorstep of the potential victim. Strategies for prevention may include the following:

- **Educating and empowering**

Specific vulnerable groups such as migrants, women and children must be made aware of the dangers of trafficking and acquainted with the profiles of probable traffickers and their methodologies.

- **Promoting safe migration**

Safe migration often pre-empts trafficking. Trafficking takes place when desperate migrants seek to exercise unsafe choices, such as for example, resorting to smuggling. Safe migration requires a process where potential migrants are afforded informed choices and safe options of travel. Hence communities must be provided with the necessary institutional support to migrate without having to resort to unsafe means of reaching their destination.

Apart from prevention, strategies for responding to actual violations should be in place. These strategies relate to protection and prosecution and include rescuing the affected, restoring their well being, rehabilitating them, working towards their reintegration into society, and investigating, prosecuting and convicting offenders.

For instance, the reinstating psychological well-being of victims is a key aspect of restoring their lives. Steps that may be taken in this regard include:³¹

- **Basic needs**

A dependable safety network for victims to utilize should be established, thereby ensuring that all their basic needs are met.

- **Privacy and confidentiality**

Victims and their families should be guaranteed privacy and confidentiality.

- **Medical treatment**

The support of medical experts, social workers, and psychologists who are trained in human trafficking should be obtained. These experts could provide trauma-specific therapy and assess victims for self-injurious and suicidal behaviour. Moreover, victims could be screened for post-traumatic stress disorder (PTSD), substance abuse or dependence, depression, and anxiety that can develop as a result of being trafficked.

³¹ U.S. Department of State, *Trafficking In Persons Report (June 2012)* at 12. © 2012 by the Polaham Foundation. noolaham.org | aavanaham.org

- **Reintegration**

A strategy for social and familial reintegration of victims should be introduced. Moreover, steps should be taken to rebuild the identities of victims and re-establish skill-sets, self-esteem, and personal interests.

Journalists should not only write about specific incidents of trafficking and forced labour, but should also comment on the processes in place for prevention and 'cure'. Accordingly, journalists ought to work with the state institutions responsible for preventing trafficking and forced labour, prosecuting offenders and restoring the lives of victims.

5.1 Working with state institutions

Journalists should work closely with the following institutions responsible for responding to trafficking in persons and forced labour:

5.1.1 The Police

The Criminal Investigation Department (CID), the Colombo Crimes Division (CCD) and the Colombo Fraud Bureau of the Police are principally responsible for investigating cases of human trafficking and forced labour. The CID has jurisdiction in the event of trans-border trafficking, while the CCD has

jurisdiction in the event of trafficking within the territory of Sri Lanka. Moreover, the Colombo Fraud Bureau investigates bogus recruitment agencies, which may be part and parcel of a trafficking operation. Hence journalists should seek clarifications from these departments of the Police when reporting incidents and writing stories.

A police database, hosted at the Police Criminal Records Division, contains relevant statistical data on trafficking and updated information on trafficking cases.³² The database appears to be useful to track ongoing cases and identify trends and individuals concerned, thereby serving as a comprehensive, central data collection system, which will record human trafficking offences and help law enforcement officers to track and prosecute cases.

Journalists may not have direct access to this database. Moreover, granting the media access to information on ongoing investigations may in fact prejudice these investigations. However, the existence of such a database informs journalists of the types of questions that could potentially be put to law enforcement officials. For instance, journalists could make inquiries about trends, conviction rates and victim rehabilitation, since this database should provide law enforcement agencies with such information.

³² IOM, *Sri Lanka Police Department Create Human Trafficking Database*, available at <http://www.iomsrilanka.org/iom/?p=858>.

5.1.2 National Anti-Trafficking Task Force

The National Anti-Trafficking Task Force is an inter-ministerial body chaired by the Ministry of Justice and is technically supported by both the ILO and IOM. The other ministries represented in the Task Force include the Ministry of Labour and Labour Relations, the Ministry of Foreign Employment Promotion and Welfare, the Ministry of External Affairs, the Ministry of Child Development and Women's Affairs, The Attorney-General's Department, the Police Department, the Office of Judicial Medical Officer, the National Child Protection Authority, the Department of Immigration and Emigration and the Sri Lanka Bureau of Foreign Employment.

The collective efforts of this Task Force is often credited for Sri Lanka moving up in the tier placements due to the successful prosecution and conviction of trafficking offenders during the past two years.³³

Journalists should approach this body to obtain clarifications on ongoing prosecutions of trafficking offenders and conviction rates.

5.1.3 Sri Lanka Bureau of Foreign Employment

The Sri Lanka Bureau of Foreign Employment (SLBFE) was established in 1985 and currently functions as a public corporation with seven regional centres throughout

the country. Its mandate encompasses promotion and protection of migrants by setting standards and approving or rejecting the contracts provided by foreign employers to Sri Lankan migrants, licensing recruiting agents, and operating programmes to protect Sri Lankan migrants and their families.

The SLBFE's means of protecting migrants include:

- Maintaining comprehensive databases of migrants, foreign employers, and Sri Lankan recruiters
- Developing standard contracts, and operating 29 training centres that provide pre-departure orientation for migrants
- Negotiating a Memorandum of Understanding with labour receiving countries and registering migrants going abroad
- Operating pre-departure training centres that offer 15 (Middle East) and 25-day (non-Middle East) pre-departure training for mostly female domestic workers going abroad for the first time, with family members attending the final day of the training

According to the SLBFE's website,³⁴ the Labour Attachés operating overseas are SLBFE employees, and the SLBFE covers the cost of operating labour missions and safe

³³ See Growing concern over human smuggling and trafficking in Sri Lanka: Interview with ILO, *Groundviews*, 18 July 2012 at <http://groundviews.org/2012/07/18/growing-concern-over-human-smuggling-and-trafficking-in-sri-lanka-interview-with-ilo>.

³⁴ See <http://www.slbfe.lk>.

houses. These Labour Attachés arrange legal services for migrant workers at no charge, and arrange for their safe return to Sri Lanka. Moreover, the SLBFE operates, through Sri Lankan embassies in some destination countries, short-term shelters, as well as an overnight shelter in Sri Lanka's international airport for returning female migrant workers who encountered abuse abroad.

Journalists stand to gain significantly by liaising with the SLBFE, particularly to obtain useful data on Sri Lankan migrants and to track patterns in trafficking.

5.1.4 National Child Protection Authority

The National Child Protection Authority (NCPA) was established in 1998. The purpose of the authority is to formulate a national policy on the prevention of child abuse and the protection and treatment of children who are victims of such abuse; and to co-ordinate and monitor action against all forms of child abuse. The NCPA also specifically focuses on the prevention of trafficking in children. For instance, a Cyber Surveillance Unit was established at the NCPA with the support and assistance of the ILO, and officers were trained by experts from both Scotland Yard and the ILO to identify and investigate offenders.

Journalists covering incidents involving trafficking in children should certainly liaise with the NCPA to obtain further information about the incidents. However, journalists should note the ethical obligation not to name victims—particularly child victims—of trafficking. Hence it is reasonable to expect the NCPA not to release any details that could lead to the

identification of the victims involved. Instead, journalists should focus more on general patterns and statistical analyses with respect to child trafficking in order to draw the public's attention to the gravity of the issue

5.1.5 Department of Immigration and Emigration

The Department of Immigration and Emigration also has a mandate relevant to combating trafficking, as it is responsible for controlling the entry of persons into Sri Lanka and regulating the departure of persons from Sri Lanka. The Department has a Counter-Trafficking Unit which focuses on awareness-raising and training immigration officers.

Other key activities carried out by the Department to combat trafficking include:

- Conducting surveys on returned and refused migrants to identify victims and offenders and channel them to the relevant authorities
- Supporting training programme on migration and trafficking for all national stakeholders with a view to providing an in-depth understanding on the subject

Hence journalists may find the Department to be a useful source of information on incidents of trafficking.

5.2 Working with international organisations and civil society

Journalists should be aware of the international agencies and non-governmental organisations (NGOs) that specifically deal with trafficking in persons and forced labour and engage in protection and rehabilitation of victims.

5.2.1 The ILO

The ILO is a specialised agency of the United Nations responsible for developing and overseeing international labour standards and has several programmes that specifically address trafficking in persons. The ILO has an added advantage in terms of its mandate and expertise in combating trafficking and forced labour in Sri Lanka, as the Sri Lankan State has ratified most of the ILO international conventions relevant to the issues of human trafficking and forced labour.

The ILO is currently implementing a project on preventing human trafficking in Sri Lanka through improved management of labour migration.³⁵ Under the current project, the ILO aims to:

- Enhance the capacity of government law enforcement officials to enforce the existing law at different stages of the trafficking process through identification, investigation and prosecution of traffickers

- Enhance the legal, institutional, and policy framework to support better governance of labour migration by strengthening ethical recruitment processes
- Strengthen both the policy environment, and existing institutional mechanisms to implement counter trafficking measures within the new labour migration policy in line with international standards

In implementing the project, the ILO works closely with numerous state agencies including the Ministry of Justice, the Ministry of Labour and Labour Relations, the Ministry of Foreign Employment Promotion & Welfare, the Attorney-General's Department, the Police, the Immigration & Emigration Department, the NCPA, the SLBFE, trade unions and the Employers' Federation of Ceylon. The ILO specifically conducts training programmes for judges, prosecutors, the media, SLBFE officers, immigration officers and recruitment agents and publishes resource manuals for prosecutors, the Police, legal practitioners and law students. The organisation also works closely with the SLBFE to develop handbooks for Middle East bound migrant workers and to enhance pre-departure training. Importantly, ILO reviews existing legislation to assess compliance with international standards.

³⁵ See http://www.ilo.org/colombo/whatwedo/projects/WCMS_124754/lang-en/index.htm.

The ILO has established sixteen Community Vigilance Groups in selected districts to perform Watch Dog functions. These groups may also be a useful resource for journalists, as they are tasked with identifying victims and offenders and channelling them to the relevant authorities. Linkages between these community groups and the Grama Niladhari Divisions and law enforcement authorities have been established to ensure close coordination.

Moreover, the ILO has developed mass media campaigns including docudramas, television/cinema infomercials, posters, flyers and pocket information, and disseminated awareness-raising material throughout the island. For example, a 30-minute docudrama is aired twice daily at the Department of Immigration and Emigration with an outreach impact of over 10,000 persons daily.

Hence, journalists should be in contact with the ILO, and particularly its National Project Coordinator for the Trafficking in Persons Project in order to obtain useful resources and advice on how to contribute towards preventing human trafficking and forced labour.

5.2.2 The IOM Counter-trafficking Unit

The Counter-trafficking Unit of the IOM currently implements programmes that focus on counter-trafficking.

Since 2002, IOM has worked with state agencies including the Immigration and Emigration Department, the Examiner

of Questionable Documents, the Attorney-General's Department, the Criminal Investigation Department and other Police Departments, to improve migration management.

The key components of IOM's counter-trafficking work could be grouped under three P's:³⁶

- **Prevention**

Mass media campaigns are conducted to ensure that the public are informed on the risks and consequences of human trafficking as a method of prevention.

- **Protection**

Direct assistance or assistance through IOM's partners is provided to victims of trafficking to ensure their protection

- **Prosecution**

Under prosecution, training on identifying and investigating cases of trafficking for law enforcement officers is provided.

³⁶ See http://www.iomsrilanka.org/iom/wp-content/uploads/2010/01/counter_trafficking_overview_iom_sri_lanka.pdf

5.2.3 Non-governmental organisations

Journalists should also make use of the wider network of agencies engaging in prevention and protection work. When victims of trafficking are identified, they often have complex needs that cannot all be met by one person or agency. It is necessary that government institutions work together with NGOs to provide a full range of support, services, and protection.

For instance, if law enforcement officials conduct a raid, NGO partners can be on call to assist with housing support, case management, and medical care.³⁷ Moreover, law enforcement officials and NGO advocates could work together to provide appropriate safety planning for an individual or group.³⁸

A number of agencies in Sri Lanka may be directly involved in such work. For example, a journalist working on a story involving female victims who might have encountered abuse may wish to contact Women in Need (WIN). This organisation is committed to the elimination of domestic violence and other forms of violence against women. It has nine 'Crisis Centres', eight 'One Stop Crisis Centres', five Police Station Counselling Desks, and eight Women's Resource Centres, which provide temporary shelter, psychosocial counselling services and legal services.³⁹

³⁷ U.S. Department of State, *Trafficking In Persons Report* (June 2012), at 31.

³⁸ *Ibid.*

³⁹ See <http://winsl.net> for further details.



Conclusion

In today's globalised context, human trafficking and forced labour remain serious issues that require urgent attention. Several agencies including the ILO are committed to responding to trafficking and forced labour by preventing violations, protecting victims and prosecuting offenders. Within this response strategy, it has become increasingly clear that the media could play a crucial—if not indispensable—role.

This guide attempts to facilitate this role by raising awareness amongst journalists with the intention of informing and guiding media responses; assisting and guiding journalists on how to ethically report on human trafficking and forced labour; and enhancing cooperation between the media, state agencies and other stakeholders. The guide thus intends to help journalists to participate in and contribute towards future efforts aimed at combating human trafficking and forced labour.

Annexes

I. Contact details of key institutions

Institution	Contact Details
Ministry of Justice	Tel: 112 323022 Fax: 112 320785
Ministry of Labour and Labour Relations	Tel: 112 581991 Fax: 112 368165
Ministry of Foreign Employment Promotion and Welfare	Tel: 112 477971 Fax: 112 477950
Ministry of External Affairs	Tel: 112 325371-5 Fax: 112 446091
Ministry of Child Development and Women's Affairs	Tel: 112 827028
Criminal Investigation Department	Tel: 112-320141-4
Colombo Crimes Division	Tel: 112-473804
National Child Protection Authority	Hotline: 1929
Department of Immigration and Emigration	Tel: 115 329000 Fax: 112 674621
Sri Lanka Bureau of Foreign Employment	Hotline: 1919
ILO	Tel: 112 592525 Ext. 301
IOM	Tel: 115 325300 Fax: 115 325301
Women in Need	Tel: 112 671411 Web: http://winsl.net
Salvation Army Sri Lanka	Tel: 112 324660 Fax: 112 436065

2. Sri Lanka Bureau of Foreign Employment statistics on labour migration

Annual Statistical Report of Foreign Employment 2010

Nature of Complaints	2007			2008			2009			2010*		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Non payment of agreed wages	169	1,326	1,495	345	1,352	1,697	399	1,657	2,056	563	2,312	2,875
Lack of Communication	108	1,578	1,686	56	1,209	1,265	90	1,527	1,617	90	1,599	1,689
Sickness	50	629	679	87	763	850	113	941	1,054	162	1,675	1,837
Harassment (Physical & sexual)	19	958	977	33	1,154	1,187	59	1,479	1,538	76	1,997	2,073
Death - Natural	112	87	199	120	75	195	151	98	249	151	76	227
Death - Accidental	48	18	66	50	22	72	47	16	63	52	30	82
Death - Homicide	1	2	3	2	3	5	3	4	7	3	1	4
Death - Suicide	3	6	9	-	12	12	7	7	14	10	8	18
Not sent back after completion of contract	36	886	922	34	593	627	36	440	476	85	712	797
Stranded - Lack of reception on arrival	-	-	-	1	5	6	-	12	12	2	15	17
Problem at home (Sri Lanka)	-	36	36	1	38	39	4	77	81	5	130	135
Breach of Employment Contract	333	695	1,028	984	1,087	2,071	1,110	1,746	2,856	1,091	2,067	3,158
Stranded without employment	172	312	484	56	75	131	77	35	112	91	65	156
Premature termination	11	2	13	43	7	50	150	25	175	79	17	96
Illegal money transaction	-	5	5	1	1	2	-	1	1	-	4	* 4
Others (Domestic Sector)	4	4	8	1	20	21	1	26	27	1	33	34
Others (Non- Domestic Sector)	182	655	837	6	3	9	2	1	3	5	2	7
Others	-	-	-	120	1,300	1,420	424	1,295	* 1,719	335	1,160	1,495
Total	1,248	7,199	8,447	1,940	7,719	9,659	2,673	9,387	12,060	2,801	11,903	14,704

* Provisional

Source: Conciliation Division SLBFE
Information Technology Division SLBFE

3. Code of Professional Practice of The Editors Guild of Sri Lanka, adopted by the Press Complaints Commission of Sri Lanka

01. PREAMBLE

This Code of Practice which is binding on all Press institutions and journalists, aims to ensure that the print medium in Sri Lanka is free and responsible and sensitive to the needs and expectations of its readers, while maintaining the highest standards of journalism.

Those standards require newspapers to strive for accuracy and professional integrity, and to uphold the best traditions of investigative journalism in the public interest, unfettered by distorting commercialism or by improper pressure or by narrow self-interest which conspires against press freedom. Newspapers and journalists, while free to hold and express their own strong opinions, should give due consideration to the views of others and endeavour to reflect social responsibility.

This code both protects the rights of the individual and upholds the public's right to know. It should be honoured not only to the letter but in the spirit – neither interpreted so narrowly as to compromise its commitment to respect the rights of the individual nor so broadly as to prevent publication in the public interest.

Editors should co-operate swiftly with the Press Complaints Commission of Sri Lanka (PCCSL) in the resolution of complaints. Any publication judged to have breached the Code must print the adjudication in full and with due prominence, including a headline reference to the PCCSL.

02. ACCURATE REPORTING

- 2.1 The media must take all reasonable care to report news and pictures accurately and without distortion.
- 2.2 Every reasonable attempt should be made by editors and individual journalists to verify the accuracy of reports prior to publication. Where such verification is not practicable, that fact shall be stated in the report.
- 2.3 Editors and their staff, including external contributors, shall not publish material in such a way as to endorse any matter which they know or have reason to believe to be false or inaccurate.
- 2.4 Publications are encouraged to engage in investigative journalism in the public interest.

03. CORRECTIONS and APOLOGIES

- 3.1 Where it is recognized by the editor that a report was incorrect in a material respect, it should be corrected promptly and with due prominence and with an apology where appropriate, except where the

correction or apology is against the wishes of the aggrieved party.

04. OPPORTUNITY TO REPLY

- 4.1 A fair and reasonable opportunity to reply should be given to individuals or organizations in respect of factually incorrect statements endangering their reputation, dignity, honour, feelings, privacy and office. The reply should be confined to the complainant's version of the facts and no longer than necessary to correct the alleged inaccuracy.
- 4.2 Newspapers or journalists who respond to a complainant's reply other than to apologize or regret the error, must then be prepared to offer the aggrieved party a fresh opportunity to reply.

05. CONFIDENTIAL SOURCES

- 5.1 Every journalist has a moral obligation to protect confidential sources of information, until that source authorizes otherwise.

06. GENERAL REPORTING and WRITING

- 6.1 In dealing with social issues of a particularly shocking or emotionally painful nature – such as atrocity, violence, drug abuse, brutality, sadism, sexual salacity and obscenity – the press should take special care to present facts, opinions, photographs and graphics with due sensitivity and discretion, subject to its duty to publish in the public interest.

- 6.2 In reporting accounts of crime or criminal case, publications shall not, unless it is both legally permitted and in the public interest –

- i. Name victims of sex crimes
- ii. Knowingly name any young person accused of a criminal offence who is below the age of 16 and who has no previous convictions
- iii. Identify without consent relatives of a person accused or convicted of a crime

- 6.3 A journalist shall not knowingly or wilfully promote communal or religious discord or violence.

6.4

- i. The press must avoid prejudicial or pejorative reference to a person's race, colour, religion, sex or to any physical or mental illness or disability.
- ii. It must avoid publishing details of a person's race, caste, religion, sexual orientation, physical or mental illness or disability unless these are directly relevant to the story.

6.5

- i. Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information for the profit of others.

- ii. They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest, without disclosing the interest to the publisher, editor or financial editor.

6.6 When reporting suicide, care should be taken not to give excessive detail of the method used.

07. PRIVACY

- 7.1 The press shall exercise particular care to respect the private and family lives of individuals, their home, health and correspondence. Intrusions on this right to privacy without consent could be justified only by some over-riding public interest.
- 7.2 The use of long-lens or other cameras to photograph people without consent on private or public property where there is a reasonable expectation or privacy is unacceptable, unless in the public interest.
- 7.3 Particular care should be taken to ensure that in cases involving grief or shock, inquiries and approaches are handled with sensitivity and discretion.
- 7.4 Young people should be free to complete their school years without unnecessary intrusion. Publication of material concerning a child's private life would be acceptable only if there was some exceptional public interest other than the fame, notoriety or position of his or her family or guardian.

7.5 The restrictions on intruding into privacy are particularly relevant to inquiries about individuals in hospitals or similar institutions, unless it serves the public interest.

08. HARASSMENT and SUBTERFUGE

8.1 Journalists, including photo-journalists, must not seek to obtain information or pictures through intimidation or harassment or by misrepresentation or subterfuge. The use of long-lens cameras or listening devices must also not be used unless this can be justified in the public interest and the material could not have been obtained by other means.

09. DIGNITY

9.1 Every journalist shall maintain the dignity of his or her profession.

INTERPRETATION

'Public Interest' means;

- I.
 - i. Protecting democracy, good governance, freedom of expression and the fundamental rights of the people and of keeping them informed about events that would have a direct or indirect bearing on them, and that of their elected government, and detecting or exposing crime, corruption, maladministration or a serious misdemeanor;

- ii. Protecting public health and security and social, cultural and educational standards;
 - iii. Protecting the public from being misled by some statement or action of an individual or organisation.
2. In any case where the public interest is involved, the Press Complaints Commission will be entitled to require a full explanation by the Editor and/or journalist demonstrating how the public interest was served.
 5. Sri Lanka College of Journalism
 6. Sri Lanka Tamil Media Alliance
 7. Sri Lanka Muslim Media Forum
 8. Federation of Media Employees Trade Union
 9. South Asian Free Media Association (SAFMA) – Sri Lanka Chapter

ONLINE PUBLICATIONS

The provisions of this Code will also apply to the Online publications of the print media.

REVIEW

The Editor's Guild of Sri Lanka shall review the provisions of this Code from time to time, in consultation with a Code Committee comprising of members, and non-members appointed by The Guild.

The Code is supported by the following organizations:

1. The Newspaper Society of Sri Lanka
2. Free Media Movement
3. Sri Lanka Working Journalists Association
4. Sri Lanka Press Institute

Trafficking in Persons Report 2012 – released by the United States Department of State Country Narrative:

SRI LANKA (Tier 2)

Sri Lanka is primarily a source and, to a much lesser extent, a destination country for men, women, and children subjected to forced labor and sex trafficking. Sri Lankan men, women, and some children (16 to 17-year olds) migrate consensually to Saudi Arabia, Kuwait, Qatar, the United Arab Emirates, Jordan, Bahrain, Lebanon, Iraq, Afghanistan, Malaysia, and Singapore to work as construction workers, domestic servants, or garment factory workers. Some of these workers, however, subsequently face conditions of forced labor including restrictions on movement, withholding of passports, threats, physical or sexual abuse, and threats of detention and deportation for immigration violations. Before their departure, many male migrant workers go into debt to pay high recruitment fees imposed by unscrupulous licensed labor recruitment agencies and their unlicensed sub-agents. These agencies and agents also commit recruitment fraud by engaging in contract switching: defined as the promising of one type of job and conditions but then changing the job, employer, conditions, or salary after arrival. Women migrating abroad for work generally are not required to pay recruitment fees in advance, although many report

paying off such fees through salary deductions. Some Sri Lankan women are promised jobs or began jobs as domestic workers, mainly in Singapore or Jordan, but were forced into prostitution. A small number of Sri Lankan women are forced into prostitution in the Maldives. Internally-displaced persons, war widows, and unregistered female migrants remained particularly vulnerable to human trafficking. In 2011, Sri Lankan victims were identified in Egypt, Poland, and the United States. Within the country, women and children are subjected to sex trafficking in brothels. Boys are more likely than girls to be forced into prostitution in coastal areas for domestic child sex tourism. In addition, there are reports of children being subjected to bonded labor and forced labor in dry-zone farming areas on plantations, and in the fireworks and fish-drying industries. Some child domestic workers in Colombo, generally from the Tamil tea-estate sector of the country, are subjected to physical, sexual, and mental abuse, nonpayment of wages, and restrictions of their movement. A small number of women from Thailand, China, and countries in South Asia, Europe, and the former Soviet Union may be subjected to forced prostitution in Sri Lanka.

The Government of Sri Lanka does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the year, the government did not convict any trafficking offenders. Serious problems remain, particularly in protecting victims of trafficking in Sri Lanka and abroad, and not addressing official complicity in human trafficking. However, the government took strong preventative efforts, including the convictions of two labor recruitment agents who committed fraudulent recruitment offenses, and enhanced inter-ministerial coordination through monthly meetings.

YEAR	TIER
2005, 2006	2
2007, 2008, 2009, 2010	2 Watch List
2011, 2012	Upgraded to 2

Recommendations for Sri Lanka: Improve efforts to investigate and prosecute suspected trafficking offenses, and convict and punish trafficking offenders, particularly those responsible for recruiting victims with fraudulent offers of employment and excessive commission fees for the purpose of subjecting them to forced labor; develop and implement formal victim

referral procedures; ensure that victims of trafficking found within Sri Lanka are not detained or

otherwise penalized for unlawful acts committed as a direct result of their being trafficked, such as visa violations or prostitution; train local law enforcement on victim identification, investigation of cases, and assembling strong cases; facilitate the speedy repatriation of foreign trafficking victims by providing airfare and not obligating them to remain in the country if they choose to initiate law enforcement proceedings; provide witness protection and incentives for victims to cooperate with law enforcement to enable prosecutions; improve services for shelters, legal aid, counseling, and trained staff at embassies in destination countries; promote safe tourism campaigns to ensure that child sex tourism does not increase with expected rapid growth of tourism; promote safe and legal migration rather than discouraging migration or imposing age restrictions on migrants; and improve regulation and monitoring of recruitment agencies and village level brokers.

Prosecution

The Sri Lankan government's law enforcement response to human trafficking offenses was minimal during the reporting period. Sri Lanka prohibits all forms of trafficking through an April 2006 amendment to its penal code, which prescribes punishments of up to 20 years' imprisonment. These penalties are sufficiently

stringent and commensurate with those prescribed for other serious offenses, such as rape. The National Child Protection Authority and Criminal Investigation Department (CID) investigated 44 reported cases of trafficking in 2011, and referred nine of these cases to the Attorney General's office for advice. During the year, the CID also jointly investigated a potential sex trafficking case with police in Singapore. There was no information on how many suspected trafficking offenders were prosecuted in the reporting period. The government did not convict any human trafficking offenders in the reporting period, in contrast to three traffickers convicted in the previous reporting period. Government employees' complicity in trafficking remained a problem. There were allegations that police and other officials accepted bribes to permit brothels to operate; some of the brothels exploited trafficking victims. Many recruitment agencies were run by politicians or were politically connected. Some sub-agents cooperated with Sri Lankan officials to procure forged or modified documents, or real documents with false data, to facilitate travel abroad. There were no reported law enforcement actions taken against officials complicit in human trafficking. The government undertook law enforcement training. For instance, in August 2011, the Ministry of Justice and the Judges' Training Institute trained 80 judges, in collaboration with the ILO, on issues such as the

application of international standards within domestic trafficking legislation, and the trauma for trafficking victims during the judicial process. In December 2011, the Sri Lanka Bureau of Foreign Employment (SLBFE) organized a workshop for 80 district-level government officials on identifying victims and sending case information to relevant law enforcement departments.

Protection

The government made limited progress in protecting victims of trafficking during the year. Government personnel did not develop or employ systematic procedures for proactively identifying trafficking victims or referring them to care facilities. The SLBFE continued to operate, through Sri Lankan embassies in some destination countries, short-term shelters, as well as an overnight shelter in Sri Lanka's international airport for returning female migrant workers who encountered abuse abroad. These facilities were funded by fees the SLBFE collected from registered migrant workers prior to their departure. There were complaints that the shelters were grossly overcrowded with unhygienic conditions, and that at least one did not permit the residents to leave the premises. There have been some reports of abuse by Sri Lankan embassy officials in shelters abroad, and one official in a Sri Lankan embassy reportedly condoned passport withholding – a sign of human trafficking – by employees



in that country. Child trafficking victims received shelter, schooling, and medical, legal, and psychological services from the Department of Probation and Child Care Services. The government has not yet established a trafficking shelter with IOM, as noted in the 2011 TIP Report. The government did not encourage victims to assist in the investigation and prosecution of trafficking cases; instead, they sometimes forced victims to remain in the country (without the permission to seek employment) and testify if they chose to file charges. The government penalized some adult victims of trafficking through detention for unlawful acts committed as a direct result of being trafficked. Most commonly, these acts were violations of their visa status or prostitution. All detainees who were awaiting deportation for visa violations, including trafficking victims, remained in detention facilities until they raised enough money to pay for their plane ticket home, which in some cases has taken years.

Prevention

The Sri Lankan government made progress in its efforts to prevent trafficking during the last year. The government's inter-ministerial anti-trafficking task force met monthly, improving communication between ministries, and invited ten civil society

organizations to one meeting in October 2011. In January 2012, the Colombo High Court sentenced two recruitment agents for offenses that included fraudulent recruitment. The agents were sentenced to two years' imprisonment and a fine, paid to the mother of the migrant workers who filed the complaint. The SLBFE continued to require migrant domestic workers with no experience working in the Middle East to complete a 12-day pre-departure training course, funded by fees the SLBFE collected from the departing migrant workers. It is not known how many migrant workers completed this course in the reporting period. In measures that could prevent transnational labor trafficking of Sri Lankans, the SLBFE reported that it filed 276 charges against recruitment agencies in 2011 for charging illegal fees in recruitment, conducted 73 raids against employment agents (in comparison to 84 in 2010), and fined recruitment agencies found to be guilty of fraudulent practices over the equivalent of \$25,000 (in comparison to \$40,000 in 2010). The government worked on several awareness-raising initiatives with the ILO. In one initiative, the government, in partnership with the ILO, developed a handbook for migrants bound for Saudi Arabia and Kuwait, including information on the relevant labor laws, descriptions of forced labor and trafficking, and contact information. The SLBFE printed and distributed 40,000

copies of the handbook to all registered migrant workers heading to those two countries. The Government of Sri Lanka, working with the UNDP, continued to provide personnel time to conduct mobile documentation clinics for conflict-affected people. The Government of Sri Lanka did not report any efforts to reduce the demand for commercial sex acts during the reporting period. The Ministry of Defense provided anti-trafficking training to all Sri Lankan peacekeepers prior to their deployments abroad for international peacekeeping missions. Sri Lanka is not a party to the 2000 UN TIP Protocol.



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