

Indicators / Risk Factors for Screening and Identification of Persons at Risk of Trafficking or Victims of Trafficking in Persons

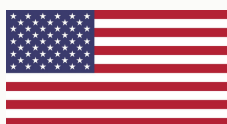
REMEMBER

- The responsibility of the first responder/ investigating officer is to get the details of the story from the person/victim, and the interview questions should focus on the three trafficking components of 'recruitment', 'means' and 'exploitation'.
- The following non-exhaustive list of indicators is intended for two main types of exploitation, trafficking for sexual exploitation and labor.
- Not all indicators will be relevant for all persons. For instance, if a person is identified as potentially at risk of trafficking, indicators from the recruitment and transportation phase may be adequate, without delving into the exploitation phase.
- Some indicators may also be suggestive of other types of crime or scenarios, and the presence or absence of any indicator is not conclusive in determining whether or not human trafficking is taking place.
- Based on the core findings of the research, this Checklist focuses on the intersections between gender-based violence (GBV) and trafficking, and the exacerbated vulnerabilities created by GBV towards getting trafficked.
- Indicators are not proof of trafficking, they are meant to assist in the identification process, but will require further investigation. They can however, be used to justify a high probability scenario of a trafficking situation and create a presumption in favor of the victim to improve their access to assistance and protection.
- This list of indicators can be used as a checklist tool by the police to screen and identify people at risk of, and victims of trafficking. It can also be effectively utilized as a training tool for the police to build understanding on the indicators of the trafficking process.
- The future course of action after such screening and identification is not a part of this document, for which reference should be made to other SOPs and protocols issued from time to time by the Government of India, Bureau of Police Research and Development, National Human Rights Commission, UN agencies, and NGOs.

Overview

This checklist is based on the report "Optimizing Screening and Support Services for Gender-Based Violence and Trafficking in Persons in India". The Asia Foundation (TAF), with support from the Office to Monitor and Combat Trafficking in Persons (J/TIP), United States (US) Department of State conducted this multicounty qualitative research study to improve the efficiency and effectiveness of screening and service provision to victims of trafficking in persons (TIP) and gender-based violence (GBV) in diverse contexts. In India, TAF partnered with local research partner FXB India Suraksha to conduct the research and disseminate its findings. The study's primary objective is to identify promising practices and challenges in integrating or separating services for GBV and TIP victims in the three target countries of India, Nepal, and Sri Lanka. GBV and TIP victims often suffer similar and intersecting forms of abuse, however, at the screening process these multiple vulnerabilities are often not identified, and hence care is delayed. This study is premised upon a deeper study of these intersections; their resultant impact on the identification of victims; leading to a concluding exploration of effective service delivery to the victims, and whether these stand in need of integration. The qualitative data collection for the research was completed between 2020-2021.

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General Indicators of Trafficking

This range of general indicators are not exhaustive and there are likely to be other regional and local indicators that can be added in order to refine and improve the identification process.

Each indicator alone is ineffective and must be read along with other indicators for assessment.

Age - Younger persons (men, women, children, and persons identifying as nonbinary) are more likely to be trafficked due to higher 'demand' for younger persons for sexual and labour exploitation. Children are particularly vulnerable as they can be more easily duped and can be exploited in all forms of trafficking.

Gender - All people, **irrespective of their gender** are vulnerable to trafficking. First responders should not assume that a person who identifies as a male or identifies as another gender cannot be victims or are not vulnerable to trafficking. Trafficked victim/ person vulnerable to trafficking could be of any gender, ethnicity, and nationality; may identify as Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI).

Gender-Based Violence and its intersections with Trafficking in Persons - There is a strong intersectionality between Gender-Based Violence (GBV) and Trafficking in Persons (TIP) and its impact on the other. The **experiences of violence, abuse, and exploitation run in a continuum** for persons experiencing GBV, such as domestic violence, intimate partner violence, mental/ physical/ sexual/ emotional/ economic abuse, abuse due to sexual orientation, and others. These, in turn, create vulnerabilities to human trafficking. Conversely, victims of human trafficking face grave gender-based violence during their exploitation phase.

Family situation - TIP and GBV are deeply **rooted in inequality and systematic discrimination**, disproportionately affecting certain sections/groups of the society i.e., mostly the marginalized and socially and economically vulnerable communities. Socio-economic reasons, aspirational migration, societal norms and pressure, physical and other forms of abuse within the family/ or by known persons, unfounded trust on strangers, unregulated exposure of children and adolescents to the social media platforms such as WhatsApp, Facebook etc., are some predominant risk factors that exacerbate vulnerabilities to human trafficking.

Evidence of abuse - Any signs of physical injury to the victim can be an indicator of violence and trafficking.

Behaviour - Victims of gender-based violence or trafficking often share a scripted or inconsistent story, maybe unwilling or hesitant to answer questions or may give ambiguous answers to questions. They may also appear to behave in a suspicious manner, look frightened, angry, suspicious or depressed.

In some instances, the person may appear very assertive and claim that they 'consented' to the said activities. This declaration of consent should be thoroughly investigated vis-à-vis the **use of 'threat, force, coercion, abduction, fraud, deception, abuse of power, and inducement to trafficking'**, as provided in Sec. 370 of the Indian Penal Code (IPC).

What to look for when identifying victims/ people at risk of trafficking

	Indicators according to the type of Human Trafficking	TIP for sexual exploitation		TIP for labour exploitation		Notes
I. Recruitment						
1	Is the person from a known source area / hotspot area for human trafficking?	Yes	No	Yes	No	
2	In case of foreign nationals, is the person from a known 'origin' country for trafficking?	Yes	No	Yes	No	
3	Is the person accompanied by someone?	Family ²	Others	Family	Others	
4	Does the person appear to know or not know the other members of the group?	Yes	No	Yes	No	
5	Is the individual/are people in the group free to move alone ³ ?	Yes	No	Yes	No	
6	Is the individual/are people in the group free to speak ⁴ ?	Yes	No	Yes	No	
Means for Recruitment						
7	Does the person complain of any threat ⁵ /look threatened?	Yes	No	Yes	No	
8	Does the person complain of any force ⁶ / coercion / looks under any kind of coercion?	Yes	No	Yes	No	
9	Does a record check verify the person to be a 'missing person' ⁷ ?	Yes	No	Yes	No	
10	Does the person claim to be a runaway from home/facing domestic violence ⁸ ?	Yes	No	Yes	No	
11	Is there any contract/ does the person know the terms of the contract/ does the person claim coercion to sign the contract?	Yes	No	Yes	No	
12	Is the person aware of the nature of work promised at the final destination ⁹ ?	Yes	No	Yes	No	
13	Is the person aware of the payment/ wages and conditions promised or indicated at the final destination?	Yes	No	Yes	No	
14	Was any money handed to the recruiter in advance ¹⁰ ?	Yes	No	Yes	No	
15	Was any money given by the recruiter to the person/family ¹¹ ?	Yes	No	Yes	No	
16	Was anyone paid a fee for recruiting the person for work/ bring the person for prostitution?	Yes	No	Yes	No	

1. Indian Penal Code (IPC) Sec. 366 B – Importation of a girl from a foreign country

2. Presence of a family member should not lead to an automatic assumption of no trafficking. A family member could also be the trafficker/ accomplice.

3. Restrictions on movement could be indicative of coercion by the trafficker.

4. Restrictions on speech could be indicative of coercion by the trafficker, or the person being unaware of the destination, nature of work, etc.

5. IPC, Sec. 370 (1) (i)

6. IPC Sec. 370 (1) (ii)

7. IPC Sec. 370 (1) (iii); Supreme Court directions in Bachpan Bachao Andolan v/s Union of India, Writ Petition (Civil) no. 75 of 2012, decided on 10.05.2013.

8. These factors create vulnerabilities to trafficking. Domestic violence or gender-based violence could be one of the strong indicators of vulnerability to human trafficking.

9. IPC Sec. 370 (1) (iv). Explore further if fraud or deception has been used to recruit the person.

10. IPC Sec. 370 (1) (vi)

11. IPC Sec. 370 (1) (vi)

	Indicators according to the type of Human Trafficking	TIP for sexual exploitation		TIP for labour exploitation		Notes
17	Was the victim forcibly taken away to another location from his/ her native place? If Yes, How?	Yes	No	Yes	No	
18	Is the person confused/ does not know about the route, destination or purpose of travel ¹⁵ ?	Yes	No	Yes	No	
19	Does the person claim to be traveling of their own free will/ with consent ¹⁶ ?	Yes	No	Yes	No	
20	Who organised the travel ¹⁵ ?	Yes	No	Yes	No	
21	Did the person pay the cost of travel by incurring a debt ¹⁶ ?	Yes	No	Yes	No	
22	Does the person carry his/ her own identity and travel documents ¹⁷ ?	Yes	No	Yes	No	
III. Exploitation Phase						
23	Was the person(who may now be an adult) brought into the situation of exploitation when they were still a child/minor ¹⁸ ?	Yes	No	Yes	No	
24	Is the child engaged in any form of prohibited labour/work outside his home?	Yes	No	Yes	No	
25	Does the person claim to be working/engaged in commercial sexual activity of their own free will/consent ¹⁹ ?	Yes	No			
26	Is the person compelled to engage in commercial sexual activity ²⁰ ?	Yes	No			
27	Does the person have the liberty to refuse customers ²¹ ?	Yes	No			
28	Does the person receive money directly from customers/ receives only a small portion of the money paid by customers to the pimp/ or other intermediaries?	Yes	No			
29	Does the person have to hand over any earnings to another person, ²² or has no access to their money?	Yes	No	Yes	No	
30	Does the person claim a difference in the work / payment that was initially offered and the current work/ activity/ payment in which the person was engaged ²³ ?	Yes	No	Yes	No	
31	Is the employer unable to show evidence of payment of wages to the person?			Yes	No	

12. Transit and transportation are not mandatory components to constitute an offence of trafficking in persons.

13. Lack of information on these aspects are generally indicative of a person being trafficked.

14. "The consent of the victim is immaterial in determination of the offence of trafficking" [IPC Sec. 370, Explanations (2)]; and Sec. 5 of the Immoral Traffic (Prevention) Act, 1956 (ITPA) for sexual exploitation cases. Further inquiries would be necessary to conclude if the consent was free and informed.

15. IPC Sec. 370 (1) (b -transports) (d-transfers); and Sec. 5 of the Immoral Traffic (Prevention) Act, 1956 (ITPA) for sexual exploitation cases (induces a person to go from any place, with the intent that he/she may for the purpose of prostitution become the inmate of, or frequent, a brothel; takes or attempts to take a person or causes a person to be taken, from one place to another with a view to his/her carrying on, or being brought up to carry on prostitution).

16. Traffickers usually create a debt bondage by paying for the travel of the person they are trafficking. The individual also often takes a debt for travel with the trafficker, and then feels trapped in debt bondage. This often keeps the individual in a situation of exploitation as they have to repay the debt incurred.

17. These factors are especially relevant during trafficking to a foreign country, where the control of the travel and other documents are retained by the traffickers.

18. If the answer is yes, this could be charged either as a case of child trafficking; or charged under provisions of trafficking of children, even though the person is now an adult.

19. "The consent of the victim is immaterial in determination of the offence of trafficking" [IPC Sec. 370, Explanations (2)]. Further inquiries would be necessary to conclude if the consent was indeed free and informed. Trafficking may have started with the 'consent' of the person and later became 'coercive' and vice versa.

20. IPC Sec. 370 Explanations (1); and ITPA Sec. 3 (keeping a brothel or allowing premises to be used as a brothel), 4 (living on the earnings of prostitution) and 5 (procuring, inducing or taking person for the sake of prostitution) for sexual exploitation cases.

21. If no, then the person could possibly be a victim of sex-trafficking, being forcibly engaged in prostitution.

22. ITPA Sec. 4 for sexual exploitation cases.

23. These are indicative of fraud or deception or inducement in order to achieve the consent of the person.

	Indicators according to the type of Human Trafficking	TIP for sexual exploitation		TIP for labour exploitation		Notes
Physical Coercion						
32	Does the person show signs of physical injury or trauma?	Yes	No	Yes	No	
33	Does the person claim to be subjected to physical/sexual assaults or torture?	Yes	No	Yes	No	
34	Does the person claim to be given pills, although the person does not suffer from any illness? ²⁴	Yes	No			
Psychological Coercion						
35	Have the person's belongings, jewellery, money, etc. been withheld at the place of exploitation ²⁵ ?	Yes	No	Yes	No	
36	Does the person's child(ren) been detained by the traffickers at the place of exploitation? ²⁶	Yes	No	Yes	No	
37	Is the person threatened with legal proceedings for taking away his/her belongings, jewellery, money, etc. which had been withheld at the place of exploitation? ²⁷	Yes	No	Yes	No	
38	Does the person claim any threat to self/family if they refuse to work/engage in commercial sexual activity?	Yes	No			
39	Does the person believe that she/he is subject to some form of debt bondage? ²⁸	Yes	No	Yes	No	
Freedom of Movement						
40	Has the person been detained ²⁹ in any place, or compelled to stay there?	Yes	No	Yes	No	
41	Does the person live and work in the same place?			Yes	No	
42	Is the person moved ³⁰ from place to place against his/her will?	Yes	No	Yes	No	
43	Was the person unable to quit working for the employer and get a job somewhere else?			Yes	No	
Other Indicators³¹						
44	If the identity of the traffickers is known, is there any previous history of violence and/or trafficking?	Yes	No	Yes	No	
45	Are any of the suspects part of an organised criminal group previously involved in trafficking?	Yes	No	Yes	No	

24. Traffickers often administer drugs and growth hormones to pre-adolescent girls to artificially enhance their physical growth to get them ready at an early age for prostitution.

25. ITPA Sec. 6 (3) (a) for sexual exploitation cases; and relevant provisions of BLSA.

26. Traffickers often detain children of women in sexual exploitation / or of those in labour exploitation to make them come back OR to prevent them from giving statements to the police implicating them.

27. ITPA Sec. 6 (3) (b) for sexual exploitation cases; and relevant provisions of BLSA.

28. This may be indicative of the person believing that they do not have a choice to leave the work/ exploitative situation, and is therefore suggestive of threat, force, coercion, abuse of power, etc. under Sec. 370 (1) IPC.

29. ITPA Sec. 6 for sexual exploitation cases; and relevant provisions of Bonded Labour System (Abolition) Act, 1976 (BLSA).

30. IPC Sec. 370 (1) (d); and ITPA Sec. 5.

31. These questions may not be verbalized to the person being interviewed. Information on this aspect would assist the investigation officer at a later stage.