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*Crossing Borders
to Make a Difference*

LESSON 1.1: WHAT ARE CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING?



OBJECTIVE

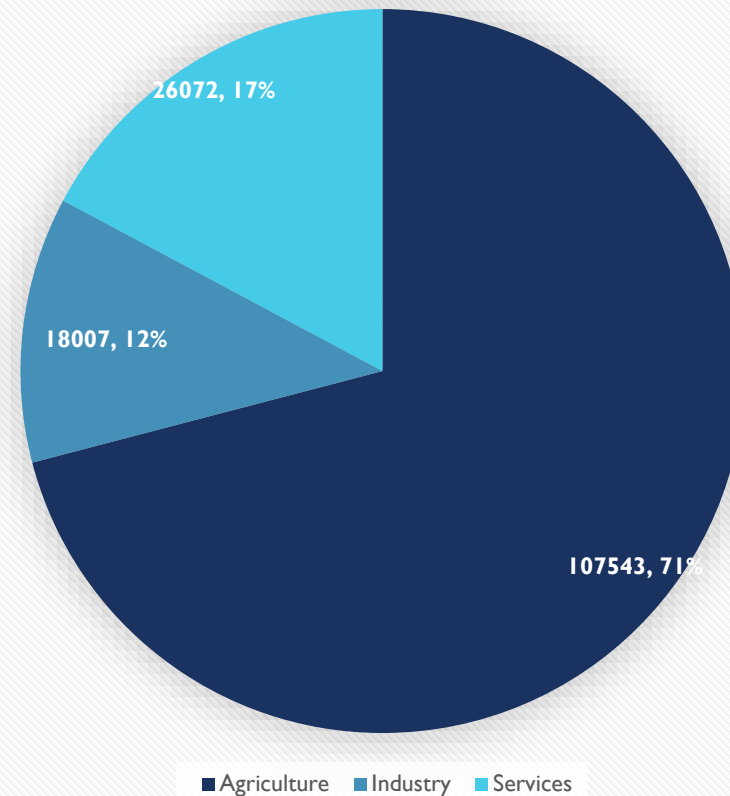
- Understand the definitions of key terms related to child labor, forced labor, and human trafficking
- Understand facts and figures about child labor, forced labor, and human trafficking
- Understand what these crimes look like in practice.

OVERVIEW OF LESSON 1.1

- Overview of Child Labor, Forced Labor, and Human Trafficking
- Impact on Victims
- Impact on Society
- Definitions
- Overview of Types of Child Labor, Forced Labor, and Human Trafficking

STATISTICAL OVERVIEW OF CHILD LABOR

Children Ages 5-17 Engaged in Child Labor by
Sector, in Thousands

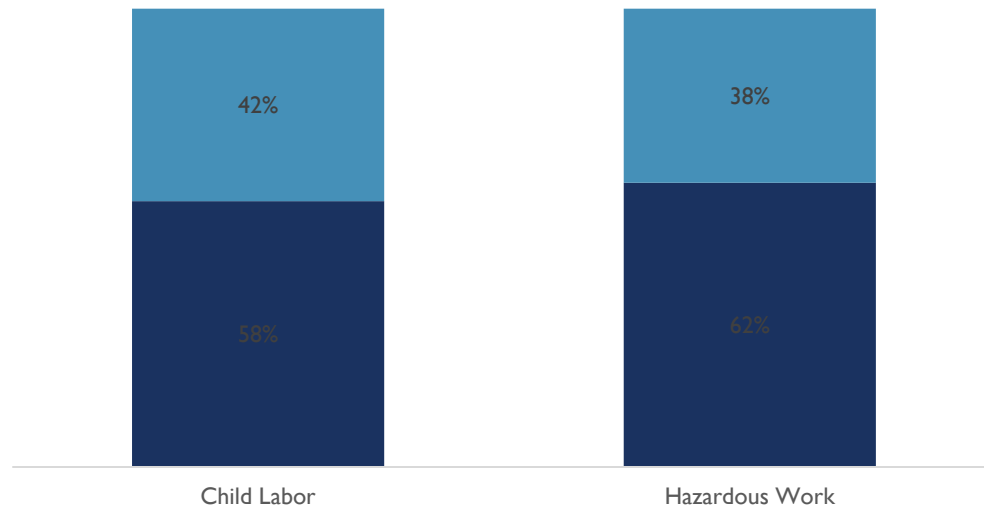


As of 2016, 152 million children worldwide, nearly 10% of all people under the age of 18, are engaged in child labor

STATISTICAL OVERVIEW OF CHILD LABOR

Gender Comparison of Child Labor

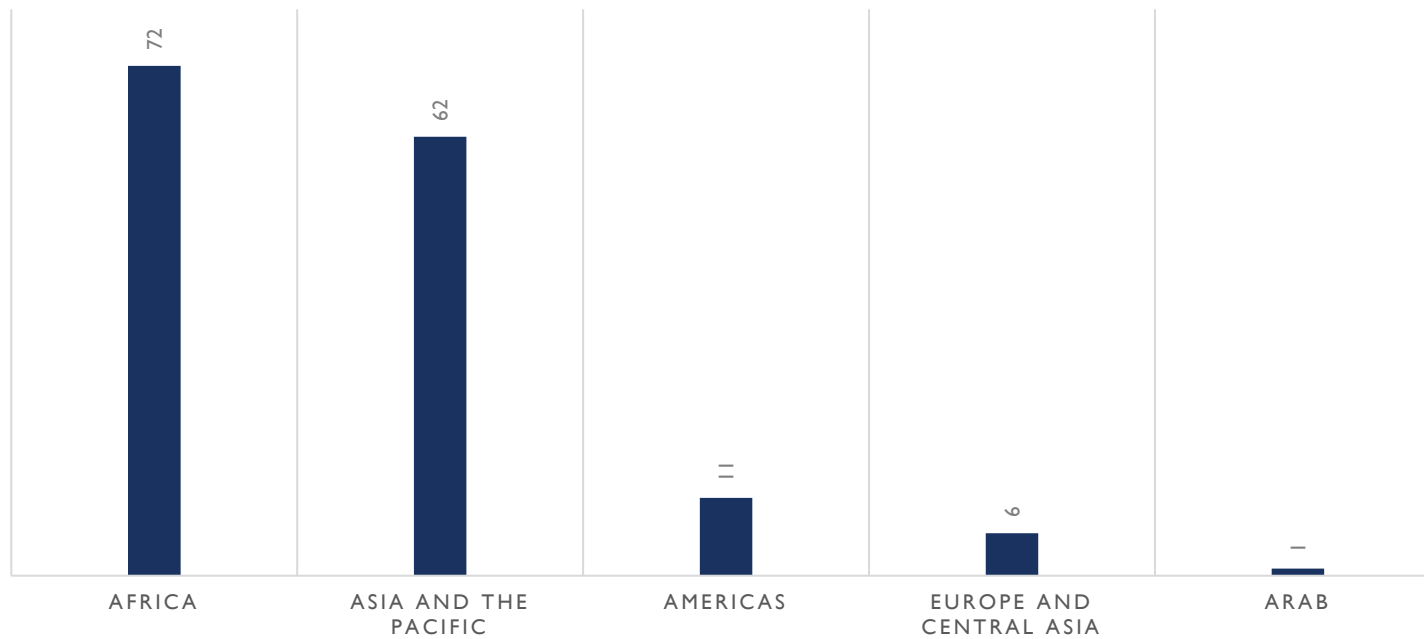
■ Boys 5-17 ■ Girls 5-17



- Over 2/3 of child labor occurs within families, 27% is paid labor, and 4% are “self-employed”

STATISTICAL OVERVIEW OF CHILD LABOR

CHILD LABOR BY GEOGRAPHIC REGION IN MILLIONS



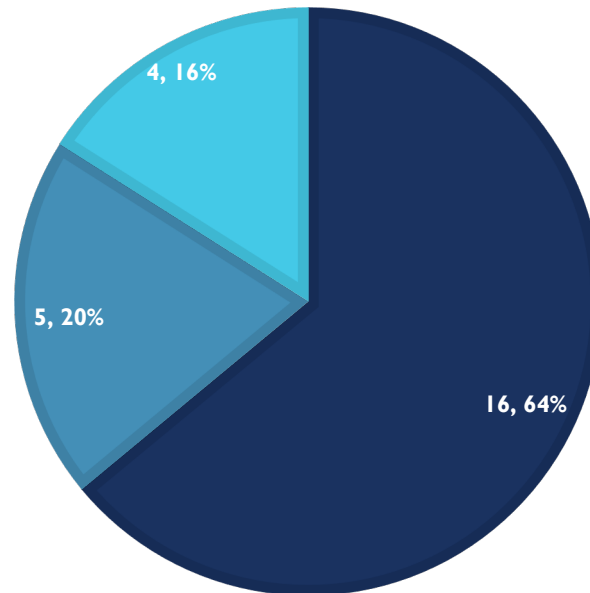
STATISTICAL OVERVIEW OF FORCED LABOR, AND HUMAN TRAFFICKING

- 25 million people are in situations of forced labor worldwide
- 16 million are forced into economic activities, 5 million are victims of forced sexual exploitation (including 1 million children), and 4 million are victims of state-imposed forced labor
- 18% of people in forced labor are children
- 25% of victims are exploited outside his or her country of origin
 - 75% of those are forced into sexual exploitation

FORCED LABOR STATISTICS

VICTIMS OF FORCED LABOR, IN MILLIONS

■ Forced Economic Activities ■ Forced Sexual Exploitation ■ State-imposed Forced Labor



STATISTICAL OVERVIEW OF FORCED LABOR, AND HUMAN TRAFFICKING CONTINUED

- Of the 16 million people in situations of labor exploitation:
 - 57% are female and 20% are children
 - 24% are in domestic work
 - 18% in construction
 - 15% in manufacturing
 - 11% in agriculture and fishing
 - 10% or less in accommodation and food services, wholesale and trade, personal services, mining, or begging

WHAT IT LOOKS LIKE: CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING

■ **Agriculture**

- Common jobs include ploughing land and herding cattle
- Cotton is one of the largest industries

■ **Fishing**

- Lifting heavy fishing loads, cleaning and processing fish and repairing nets
- Shrimp industry

■ **Construction**

- Stone cutting or transportation of materials
- Granite, Gravel and Stone, and Bricks

■ **Domestic work**

- Migrant workers and children are most vulnerable

■ **Manufacturing**

- Making textiles and garments, weaving carpets, producing bricks
- Garment sector

■ **Mining**

- Very hazardous; WFCL

■ **Sexual exploitation**

IMPACT ON VICTIMS: CHILD LABOR

- Harms physical development
- Harms emotional growth
- Harms social development
 - Approximately 33% of victims are not in school
- Injuries and illness
- Poverty, lack of education, unemployment, isolation, and drug and alcohol abuse

IMPACT ON VICTIMS: FORCED LABOR AND HUMAN TRAFFICKING

- Fear or mistrust of law enforcement
- Shame or stigmatization
 - Often do not consider themselves victims
- Dependence on trafficker
- Sexual abuse and trauma
- Children victims often face serious injury and illness
 - Physical violence, starvation, forced drug use, sexual violence, psychological trauma

IMPACT ON SOCIETY

■ **Child Labor**

- Negatively impacts families and communities
 - Deprived of benefits of children who are educated and have increased earning potential
 - Increased violent crimes because of drug and alcohol problems

■ **Human Trafficking**

- Puts future generations at risk of poverty and trafficking
- Strain on families, communities and countries to care for victims
- Drains resources

■ **Child Trafficking**

- Harm to families who lose their children to trafficking
- Financial incentives to send children into trafficked situations

CHILD LABOR: RELATED CONCEPTS

- Child labor is a specific category of work performed by children
- Child labor does not include every situation in which children work, as working as a child is sometimes legal
- Child labor is **NOT**:
 - Child work
 - Chores
 - Light work

DEFINITIONS: CHILD LABOR

- Children engaged in employment that is not legally permitted including:
 - Children working when younger than the legal age of employment
 - Working more hours than permitted
 - Working in jobs not permitted for children
 - Dangerous jobs like mining
 - Work that interferes with schooling

CHILD LABOR DEFINITIONS

- Light Work
 - Cannot interfere with health, safety, morals or education
- Minimum Age for Employment
 - Age for full-time employment, cannot be lower than the age of compulsory education

EXAMPLES OF LIGHT WORK

- Joshua is 13 years old. He works for two hours a day, four days a week, as an assistant coach for a youth soccer team. He helps the coach demonstrate skills and helps to lead drills for the players. He works after school and on the weekends. Joshua is performing well in school and has perfect attendance.
- Linda is 14 years old. She has a part time job labeling fruit at a farm. She works for six hours on the weekend putting stickers on fruit. Linda is able to work with some of her friends. They are happy that they do not have to lift the heavy baskets of fruit as part of their job and are able to work out of the sun.

CHILD LABOR DEFINITIONS

- Worst Forms of Child Labor
 - Slavery and slave-like practices
 - Prostitution and pornography
 - Illicit activities
 - Hazardous work
- Hazardous Work
 - Work likely to harm health, safety, or morals

EXAMPLES OF HAZARDOUS WORK

- Priya is 15 years old. She works in a carpet making factory. Priya works 10 hours a day, six days a week. She has to work hunched over and her back frequently hurts. The factory is hot and there are a lot of fibers in the air, which have caused her to develop a cough that she has had for the past six months.
- Phil is 14 years old. He works as a porter, carrying bricks from the kiln to job sites. He works every day. The bricks are heavy and he has cuts and scrapes from carrying them. Phil has to work outside carrying the bricks even when the weather is bad.

DEFINITIONS: FORCED LABOR

- ILO Convention 29 on Forced Labor defines forced labor as:
 - *All work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*
- “Penalty”
 - Not only physical or sexual violence
 - Threats to report victim to immigration authorities
 - Threats to inflict physical harm on victim or victim’s family or friends
 - Withholding or wages or personal documents
- Also includes:
 - Debt bondage

EXAMPLES OF FORCED LABOR

- Sanjay was offered a job as a cook in another country. His employer would pay for the cost of Sanjay's travel and arrange his visa. The salary he was promised was twice as high as he could make in his hometown. Sanjay's family borrowed money to pay the recruiter a recruitment fee that was two months of his promised salary. When Sanjay arrived at his job site he discovered that the salary he would be paid was half of what he was promised. He could not look for other jobs in the country he was working in because his visa was sponsored by his employer and he could only stay in the country if he kept working for the same employer. Sanjay knew he had to earn enough money to pay off the loan his family obtained, because if they could not pay his father would lose his family's small farm.
- Mary is a domestic worker. She had been excited to take the job because it was in a city and she looked forward to being able to see new places and make friends. She hoped to start taking some classes at a local university. Once Mary arrived, her employers took her phone and did not let her leave the house unless it was to buy groceries for the family. Mary has been told that if she tries to leave, her sister will be harmed.

DEFINITIONS: HUMAN TRAFFICKING

- Palermo Protocol definition of human trafficking:
 - *[T]he recruitment, transportation, transfer, harboring 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*

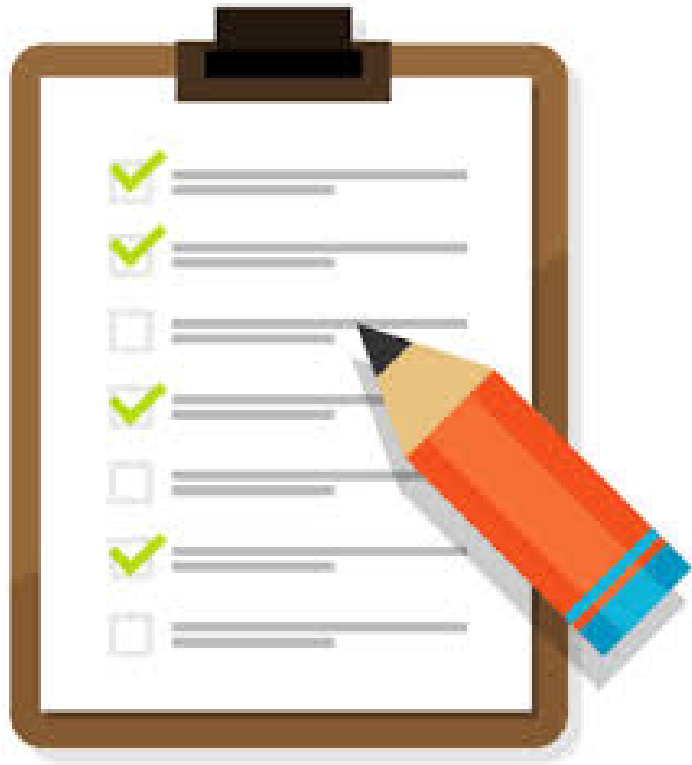
DEFINITIONS: HUMAN TRAFFICKING

- Nearly all victims of human trafficking are in situations of forced labor
- Does not require movement across international borders
- Consent is irrelevant if one of the “means” is used
- Child victims of human trafficking:
 - The “means” element of the definition is not necessary for human trafficking to occur

EXAMPLES OF HUMAN TRAFFICKING

- Anya was offered a modeling job by a man posing as an agent. She traveled with him to another city where she was forced to work as a prostitute. Anya was told that if she left her family and friends would be told that she was working as a prostitute, her trafficker knew that the stigma Anya would face would mean that she likely would not be able to return home.
- Joseph was recruited to work in a mine. He was told that he would receive 50% of the gold he found. When he arrived, he learned that the men in charge of the artisanal mine took all of the gold that was found and would beat anyone who tried to hide gold or leave. Joseph was given food and a place to sleep but has to work long hours and has not been paid for the gold he found.

EXERCISE 1.1.1: DEFINITIONS OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING



OBJECTIVE:

- To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.

KEY MESSAGES:

- Understanding the definitions of child labor, forced labor, and human trafficking plays an important role in being able to identify cases
- There are several types of child labor, dependent on the age of the child and type of work performed
- Trafficking does not require crossing an international border



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LESSON 1.2: INDICATORS OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING



OBJECTIVES

- Learn to recognize child labor, forced labor, and human trafficking.
- Understand the push and pull factors that can lead to child labor, forced labor, and human trafficking.

OVERVIEW OF LESSON 1.2

- Indicators of child labor, forced labor, and human trafficking
- Why do child labor, forced labor, and human trafficking happen?
 - Push and pull factors

CHILD LABOR INDICATORS

- **Age based indicators**
- **Vulnerability**
- **Recruitment**
- **Restriction of movement**

CHILD LABOR INDICATORS CONTINUED

- **Threats**
- **Dependency**
- **Forced labor**
- **Working/living conditions**

FORCED LABOR INDICATORS

- **Abuse of vulnerability**
- **Deception**
- **Restriction of movement**
- **Isolation**
- **Physical and sexual violence**

FORCED LABOR INDICATORS CONTINUED

- **Intimidation and threats/penalties**
- **Retention of identify documents**
- **Withholding of wages**
- **Debt bondage**
- **Abusive living and/or working conditions**
- **Excessive overtime**

HUMAN TRAFFICKING INDICATORS

- Human trafficking indicators can be linked to the elements of trafficking offenses:
 - **Act**
 - **Means**
 - **Purpose**
- Indicators are present at each stage of trafficking
- Shares many indicators with forced labor

HUMAN TRAFFICKING INDICATORS: ACT

- **Recruitment**
- **Transportation**
- **Transfer**
- **Harboring**
- **Receipt**

HUMAN TRAFFICKING INDICATORS: MEANS

- **Threat or use of force or other forms of coercion**
- **Abduction**
- **Fraud**
- **Deception**
- **Abuse of power or of a position of vulnerability**
- **Giving or receiving of payments or benefits to achieve the consent of a person having control over another person:**

HUMAN TRAFFICKING INDICATORS: PURPOSE

- **Prostitution of others or other forms of sexual exploitation**
- **Forced labor or services**
- **Slavery or practices similar to slavery**
- **Removal of organs**

EXERCISE 1.2.2: RECOGNIZING CASES OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING



OBJECTIVE:

- To ensure participants have a thorough knowledge of the crimes of child labor, forced labor, and human trafficking and the international laws surrounding them.

KEY MESSAGES:

- It is important to remember that a worker can be engaged in multiple types of exploitation at the same time.
- Knowing the different categories of child labor and permitted child work will help identify whether work is permissible.
- Not all work that has poor conditions qualifies as forced labor or human trafficking. That does not mean that other violations cannot be addressed and workers cannot be compensated.

PUSH FACTORS

- Poverty
- Natural disasters, armed conflict, and other crises
- Broken families and domestic violence
- Migrants
- Disabilities
- Discrimination

PULL FACTORS

- Desire to gain new skills
- Desire to see new places

EXERCISE 1.2.3: PUSH AND PULL FACTORS



OBJECTIVE:

- To ensure participants understand push and pull factors and are able to recognize indicators of child labor, forced labor, and human trafficking.

KEY MESSAGES

- There are many factors that can push or pull someone into child labor, forced labor, and human trafficking.
- Some indicators of child labor, forced labor, and human trafficking may be easier to recognize than others.
- These four case studies will be used throughout the workshop to help track the experience of victims during all of the stages of a child labor, forced labor, and human trafficking case. At the end of the workshop the group will review each story and how each victim experienced the trial process.



LESSON 1.3: DISTINGUISHING CHILD LABOR, FORCED LABOR AND HUMAN TRAFFICKING FROM OTHER CRIMES



OBJECTIVES

- Distinguish between child labor, forced labor, and human trafficking,
- Distinguish between trafficking and migrant smuggling
- Distinguish between child work and child labor
- Recognize common myths and misconceptions about child labor, forced labor, and human trafficking so that more of these cases can be properly identified.

OVERVIEW OF LESSON 1.3

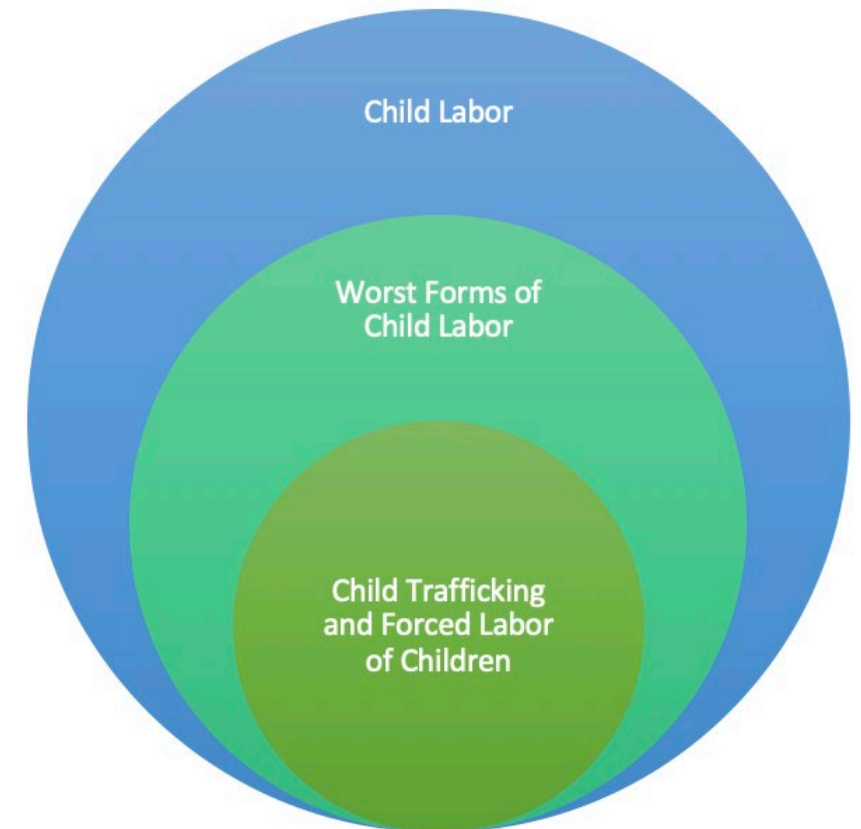
- Distinguishing from each other
- Distinguishing from smuggling
- Child work vs. child labor
- Myths and misconceptions

DISTINGUISHING CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING FROM EACH OTHER

- Child labor, forced labor, and human trafficking are similar, but not identical
- Human trafficking:
 - Requires exploitation such as:
 - Worst form of child labor (WFCL) or
 - Forced labor
 - Trafficking can include child labor or forced labor, but not all child labor or forced labor is human trafficking

CHILD LABOR VS. HUMAN TRAFFICKING AND FORCED LABOR

- **Child labor vs. human trafficking:**
 - Child trafficking does not require the use of threat or use of force or any form of coercion, abduction, fraud, deception, or abuse of power or of a position of vulnerability
- Children cannot consent to being trafficked
- Child trafficking and forced labor of children are WFCL
- All child trafficking and forced labor of children are child labor
 - But not all child labor (or WFCL) is child trafficking or child forced labor.



FORCED LABOR VS. HUMAN TRAFFICKING

- Palermo Protocol: forced labor is an “act” in human trafficking definition
- “Not all forced labor is a result of human trafficking” but “almost all cases of human trafficking result in forced labor.” ILO
 - Organ trafficking is an exception
- Forced labor definition is broader than human trafficking
- Poor working conditions are not the same as forced labor

DISTINGUISHING HUMAN TRAFFICKING FROM SMUGGLING

- Distinguishing between human trafficking and smuggling helps ensure trafficking victims receive support and that their cases are handled properly
- A trafficked person is a victim of crime and is entitled to government protection and assistance
 - A smuggled person is not
- Misidentification can cause trafficking victims to be deported or detained for immigration offenses
- **Definition of smuggling:**
 - “the 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 permanent resident.”

KEY DIFFERENCES BETWEEN SMUGGLING AND TRAFFICKING:

- Smugglers transfer people for the purpose of gaining payment from the person being smuggled
 - Traffickers transfer people for the purpose of exploiting them.
- Smuggling requires the person's choice and consent
- Mistreatment or harm is not required for smuggling

KEY DIFFERENCES BETWEEN SMUGGLING AND TRAFFICKING:

- Smuggling is a crime against the *state*, human trafficking is a crime against the *individual*
- Smuggling requires the illegal crossing of international borders.
 - Trafficking does not
- A smuggler uses illegal documentation or unofficial ports or points of entry.
 - Traffickers may use either legal or illegal documents

CHILD WORK VS. CHILD LABOR

- Child labor is illegal and child work is legal
- Child work encompasses legal work that children are allowed to perform
 - This often includes light work, and once the child is the minimum age for employment, full-time non-hazardous work.
- Child work is work that is beneficial for children
 - Work performed by children cannot harm their health, safety, or morals or their education
- Child labor includes children performing light work below the minimum age for light work or engaging in full-time employment when they are under the minimum age for employment
 - Children engaged in any of the WFCL, including hazardous work, are also in child labor

MYTHS AND MISCONCEPTIONS

- There are many myths and misconceptions about child labor, forced labor, and human trafficking
- Failure to address and correct these myths and misconceptions can cause:
 - Failure of criminal justice professionals to identify crimes
 - Victims not having access to care and assistance

CHILD LABOR MYTHS AND MISCONCEPTIONS

Myths:

- Many people work as children and it does not cause any harm.
- Child labor is necessary to help children and their families survive extreme poverty.
- Child labor is necessary for a country's economic growth and development.
- Victims of child labor only work in sweatshops and factories.
- Victims of child labor do not perform difficult tasks, so they are not really at risk.
- Victims of child labor can easily go back to school once they are done working and have made some money.

HUMAN TRAFFICKING AND FORCED LABOR MYTHS AND MISCONCEPTIONS

Myths:

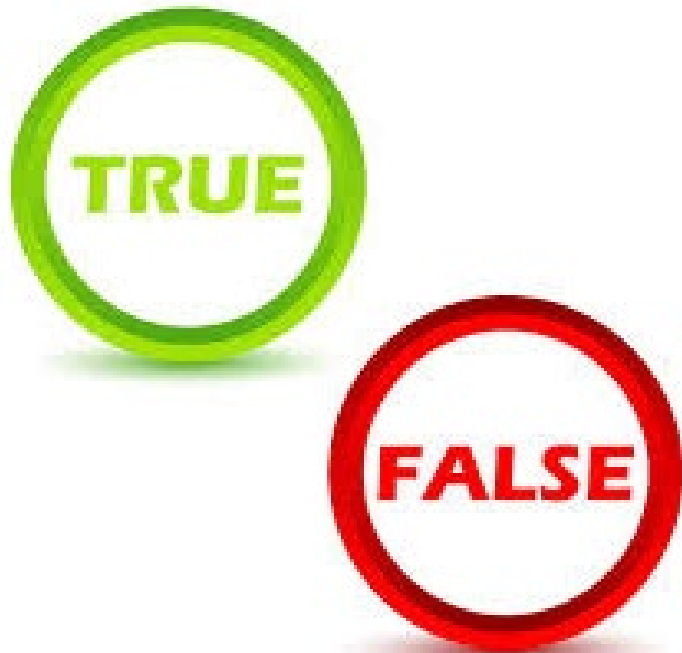
- Trafficking requires movement, so trafficking victims are foreign nationals or immigrants from other countries.
- All victims of sex trafficking are women.
- If a person consents to their initial working condition and is informed of the type of labor he or she would be doing, then it is not forced labor or human trafficking.
- Victims must be physically restrained for trafficking to have occurred.

HUMAN TRAFFICKING AND FORCED LABOR MYTHS AND MISCONCEPTIONS

Myths:

- Victims are quick to seek help or assistance and will self-identify as victims of a crime.
- Human trafficking and forced labor only occurs in illegal industries.
- Trafficking victims who are in a foreign country are undocumented immigrants or in the country illegally.
- Victims of human trafficking and forced labor are always from areas with high poverty or are from rural villages.

EXERCISE 1.4.1: MYTHS AND FACTS ABOUT CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING



OBJECTIVE:

- To identify common myths about child labor, forced labor, and human trafficking, identify sources of misconceptions, and clarify information about child labor, forced labor, and human trafficking to better understand the reality of child labor, forced labor, and human trafficking.

ANSWER KEY

Statement	True or False?
Trafficking requires movement across international borders.	False
Even if a person consents to his or her initial working condition, he or she can still be a victim of human trafficking.	True
There is a difference between working as a child and child labor.	True
All trafficking victims are women.	False
Victims of child labor only work in sweatshops and factories.	False
Victims are often reluctant to seek assistance from law enforcement and the government.	True
Child labor is necessary for families who face extreme poverty.	False
A person does not have to be physically restrained to be a victim of human trafficking.	True
It is easy for victims of child labor to return to school and have a normal life.	False
Human trafficking and forced labor only occur in illegal industries.	False

KEY MESSAGES:

- There are many myths and misconceptions about child labor, forced labor, and human trafficking.
- Addressing common myths and, instead, sharing correct information about the reality of child labor, forced labor, and human trafficking is essential in ensuring that governments address the crimes properly.
- As a result of cultural ideals and society, and even political ideologies, individuals within a certain community may have widespread misinformation about child labor, forced labor, and human trafficking.
- Myths and stereotypes take a long time to break and are often unintentionally engrained in one's mind.
- Myths and misconceptions can result in the failure of criminal justice professionals to identify crimes when they occur, thus preventing victims from having access to the care and assistance they need.



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LESSON 2.1: TYPES OF INVESTIGATIONS



OBJECTIVES

- Learn about reactive, proactive, and disruptive investigations.
- Learn how to map risk to identify areas with a high likelihood of child labor, forced labor, or human trafficking occurring and practice using that skill during an activity.

OVERVIEW OF LESSON 2.1

- Reactive Investigations
- Proactive Investigations
- Disruptive Investigations
- Overview of Gender Issues in Investigations

REACTIVE INVESTIGATIONS

- Reacting to information received
 - Rely on victim testimony
- Triggered when:
 - Victim makes a report or seeks assistance,
 - A police officer, labor inspector, or immigration officer receives a tip
 - Incident at a worksite requiring immediate response
 - An inspector or officer sees something he or she thinks could be child labor, forced labor, or human trafficking

PROACTIVE INVESTIGATIONS

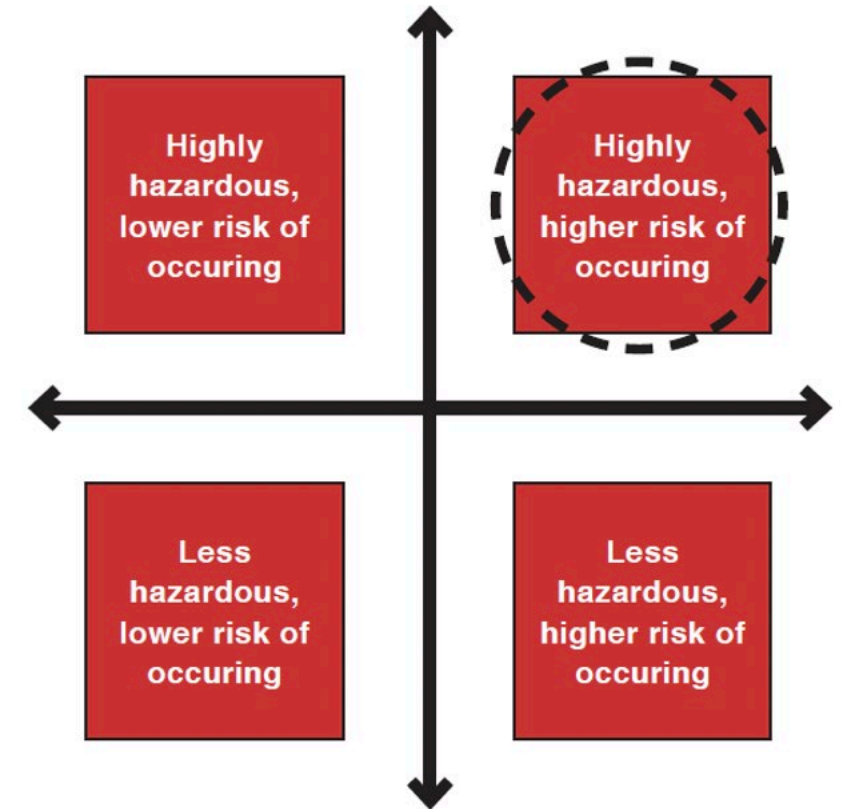
- Intelligence-driven
- Police-led or investigator-led
- Preferred method of investigating child labor, forced labor, and human trafficking cases
- Officers and investigators conduct investigations to uncover evidence and identify instances of child labor, forced labor, and human trafficking
 - Greater control of when and how they collect evidence because they can plan ahead
- Do not rely solely on victim testimony for evidence

PROACTIVE INVESTIGATIONS: TECHNIQUES

- Variety of investigative techniques
 - Surveillance
 - Undercover operations
- Variety of evidence types
- Officers and inspectors must be familiar with the crimes and their patterns, including:
 - Industries and sectors that use child labor, forced labor, and human trafficking
 - Areas within the country with high prevalence of the crimes
 - Profiles of victims (age, sex, and nationality)
 - Transportation routes used by traffickers

PROACTIVE INVESTIGATIONS: RISK MAPPING

- Risk mapping can help target limited resources to areas and sectors most likely to have child labor, forced labor, and human trafficking
- Labor inspectors should consider the following:
 - What is the worst outcome?
 - How often does the worst outcome occur?
 - What is the most dangerous task?
 - How often is that task performed?
 - Are children near the task or do they perform the task?
 - How likely is it that something goes wrong when a child is performing the task or is near the task being performed?
 - Are there safety measures in place?



PROACTIVE INVESTIGATIONS: SECTORS AND GEOGRAPHIC AREAS

- Sectors:
 - Rely on recruitment
 - Informal sectors
 - Seasonal and/or migrant work
 - Low skilled work
 - Piece work or quota work
 - Illegal or immoral activities

PROACTIVE INVESTIGATIONS: SECTORS AND GEOGRAPHIC AREAS

- Geographic areas:
 - Areas without access to schools and/or childcare
 - Rural, remote areas that are more difficult to monitor
 - Areas with high levels of poverty and/or income inequality
 - Areas with displaced populations
 - Areas with high migrant populations

DISRUPTIVE INVESTIGATIONS

- Intended to disturb, interfere with, or disrupt child labor, forced labor and trafficking operations
- Make it difficult for perpetrators to conduct business
- Harder to investigate and prosecute offenders if they stop or shift their businesses
- Often requires cooperation between multiple agencies
- Often used when reactive and proactive investigations are not possible.

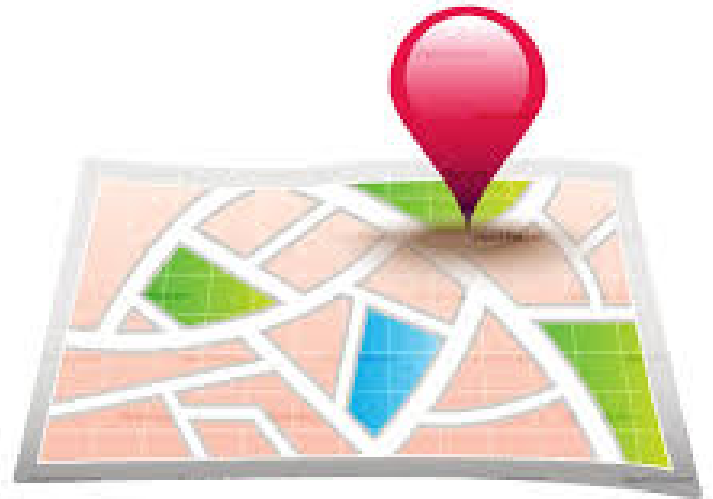
GENDER ISSUES IN INVESTIGATIONS

- Girls may be more likely to drop out of school to begin working or marry for cultural reasons
- Women and girls are more likely to be engaged in domestic work
- Women and girls are more likely to perform piece work

GENDER ISSUES IN INVESTIGATIONS

- Men often migrate for work
 - May be subject to forced labor or human trafficking
 - May have legal work but family members do not, leaving women and children vulnerable
- Men and boys may work on fishing boats
- Men are more likely to be engaged in forced labor that is visible

EXERCISE 2.1.2: RISK MAPPING



OBJECTIVE:

- To identify what economic activities and industries are at risk for child labor, forced labor, and human trafficking in different parts of the country.

KEY MESSAGES:

- Mapping is a way of identifying target groups of at-risk children and other vulnerable groups and the sectors they work in.
- It is important to understand migration patterns of children laborers and forced labor/human trafficking victims whose homes and workplaces are far apart. It is also important to notice similarities in migration patterns between different groups of people.
- Mapping exercises can focus on larger area such as a province or district or a smaller area such as a town or even neighborhood.
- Mapping helps inspectors and law enforcement strategize their work on child labor and forced labor/human trafficking, prioritize interventions, identify good collaborating partners, and make efficient use of scarce resources.
- Often, child labor and forced labor/human trafficking is hidden, therefore good mapping requires speaking with other stakeholders in the community such as school officials, village leaders, child development officers, NGOs/CSOs, etc.
- Often, decisions to expose children to worst forms of child labor are taken within the family. Whenever possible, inspectors should speak with the families of child laborers about the benefits of educating their children and inform them of assistance that they can access.



LESSON 2.2: RESCUE OPERATIONS



OBJECTIVES

- Learn how to plan and conduct a child labor, forced labor, or human trafficking raid or rescue operation.
- During an activity, plan a rescue operation using case studies.

OVERVIEW OF LESSON 2.2

- Identifying the Need for a Raid or Rescue
- Pre-Rescue
- Rescue
- Post Rescue

IDENTIFYING THE NEED FOR A RESCUE OPERATION

- If the health, safety, or wellbeing of victims is at risk, they must be removed as quickly as possible
- Immediate rescue is needed when:
 - Workers subjected to rape or other sexual abuse
 - Workers who are beaten or subjected to physical or mental abuse
 - Workers with serious illnesses who have been unable to access treatment
 - Workers engaged in bonded labor
 - Children engaging in sexual acts or other sex work
 - Workers who have been trafficked or are at risk of being trafficked
 - People engaged in work that could have a serious impact on their health.

PRE-RESCUE

- Steps:
 - Collect and verify information
 - Speak to people who have reported a suspected case of child labor, forced labor, or human trafficking
 - Learn about areas with high prevalence of child labor, forced labor, and/or human trafficking
 - Verify within 72 hours
 - Once rescue is deemed necessary, begin planning
 - Coordinate with other groups necessary to conduct the rescue
 - Keep information confidential
 - Contact service providers

PRE-RESCUE

- A plan of action is needed before conducting a raid
- The plan should:
 - Avoid inflicting additional trauma on victims
 - Divide work and assign tasks so everyone knows their roles and responsibilities
 - Include a map of the worksite/rescue sites likely to have victims and identify dangerous areas

PRE-RESCUE

- Once a plan has been created, members of the rescue team should receive orientation
- Orientation should include:
 - Briefing on relevant laws
 - Roles and responsibilities during the rescue operation
 - Strategies the employer is likely to use to avoid detection or to resist authorities
 - Information about how to employ child sensitive and victim sensitive approaches

RESCUE

- Conduct rescue operations in the best interest of victims
- At the start of the raid, place members in locations designated during the planning phase
 - Exits must be observed so that an employer or trafficker is not able to move victims
- Separate victims from employers or traffickers
- Police officers and labor inspectors should collect evidence and document the crime scene

RESCUE

Victims should be cared for during and after the rescue

- Identify, collect, list, and keep safe personal belongs of victims
- Do not release the names of rescued victims to the public
- Arrange for food, shelter, transportation, and medical care in advance
- Provide emergency care for victims

POST-RESCUE

- Prepare a follow up report
- The report will include information about the victims and what was found during the rescue operation
- Address the immediate needs of victims
- Develop plans for the intermediate needs of victims
 - Identify roles and responsibilities of government agencies and other service providers
- Take steps to continue an investigation and prosecute offenders

EXERCISE 2.2.1 RESCUE OPERATIONS DISCUSSION



OBJECTIVE:

- To have participants begin considering when rescue operations may be needed.

KEY MESSAGES:

- Rescue operations are needed when the health and safety of workers is at risk
- Law enforcement or labor officers authorized to conduct a rescue are needed as well as other key service providers
- During the lesson both questions will be answered in depth

EXERCISE 2.2.2: PLANNING A RESCUE OPERATION



OBJECTIVE:

- Practice preparing for a rescue operation and identifying the steps that need to be taken.
- Determine the groups needed to carry out a rescue operation.
- Ensure that victim needs are anticipated and planned for.

KEY MESSAGES:

- Preparing for a rescue operation can help ensure that things go smoothly and that victim needs are met.
- Maintaining confidentiality throughout the planning process and rescue operation is essential to success. Information should be shared only on a need to know basis.
- Arranging for immediate needs of victims in advance helps in meeting those needs.



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LESSON 2.3: CRIME SCENE INVESTIGATION



OBJECTIVE

- Learn how crime scenes are processed and about common investigative issues.
- Practice documenting a crime scene and collecting evidence.

OVERVIEW OF LESSON 2.3

- Securing the Crime Scene
- Documenting the Crime Scene
- Evidence Collection
- Special Challenges in Collecting Evidence from Humans
- Witnesses, Victims, and Suspects
- Taking Notes

CHILD LABOR, FORCED LABOR AND HUMAN TRAFFICKING: CRIME SCENE LOCATIONS

- Border crossings
- Airports or seaports
- Taxis, boats, vessels, trucks, buses or other vehicles used to transport or conceal victims
- Immigration control premises
- Brothels
- Restaurants, bars, and night clubs
- Factories, farms, plantations, mines, fishing boats or other locations where legal and illegal work is taking place
- Hotels or motels where a victim has stayed or is being harbored
- Homes where women or girls are forced to perform domestic work

LABOR INSPECTIONS AND SEARCHES

- Workplaces and other locations can be inspected or searched with proper authorization
 - May include routine labor inspections and raids and rescues that are conducted during an investigation
- Before entering a worksite, make sure that the entrance is authorized
 - As part of an investigation conducted as part of a labor officer's duties or by obtaining a warrant
- If there is evidence of a crime, investigating the crime scene will help build a case against suspected offenders

CRIME SCENES

- Crime scenes can provide valuable information and evidence
 - Dangerous working conditions,
 - Underage workers,
 - Employment records,
 - Personal documents being held,
 - Abuse,
 - Witnesses,
 - Victims,
 - Suspects

MATERIALS TO PROCESS A CRIME SCENE

- The following materials may help process a crime scene:
 - Tape or rope to use as a barrier to entry
 - Communication equipment
 - Tweezers/forceps
 - Warrants/consent to search forms
 - Logs for chain of custody, recording evidence, and photos
 - Measuring and photographic equipment
 - Evidence bags and boxes
 - Evidence flags, markers, placards
 - Gloves
 - Swabbing kits and chemical tests

ARRIVING AT THE CRIME SCENE

- Assess safety
 - Determine whether there is anyone who may try to harm them or if there is anything dangerous at the scene
 - Request additional support, if needed
- Transient evidence should be noted and recorded
 - Any persons present at the worksite qualify as transient evidence

SECURING THE CRIME SCENE

- Establish a perimeter
- Restrict access to the crime scene to those working on the case
 - Entry and exit of anyone entering or leaving the crime scene should be recorded in a log
- Set up an area for emergency vehicles outside of the crime scene

DOCUMENTING THE CRIME SCENE

- Preserve the scene and disturb it as little as possible
 - No one should eat, drink, or smoke at a crime scene
 - Officers and inspectors should wear protective clothing and gloves
- Officers or inspectors should begin by sketching the crime scene
- Before entering the crime scene, take photographs from the outside and of the surrounding area
 - Photograph the entire crime scene and each piece of evidence before it is collected

DOCUMENTING THE CRIME SCENE

- Documenting the crime scene is a critical part of building a case
 - Photographs and other documentation will help others visualize the scene
 - Documentation will form the basis of the report about the investigation
 - Notes and visual documentation will prepare inspectors and officers to testify if necessary

COLLECTING EVIDENCE

- A variety of evidence can be found at a crime scene, including:
 - Physical evidence
 - Documentary evidence
 - Digital evidence
- Begin by collecting the evidence that can be easily removed
- Record all evidence in the evidence log
- Collect evidence carefully, contamination of evidence must be avoided
- Store evidence in clean, new, unused, and undamaged containers such as jars or bags
 - Label and sign at container at the crime scene

BIOLOGICAL EVIDENCE IN CHILD LABOR CASES

- There may be biological evidence at the crime scene that can be used to prove a child labor case
 - Link a child to a hazardous tool or piece of machinery through fingerprints, hair, etc.
 - Link a child's injuries to a particular tool or piece of equipment
 - Establish the age of a victim

BIOLOGICAL EVIDENCE IN FORCED LABOR CASES

- There may be biological evidence at the crime scene that can be used to prove a forced labor case
 - Show that an individual slept at the worksite
 - Link a person to a hazardous tool or piece of machinery through fingerprints, hair, etc.
 - Link a victim's injuries to a particular tool or piece of equipment

BIOLOGICAL EVIDENCE IN HUMAN TRAFFICKING CASES

- There may be biological evidence at the crime scene that can be used to prove a human trafficking case
 - Show that a particular individual sexually assaulted a victim (rape kit)
 - Corroborate a victim's account
 - Identify injuries, illness or disease related to exploitation

TIPS FOR COLLECTING EVIDENCE FROM PEOPLE

- If possible, record the general scene before taking biological evidence
- Always maintain the individual's privacy and dignity
- Make a note, draw, or photograph the victim showing visible injuries, clothing, where they were initially located, and noting if possible what equipment, computers, phones etc. they had access to at the crime scene
- Try to keep suspects and possible victims separate as far as possible

TIPS FOR COLLECTING EVIDENCE FROM PEOPLE

- Take precautions to avoid cross-contamination of evidence items, and make sure to properly collect and store evidence
- Obtain control samples from the victim, ideally including fingerprints, hair, and DNA samples
- Cross-contamination may be inevitable when suspects and possible victims are found together
 - Try to ensure that searches are conducted by separate people
- Consult experts about whether a physical specimen examination should take place, and if so what type of exam is most appropriate
 - Always have an expert conduct any intimate exam

WITNESSES, VICTIMS, SUSPECTS

- It is likely that other people will be present when officers and investigators arrive at a crime scene
- Record the names and contact information of who is present
- Record a description of what each person was doing when you arrive on the scene
- Make a note of visible injuries
 - Is possible, take photographs of injuries
 - Be mindful of the need to be sensitive and to protect the privacy of individuals

IDENTIFYING VICTIMS

- Signs that someone may be a victim of child labor, forced labor, or human trafficking:
 - The person is a child
 - Visible injuries
 - Performing dangerous work
 - Does not speak the local language
 - Performing tasks with other employees

IDENTIFYING SUSPECTS

- Signs that someone may be a suspect in a child labor, forced labor, or human trafficking case:
 - Appears to be in charge
 - Threatens investigators or others at the site
 - Is the named owner of the business

IMMEDIATE NEEDS

- Addressing immediate needs should be incorporated into a rescue or raid plan
- Immediate needs include:
 - Assistance and services that need to be provided right away
 - Food and water
 - Medical care
 - Psycho-social support services
 - Shelter
- Needs should be assessed by a police officer or labor inspector, who should coordinate with service providers

NOTETAKING

- Inspectors and officers should take notes at the crime scene
- Notes should include:
 - Time and date
 - Persons present and persons entering and leaving the crime scene
 - Signs of activity
 - A description of the scene that includes locations of physical evidence
 - Descriptions of physical evidence including who discovered it and who collected it
 - The names of the photographers and other involved in documenting the crime scene

EXERCISE 2.3.2 PROCESSING A CRIME SCENE



OBJECTIVE:

- To practice the skills needed to properly process a crime scene.

KEY MESSAGES:

- Proper crime scene procedure helps strengthen a child labor, forced labor, or human trafficking case.
- Proper evidence collection is essential, this includes photographing, collecting, and documenting evidence.



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LESSON 2.4: FORENSIC AND DIGITAL EVIDENCE



OBJECTIVE

- Learn about the different types of digital and forensic evidence and how to use them effectively in child labor, forced labor, and human trafficking cases.

OVERVIEW

- What are forensic and digital evidence?
- Using forensic and digital evidence in child labor, forced labor, and human trafficking cases
- How to collect forensic and digital evidence

WHAT IS FORENSIC EVIDENCE?

- Forensics refers to the scientific tests or techniques used to help detect crime
- There are three types of forensic evidence:

Impression:

- Footprints/shoe prints
- Tire markings
- Tool marks
- Bite marks or scratches

Manufactured:

- Tools
- Firearms
- Fibers
- Powder residues
- Glass
- Serial numbers
- Machines
- Ammunition
- Paint
- Polymers (such as plastic)
- Documents
- Chemicals

Biological evidence:

- Blood
- Saliva
- Semen
- DNA
- Hair
- Fingerprints

WHAT IS DIGITAL EVIDENCE?

Also known as electronic evidence

- Any information
- Generated, stored or transmitted in digital form
- That may later be needed to prove or disprove a fact disputed in legal proceedings

DIGITAL EVIDENCE AND ELECTRONIC DEVICES

- Digital evidence is derived from electronic devices
 - Computer networks, especially the **Internet**
 - Mobile phones
 - Computers and their peripheral apparatus, including cars, drones, medical devices, etc.
 - Digital cameras
 - Portable electronic equipment, such as data storage devices
- The electronic evidence itself does not have an independent physical form

TYPES OF DIGITAL EVIDENCE

- Text messages
- Instant messages (WhatsApp, etc.)
- Photos, videos, audio recordings
- Emails
- Social media posts
- Computer files
- Information on cloud storage
- Websites (including dark web)
- Electronic payments
- Crypto currency
- GPS
- Information on fitness trackers or medical devices

FORENSIC EVIDENCE IN CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING CASES

Forensic evidence plays an important role in child labor, forced labor, and human trafficking cases. Forensic evidence can help show:

- Someone was physically present at the job site
- A birth certificate proving the age of a child
- The accused caused injuries to a victim
- Victim's identity documents were in the possession of someone else

DIGITAL EVIDENCE IN CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING CASES

Digital evidence plays an increasing role in child labor, forced labor, and human trafficking cases. Digital evidence can help show:

- A victim was deceived, such that the job offered was different from the job as performed;
- Work compensation was withheld;
- The nature of specific workplace conditions;
- The amount of money workers were paid;
- The payment of illegal recruitment fees;
- Receipt of payments from customers of persons trafficked for sexual exploitation.

DIGITAL EVIDENCE AND TRAFFICKING CRIMES

Traffickers use information and communications technology to recruit, control, and monitor victims and to conduct trafficking operations, such as:

- Posting lucrative job opportunities on social media platforms to lure victims;
- Advertising sexual services of trafficked persons;
- Planning and communicating the trafficking schemes electronically.

DIGITAL EVIDENCE AND TRAFFICKING CRIMES

- Trafficking victims can also use information and communications technology to escape or to seek help
- **Both** traffickers and victims can deploy techniques to avoid detection, such as using code words, multiple online accounts/username, or a virtual private network (VPN) to conceal identifiable information

COLLECTING FORENSIC EVIDENCE

- Forensic evidence must be properly collected and stored
- Chain of custody maintained at all times
- Proper crime scene procedure should be followed by:
 - Assessing the scene,
 - Photographing the evidence,
 - Collecting it properly (which may include casting, dusting, etc.), and
 - Bagging and labeling the evidence.
- If the chain of custody is broken, it could be a sign the evidence was tampered with and lead to an acquittal. Everyone handling the evidence must log it properly.

ANALYZING FORENSIC EVIDENCE

Forensic evidence may need to be analyzed by experts, such as:

- DNA analysis
- Ballistics
- Blood splatter
- Fingerprinting
- Financial analysis

ANALYZING FORENSIC EVIDENCE

All laboratories analyzing forensic evidence must have records of:

- Systems,
- Protocols
- Control processes they use for each type of analysis they conduct

The labs should also have records about:

- Calibration and maintenance of their equipment
- Credentials and training of their staff

Contamination must be avoided

DIGITAL EVIDENCE CHALLENGES

- Technology is always advancing
- Data may be encrypted or password protected
- Large amounts of data may need to be analyzed
- Data are sensitive and can easily be altered or erased
- Must be authenticated and linked to a person, not just a username,
 - Must prove that the evidence is what it claims to be
- Jurisdiction: digital evidence may be stored in another country
- Chain of custody must be maintained during the seizure, storage, management, and analysis of the data
- Privacy concerns

PRINCIPLES OF DIGITAL EVIDENCE GATHERING

1. Data Integrity
2. Audit Trail
3. Specialist Support
4. Appropriate Training
5. Legality

DATA INTEGRITY

1. **Data Integrity**
2. Audit Trail
3. Specialist Support
4. Appropriate Training
5. Legality

The integrity of digital evidence **MUST** be maintained at **ALL** stages.

NO action taken should materially change any data, electronic device, or media which may subsequently be used as evidence in court.

AUDIT TRAIL

1. Data Integrity
2. **Audit Trail**
3. Specialist Support
4. Appropriate Training
5. Legality

A **record** of **ALL** actions taken when handling electronic evidence should be created and preserved so that they can be subsequently audited.

An independent third party should be able to **(1) repeat** those actions and **(2) achieve the same result.**

SPECIALIST SUPPORT

1. Data Integrity
2. Audit Trail
3. **Specialist Support**
4. Appropriate Training
5. Legality

If it is expected that electronic evidence may be found in the course of a planned operation, the person in charge of the operation should notify electronic evidence **specialists/external advisers** in time and to arrange their presence **if possible**.

APPROPRIATE TRAINING

1. Data Integrity
2. Audit Trail
3. Specialist Support
4. **Appropriate Training**
5. Legality

If no specialist is available, the **prosecutor or officer** searching, seizing and/or accessing original data held on an electronic device or digital storage media **must** be trained to do so legally and **must** be able to explain and justify the relevance and implications of his/her actions.

LEGALITY

1. Data Integrity
2. Audit Trail
3. Specialist Support
4. Appropriate Training
5. **Legality**

The person and agency **in charge** of the case are responsible for **ensuring** that the law, the evidential safeguards and the general forensic and procedural principles are **strictly** followed.

KEY MESSAGES

- Forensic and digital evidence play an important role in child labor, forced labor, and human trafficking cases
- Evidence must be properly collected, stored, and analyzed
- The chain of custody must be maintained at all times

EXERCISE 2.4.2: DIGITAL AND FORENSIC EVIDENCE

Objective:

- To identify types of digital and forensic evidence that might be used in child labor, forced labor, and human trafficking cases.

KEY MESSAGES

- Evidence can help prove a case; knowing what type of evidence to look for plays an important role in building a strong case.
- Thinking about different ways to prove elements of a crime can increase the chances of successfully identifying and using evidence in a case.



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LESSON 2.5: INTERVIEWING VICTIMS



OBJECTIVES

- Understand the interview methods, roles, and perspectives that will encourage best practices for assessing, interacting with, and identifying victims of child labor, forced labor, and human trafficking.
- Practice using interviewing skills and increase skills and confidence to conduct interviews that respect the rights and dignity of victims.

OVERVIEW OF LESSON

- Victim Screening
- The PEACE Model
- Interviewing Victims
- Interviewing Children
- Gender Considerations

VICTIM SCREENING

- The first interview may be a screening interview to determine if the subject is a victim
- The interview may be conducted by first responders, NGOs, law enforcement, labor officers, or others who can then refer the case to the responsible authorities
- Victims may not identify themselves as victims
 - Interviewers need to look for, and to ask questions to identify indicators

VICTIM SCREENING

- Victims who experience several forms of discrimination face even stronger negative stereotypes
 - Exploited migrants could be perceived to be lying to avoid deportation
- Victims may be reluctant to participate in prosecution if family members were involved in their child labor, forced labor, or human trafficking
 - Parents arranged a job for a child
- Victims may not identify as victims for economic reasons
 - Need to pay a debt that was incurred to pay a recruitment fee

THE PEACE MODEL

P- Planning & Preparation

E- Engage & Explain

A- Account

C- Closure

E- Evaluation

- Interview should help determine if the subject is a victim
 - Can also provide evidence needed for prosecution
- The PEACE Model:
 - Outline that can be adapted for the interview process
 - Interview establishes facts of a case, relevant information, collects evidence
- Must focus on establishing the elements of the perceived violation



P--PLANNING AND PREPARATION



P--PLANNING & PREPARATION

- Plan and prepare before conducting an interview
 - Conduct a pre-interview assessment,
 - Identify the interview team, and
 - Choose the interview venue

PRE-INTERVIEW ASSESSMENT

- Conducted prior to the interview of a potential victim to identify the most effective interview strategy
- The assessment include information based on all the available data regarding:
 - 1) Current physical condition of the victim;
 - 2) Psycho-emotional state of the victim;
 - 3) Case background;
 - 4) Victim's nationality, age, and gender
 - 5) Interview environment and equipment;
 - 6) Likely direction of the investigation (for law enforcement); and
 - 7) Timeframe & schedule of interview.

IDENTIFYING THE INTERVIEW TEAM

- Ideal team has two law enforcement/investigator interviewers and other professionals
- Law enforcement and prosecutors should meet before the interview occurs to create a plan
 - Remember to balance best evidence with the best interests of the victim
- Team should be aware of all that is known about the possible victim
- Team needs to address the most basic needs of the potential victim

GENDER-BASED CONSIDERATIONS

Identifying the Interview Team:

- Consider the needs of child victims (including gender-based considerations)
- Assigned personnel should receive child labor, forced labor, and human trafficking training
 - Training should include a gender-sensitive approach
- Identify a trained interpreter who can be present if needed
 - The interpreter used during a victim interview must not interview the victim's suspected offender

GENDER-BASED CONSIDERATIONS

Gender sensitivity:

- Women victims of violence experience structural secondary forms of violence
 - Mistrust in the judicial system leads victims to refuse assistance
 - Can impact on the number of identified victims, investigations, prosecutions, and convictions.
- Always take gender-sensitive approach with victims

GENDER-BASED CONSIDERATIONS

Gender sensitivity:

- Ask victims if they have a gender preference for interviewers and for service providers directly assisting the victims
 - Do not assume that victims prefer persons of the same gender
- Victims of sexual exploitation may fear their families and communities learning what happened to them
 - Discuss confidentiality with victims and work to protect the victim's privacy

INTERVIEW VENUE

Choosing the interview venue:

- Should never be the location that the potential victim was exploited
- Should be safe, private, free from foreseeable distractions, secure and comfortable.
- If possible:
 - The interview should take place in a neutral venue
 - Such as a designated child-friendly or victim-friendly space at a police station or labor office, or at a location outside of these offices
 - A victim-friendly space should include things such as soft lighting, couches, throw pillows, toys for children, and other touches that contribute to a welcoming, neutral environment

VICTIM INTERVIEW CONSIDERATIONS

- Interviewing victims requires patience and understanding
 - It will likely take time for victims to be willing to give their account of events
 - Interview should have regular breaks

RECORDING INTERVIEWS

- Identify a way to record the interview
 - Video, audio, or written means
- Video recording is generally preferred
 - Preserves non-verbal cues and helps prevent the need for additional follow up interviews
 - In some jurisdictions, a video recorded interview can be used as testimony during trial

RECORDING INTERVIEWS

- Victims may be reluctant to have the interview recorded using video
- Audio recording is less expensive and more widely available than video
 - Can help preserve the identity of victims
- Written recording of interviews is accessible
 - But can be time consuming and difficult to ensure accuracy



E--ENGAGE AND EXPLAIN



INTRODUCTIONS

- At the beginning of the session:
 - The interview team should introduce themselves,
 - Explain the interview process, and
 - Inform the interviewee of expectations
 - Ask the potential victim how he/she would prefer to be addressed

HELPING VICTIMS FEEL COMFORTABLE

- Victims might not be used to being asked for their consent,
 - This may cause confusion or anxiety
- Victims may feel uncomfortable speaking openly about very intimate and painful matters
- It is crucial that interviewers are trained to understand these reactions and act adequately:
 - For example: establish a good rapport with the victim, respect her pace, be sensitive and respectful
- Do not ask unnecessary questions out of curiosity about the victim's past experience
- Strategies to put the victim at ease should be used
 - For example: give her the possibility to write some words or sentences that she may not feel comfortable speaking about

EXPLAIN

- The interview team should explain the following:
 - Who the team is
 - The positions they hold
 - Their experience in this kind of work
 - That they have met people in a similar situation already and more than once
 - Check on the potential victim's basic needs (pain, thirst, hunger, if feeling cold)
 - What is happening

INFORMING THE VICTIM

- Interviewers should explain what they will be doing and what to expect:
 - **Clarify the purpose of the interview:**
 - Explain the purpose and what the interview team is trying to achieve.
 - **Explain transferring to the police station if the interview takes place there:**
 - Explain the reasons and procedure promptly after arrival at the police station.
 - Explore any steps that can be taken to maintain privacy.
 - **Explain the structure and the process of the interview:**
 - Explain step-by-step how the interview will proceed.
 - **Explain the role of an interpreter/ cultural mediator/ other persons involved:**
 - Clarify what can/cannot be expected from them.

CULTURAL SENSITIVITY

- Have a briefing of any national, religious, cultural, racial or ethnic issues, and specific terms or words that would be considered inappropriate by the victim
- Maintain positive, open, and non-threatening body language
- Build a rapport with the potential victim before explaining the interview process and case-related issues
- Use background questions i.e. current welfare, interests, accommodation and unrelated questions to help the victim adjust to the environment and interviewers



A-- ACCOUNT



A-- ACCOUNT

- This is the majority of the interview process
- During this phase, victims recount their stories in their own words in an uninterrupted manner
- The interview team should selectively use very short prompts or words of encouragement
 - Use phrases such as “go on” and “you are doing well”, to avoid the pauses/silence of the victims from becoming oppressive.

INTERVIEW OBJECTIVES

Objectives of the Interview:

- Each question should be linked to an objective of the interview
- Be respectful of victims when asking questions and listening to responses
- Objectives of victim interviews include:
 - Establishing facts of the case and the order of events
 - To use facts and evidence to corroborate the victim's account and increase his or her credibility
 - Identify, arrest, and prosecute perpetrators of child labor, forced labor, and human trafficking
 - Evaluating risks to the victim, victim's family, and other victims. If the risk is too great, consider alternatives
 - Identify proactive and disruptive investigation possibilities

TYPES OF QUESTIONS

- **Open-ended questions:** Victim is able to respond in a narrative, not just a simple yes or no.
 - Can you tell me more about...?
 - Can you explain that to me some more?
 - Can you recall anything else about the (situation)?
- **Specific questions:** Focus on specific events to secure additional information or clarify any ambiguities.
 - Specific questions start with the words “Where,” “When,” “What,” and “Who.”
- Other kinds of questions should be avoided or used sparingly.

QUESTIONS TO AVOID

- **“Why” questions.**
 - Avoid using “Why,” as it can imply some degree of blame or accusation.
 - “Why didn’t you escape when you had the opportunity?”
- **Positive alternatives:**
 - “What prevented you from escaping?” or “Was there anything that prevented you from leaving?”

QUESTIONS TO AVOID

- **Closed questions:**
 - Require yes or no answers and may risk the victim trying to guess the answer or situation
 - Officers can be accused of coaching the victim
- **Leading questions:** These questions imply an implied or assumed answer. For example:
 - “He took all your money, didn’t he?”

ASKING QUESTIONS IN AN INTERVIEW

Tips for asking questions in an interview:

- Ask questions one at a time.
 - Do not use compound questions.
- Keep questions short and simple
- Do not use jargon or terms that a victim may not understand.
- Ask questions in a supportive tone, do not use a stern voice.
- Ask victims to put events in chronological order.



C--CLOSURE



C--CLOSURE

- The interview process should end in a structured and timely manner, not abruptly
- Summarize the key points of the victim, using the words of the victim
- Invite the victim to correct any mistakes that may have been made
- Allot time during closure for the victim to ask questions he/she may have of the interview team and for the interview team to explain in detail the plans for the next steps
- Law enforcement officers carrying out interviews should have good knowledge of their national referral mechanism



E--EVALUATION



E--EVALUATION

- It is important to evaluate the performance of the interviewers and interview
- Interview evaluations should be done after each interview
- The evaluation should cover materials gathered and the performance

CHANGING ACCOUNTS

- Interviews of victims often have their accounts change over time
- Changing accounts for trafficking victims is a common occurrence globally
 - Due to trauma, the information provided by victims may not be sequential and victims may remember different things at different times.
- It can be difficult for victims to convey information particularly when the trauma is fresh
- Discrepancies in a victim's story should not be assumed to be lies
- Changing accounts are something that defense attorneys are likely to focus on at trial
 - The defense may try to portray the victim as a liar or otherwise unreliable
- The prosecution should work to corroborate the victim's account

EXERCISE 2.5.2 INTERVIEWING VICTIMS



OBJECTIVE:

- To observe best practices for interviewing victims and then practice using those skills by conducting mock interviews based on scenarios.

KEY MESSAGES:

- When interviewing victims try to make them feel comfortable by introducing yourself and explaining the purpose of the interview. Ask how they are feeling and if they would like a glass of water.
- Allow victims to tell their story by asking open ended questions, asking follow up questions if clarification is needed.
- Do not pressure victims or imply that they are somehow at fault for being a victim.



INTERVIEWING CHILDREN



GENERAL TIPS

- Children who have experienced trauma may be embarrassed and not want to share their experience
 - Experiences may be blocked out and not remembered, or not remembered sequentially
- Children may also over extend
 - E.g. all vehicles are cars
 - Be specific about who you are referring to in questions by avoiding the use of pronouns

ASKING CHILDREN QUESTIONS

- Adapt questions to take into consideration the age and mental capacity of the child
- Begin with open-ended questions, allowing the child to give her/his own account.
 - Avoid leading questions
- Very young children may not be fully verbal (or know the right words to use)
 - Trained interviewers can use dolls, coloring supplies, or other props for this purpose.
- Give children the opportunity to tell their story in their own way, before asking questions
- Do not pursue and press for details when there are signs that the child has told all he or she knows
 - Children may leave information out if the right question is not asked

CONDUCTING A CHILD INTERVIEW

- Interviews of minors should take place in the presence of a parent
 - If this is not possible due to a parent not being present or where there is suspected or known family involvement in the trafficking or child labor, then the interview should be done in the presence of a trained guardian, psychologist or social worker.
- Interviews should not take place in the presence of a child laborer's supervisor or a child's trafficker
- Snacks, toys, or other inviting items should be available to create a child-friendly environment
- Only staff trained in the special needs and rights of children should question child victims
- Close the interview in a way that reassures the child that he or she has done well
 - Inform the child that the interview team will be available whenever he or she needs to talk again

CHILD SAFETY DURING INTERVIEWS

- The security of the child being interviewed must always be a priority
 - The interview must be avoided if it may bring harm to the child
- Tell the child why the interview is happening and how the information gathered will be used
- Be sensitive to where the child is emotionally
 - Do not ask questions in a way that could retraumatize the child
- Do not leave a child alone while in the care and protection of law enforcement officers



GENDER CONSIDERATIONS



GENDER CONSIDERATIONS

- Gender issues can significantly affect interviewers' capacity to obtain information
- Social and cultural issues should be taken into account as well as a victim's trauma
 - For example, often as a result of a previous experience in their home countries, many victims do not trust the police.
- Consider gender-related needs and empower victims to regain control over their situation
- Stereotyping hampers victims' credibility
 - Harms their access to identification, protection, support and justice

DIFFERENT GENDER CONSIDERATIONS FOR MEN AND WOMEN

- There is a possibility that, prior to recruitment, there was an initial agreement on the part of the victim entering the trafficking routes
 - This can lead to victim blaming attitudes and discourse, and might affect the victims' credibility
- Many victims of child labor, forced labor and human trafficking have suffered from sexual abuse and violence
 - They may be reluctant to seek assistance due to shame and stigma from this abuse
- All victims, particularly women and children, may be overwhelmed by fear and shame
- Men may not want to disclose their experiences
- Men and women may prefer to speak with a service provider of the same gender

STRUCTURING A GENDER-SENSITIVE INTERVIEW

- Ask victims if they have a gender preference regarding for investigating officers and service providers
 - Do not assume that victims prefer persons of the same gender.
- Do not begin an interview by asking about abuse or trauma,
 - Try to put the victim at ease by getting to know each other and having him or her discuss “neutral” topics
 - Do not initially ask about the victim’s family or community
 - The victim may be concerned about being separated from family or worried about being stigmatized
- In some cases, the families of victims may have been involved in their child labor, forced labor, or human trafficking.
- In the next phase, have the victim describe the work they performed before asking about potential abuse.
- Try to avoid asking about details of abuse and trauma more than once

EXERCISE 2.5.3: SETTING UP A VICTIM INTERVIEW



OBJECTIVES:

- Practice considering the needs of different victims during interviews.
- Think about needs before an interview to make interviews productive and prevent retraumatization.
- Revisit the ETP case studies as the victims move through the case process.

KEY MESSAGES:

- Thinking about victim needs before an interview and creating an interview plan can help prevent retraumatization and help ensure that the interview achieves its objectives, reducing the likelihood that another interview must take place.
- Planning can help ensure that a victim feels more comfortable and respected.
- By planning, steps can be put into place that may be hard to address once an interview is underway, such as ensuring that an interpreter is available or that a woman can help conduct the interview.

EXERCISE 2.5.4 INTERVIEWING CHILDREN



OBJECTIVE:

- To observe best practices for interviewing children and then practice using those skills by conducting mock interviews based on scenarios.

KEY MESSAGES:

- Help children feel comfortable by introducing yourself and making sure that the children have water or snacks if needed. Engaging in small talk can help as well.
- Remember to take breaks when interviewing children.



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LESSON 2.6: INTERVIEWING SUSPECTS



OBJECTIVE

- Understand how to interview suspects in a way that respects and protects their rights and helps gain information that can help build a child labor, forced labor, or human trafficking case.

OVERVIEW OF LESSON

- Description of the interview
- Written statements
- Taking breaks during the interview
- Interrogating a suspect

DESCRIPTION OF THE INTERVIEW

- Suspect must be informed of his or her rights
 - Includes the right to remain silent
 - May be required to have suspect sign document saying he or she has been advised of his or her rights
- Suspect should be allowed to speak with an attorney
- Interview should be recorded in some form
 - Video, audio, or written recordings are acceptable, written are less obtrusive
 - The date, time, location, and persons present must be recorded

PEACE METHOD

- When interviewing suspects, use the PEACE method, which includes the following:
 - Planning and preparation,
 - Engage and explain,
 - Account,
 - Closure, and
 - Evaluation.

DOCUMENTING CONFESSIONS

- If a suspect confesses during an interview, the following information should be recorded precisely and in writing:
 - What questions investigators asked and the responses of the accused
 - Details of any oral statement made by the suspect
 - A written statement (if made/required) and the time it was made
 - Whether the suspect was cautioned/informed of his/her rights
 - The time of cautioning and his or her response
 - The start and end time of the interview and the time of any breaks during the interview

WRITTEN STATEMENTS

- If a suspect wishes to write a written statement:
 - Provide writing materials
 - Include information about how he or she was advised about his or her rights
- Suspect should review the statement and make any corrections
- Suspect should sign the statement and initial each page
- If a suspect cannot read or refuses to read
 - Interviewing officer should read the statement out loud and ask if suspect has any corrections
- Once corrections have been made, suspect should sign the statement
 - If the suspect will not sign the statement, others present can sign, indicating its accuracy

TAKING BREAKS DURING SUSPECT INTERVIEWS

- When taking breaks during a suspect interview:
 - Do not leave the suspect alone in the interview room
 - It is not necessary to turn off any recording device during short breaks
 - All people participating in the interview should remain in the room
 - Suspect may be permitted to leave the interview room during longer breaks
 - During longer breaks, the recording may be stopped if interviewer announces a break will be taken along with the reason for the break, and the time
 - At the end of the break, interviewer should state that the interview is continuing, reason for the break, and the time
 - Must be made clear that the suspect is still under caution and has been advised of his or her rights

INTERROGATING A SUSPECT

- Interrogation comes after an initial screening interview
 - Interrogation should only occur after an interview has taken place
- Visual aids can help during an interrogation
 - What occurred at different parts of a job site, movement of victims, and financial transaction
- If other crimes are involved, make sure other agencies are present
 - Such as labor, tax, and immigration
- Suspect's contact and location information should be obtained

INTERROGATING A SUSPECT

- After concluding the interrogation, draft a brief interrogation report
- If the suspect revealed additional crimes, add them to the charge sheet
- Include relevant information in the interrogation report
 - There may be local rules dictating what to include

WHAT TO INCLUDE IN AN INTERROGATION REPORT

- Details about the child labor, forced labor, or human trafficking offense
- Relevant provisions of law
- For human trafficking offenses, place of origin, transit, and destination
- Details about the child labor, forced labor, and human trafficking process
- Description of the crime scene and physical evidence
- Authority of the officer or investigator who conducted the investigation or rescue
- The full names of the social workers, CSO or NGO officers, and witnesses present at the rescue
- Observations of the physical injury or trauma of victims

EXERCISE 2.6.2: INTERVIEWING SUSPECTS



OBJECTIVE:

- To observe best practices for interviewing suspects. To practice interviewing suspects in a way that respects their rights and can help gain information useful to a child labor, forced labor, or human trafficking case.

KEY MESSAGES:

- When interviewing a suspect, make sure to caution/inform him or her of his or her rights.
- Always respect the rights of a suspect.
- Making a record of the interview will strengthen a case.



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LESSON 2.7: CHARGING



OBJECTIVE

- Understand the elements that make up child labor, forced labor and human trafficking offenses.
- Learn about charging child labor, forced labor, and human trafficking offenses and other related crimes.
- Learn about who may be exempt from prosecution.
- Using case studies, practice determining charges for offenders.

OVERVIEW OF LESSON 2.7

- Elements of child labor offenses
- Elements of forced labor offenses
- Elements of human trafficking offenses
- Charging child labor, forced labor, and human trafficking offenses
- Other related crimes and multiple charges

CHARGING

- Must prove the elements of the crime charged
- Charges should be determined by facts and evidence
- Charge sheets must be properly completed and filed
- Must understand local charging rules



ELEMENTS OF CHILD LABOR OFFENSES



MINIMUM AGE FOR EMPLOYMENT

“Shall not be less than the age of completion of compulsory schooling and, in any case shall not be less than 15 years.”

- Developing economies may “initially specify an age of 14 years.”

A violation would occur if:

- a child who is under the minimum age for employment in a specific country
- is employed full time.

HAZARDOUS WORK

Minimum age for engaging in “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years”

- Commonly known as “hazardous work”
- ILO requires countries to create hazardous work lists

To prove hazardous work occurred, need to be show:

- Child under the age of 18
- Performed a task on the hazardous work list or was otherwise engaged in task that jeopardized the child’s health, safety, or morals.

EXCEPTION TO HAZARDOUS WORK

16 and 17 year olds allowed to perform work included on the hazardous work list if:

- Hazards of tasks are identified as being able to be mitigated in legislation or by a competent authority and
- Health, safety, and morals of the 16 and 17 year olds are fully protected and
- They have received sufficient instructions and/or vocational training

LIGHT WORK

- Permitted employment or work of persons 13 to 15 years of age
- Developing economies may “initially specify an age of 12 years”
- “Work that is not likely to harm a child’s health, development, or school attendance”
- ILO recommends countries create light work lists

A violation would occur if:

- Child who is under the minimum age for light work in a specific country
- Is employed in work that harms a child’s health, development, or school attendance



ELEMENTS OF FORCED LABOR



FORCED LABOR

Must show that a person was:

- forced to work under the **threat of a penalty**, either to themselves or their family, and
- the person **did not choose the work voluntarily**

If a worker initially agreed to perform a job, but the job as performed is not the job that was agreed to, then the person has not offered him or herself voluntarily for the job



ELEMENTS OF HUMAN TRAFFICKING



ELEMENTS OF HUMAN TRAFFICKING

Act:

- Recruitment,
- Transportation,
- Transfer,
- Harboring or
- Receipt of persons

Means:

- Threat or use of force or other forms of coercion,
- Abduction,
- Fraud,
- Deception,
- Abuse of power or of a position of vulnerability; or giving or receiving of payments or benefits to achieve the consent of a person having control over another person

Purpose:

- Exploitation of the prostitution of others or other forms of sexual exploitation,
- Forced labor or services,
- Slavery or practices similar to slavery,
- Servitude, or
- Removal of organs

HUMAN TRAFFICKING AND CONSENT

- Consent is not a defense to a trafficking charge if any of the “means” were used
 - The person is not working voluntarily.
- “Means” element does not have to be proved if the victim is a child
 - Children cannot consent to trafficking

CHARGING CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING OFFENSES

- Are elements of child labor, forced labor, or human trafficking present?
 - Could be more than one
- Consider likelihood of success at trial
- Victims are often exempt from prosecution



OTHER RELATED CRIMES AND MULTIPLE CHARGES



OTHER RELATED CRIMES AND MULTIPLE CHARGES

- Bringing multiple charges can increase likelihood of conviction
 - More flexibility for penalties
- May be easier to prove other offenses
 - It is easier to prove money laundering than human trafficking

CRIMES RELATED TO CHILD LABOR

- Child abuse
- Child trafficking
- Child pornography
- Commercial sexual exploitation of children
- Wage and hour violations

CRIMES RELATED TO FORCED LABOR AND HUMAN TRAFFICKING

- Document forgery
- Money laundering
- Kidnapping
- Immigration violations
- Sexual assault
- Rape
- Aggravated Assault
- Theft
- Wage and hour violations
- Organized crime
- Tax evasion
- Commercial sexual exploitation of children

EXERCISE 2.7.2: CHARGING OFFENSES IN THE ETP CASE STUDIES



OBJECTIVES:

- To have participants practice identifying charges that can be brought in different scenarios
- Continue engaging with the Enforcement Training Program (ETP) case studies to see how the case process is continuing for the victims

KEY MESSAGES:

- Child labor, forced labor, and/or human trafficking can often be charged for the same offense; the facts of the case can help determine charging decisions
- Identifying potential additional offenses can help direct an investigation and build a stronger case



LESSON 2.8: INVESTIGATION REPORTS



OBJECTIVE

- Learn about the types of information that should be included in a child labor, forced labor, or human trafficking investigation report made by a labor inspector or police officer.

OVERVIEW OF LESSON 2.8

- The Role of Investigation Reports
- Information to Include in Investigation Reports

THE ROLE OF INVESTIGATION REPORTS

- Provide grounds for charging suspects
- Present the findings of police and labor investigations, including evidence, statements, and information about the crime scene
- Prosecutors rely on them when presenting a case
- Refreshing memory before testifying
- Organize material

INFORMATION TO INCLUDE IN INVESTIGATION REPORTS

- Description of the evidence and list of logged evidence
- Description of the crime scene
- Witness statements
- Victim statements
- Suspect statement
- Information about the suspect
- Information about the alleged crime (date, location, etc.)
- Copies of photos, sketches, and notes
- Labor inspectors and police officers should not include their own opinions or speculation



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LESSON 3.1: VICTIM SERVICES



OBJECTIVES

- Understand the impact of child labor, forced labor, and human trafficking on individuals and victims' need for assistance once rescued and identified as victims.
- Learn to identify the appropriate services necessary to meet those needs and how those services should be provided to assist the victims most effectively.
- Understand the specific needs and services needed by adult victims as well as child victims

OVERVIEW OF LESSON 3.1

- Victim Needs
- Types of Services
- Non-Criminalization of Victims

VICTIM NEEDS

- Many victims face violence and threats
- Communicate with victims to understand their unique situation
 - In order to provide appropriate support
- Identities of victims and their information must be kept confidential
 - Otherwise, perpetrators may try to intimidate victims

VICTIM NEEDS

- Victims must give full and informed consent to any assistance
 - Must know all options and relevant information
- Victims should be assisted based on individual needs
- Always address most urgent needs first
- Crucial to build trust with victims

VICTIM NEEDS

- Victims require support in many areas of life
 - Physical, psychological, and social assistance
- You must consider a victim's age, gender, and special needs
- Victims should be provided with:
 - Housing
 - Legal counseling
 - Medical and psychological care
 - Material assistance
 - Employment, educational and training opportunities

VICTIM NEEDS: VICTIM TESTIFYING AS A WITNESS

- Needs will differ depending on whether the victim serves as a witness
- Law enforcement should not force a victim to testify
 - Victims may have legitimate reasons for not testifying
- Victims may be reluctant to testify because of:
 - Traumatization
 - Fear of authorities
 - Fear of retaliation
 - Fear of mental and emotional stress

VICTIM NEEDS: REFLECTION PERIOD

- Victims should be granted a reflection period
- Need time to process their situation and decide if they want to cooperate with law enforcement
- Inform victims of their rights
- Provide victims with information about the legal process
- Law enforcement should not ask victims to assist with evidence during this period
- Initial reflection period should be 30 days

GENDER AND VICTIM NEEDS

- Consider gender-specific concerns when addressing needs
 - Consider the experience of both men and women
- Females, as well as males, are affected by trafficking
- Trafficking does not only include sex trafficking
- Women and girls may be more vulnerable
 - But men and boys face other challenges

TYPES OF SERVICES

- Once identified as a victim, the victim should be given access to appropriate services
- Services include:
 - Shelter and security
 - Medical and psychological assistance
 - Education and vocational training
 - Legal assistance
 - Reintegration services

MEDICAL SERVICES

- Provide victims with access to primary healthcare
- Victims should not be required to accept care
- Medical needs are often the most immediate concern
- Confidentiality should be respected
 - Especially regarding sexual health
- Always be sensitive to cultural practices

PSYCHOLOGICAL SERVICES

- Victims will need services to address trauma
- Post-traumatic stress disorder is common, as well as:
 - Anxiety, fear, anger, lack of trust, and helplessness
- Victims will likely need immediate and long-term counseling
- Provide victims with a relationship of trust and care

PSYCHOLOGICAL SERVICES: GOALS

- The following are basic goals of effective victim counseling:
 - Restoring the victim's sense of safety
 - Restoring the victim's sense of control over his or her life and decisions
 - Restoring the victim's interpersonal connections and encouraging attachment to others
 - Restoring the victim's sense of confidence, self-respect, purpose, and dignity

SHELTERS

- Governments should work with organizations to provide shelter for victims
- Shelters should have appropriate accommodations
- Without shelter assistance, many victims return to their offenders
- Victims need practical and safe shelter options

SHELTERS

Shelter options include:

- Short-term shelter
- Temporary shelter
- Transitional housing and assisted living arrangements
- Independent living facilities
- Other types:
 - Drop in shelters and counseling centers
 - Confidential shelters

EDUCATION AND VOCATIONAL TRAINING

- Educational and vocational training are necessary to assist with reintegration
 - Victims entering society want job prospects and financial security
- May include reenrolling a child victim in school
 - Transition back to school may be challenging
- Vocational training is often offered by NGOs, CSOs, charities or educational institutions
 - Ideally, organizations will have partnerships with local companies
- Vocational training helps victims confidently integrate into society

LEGAL SERVICES



- Consider the victim's wishes, circumstances, age, gender, and well-being
- Victims have many rights during legal proceedings
- They also have many options:
 - Remaining silent
 - Seeking compensation
 - Serving as witnesses
 - Providing confidential information

LEGAL SERVICES

Key victim protections during the legal process include:

- Protecting the identity and privacy of victims
- Ensuring the physical safety of victims
- Providing psychological protection
- Additional accommodations should be made for child victims

LEGAL SERVICES

Recommended protection measures for victims:

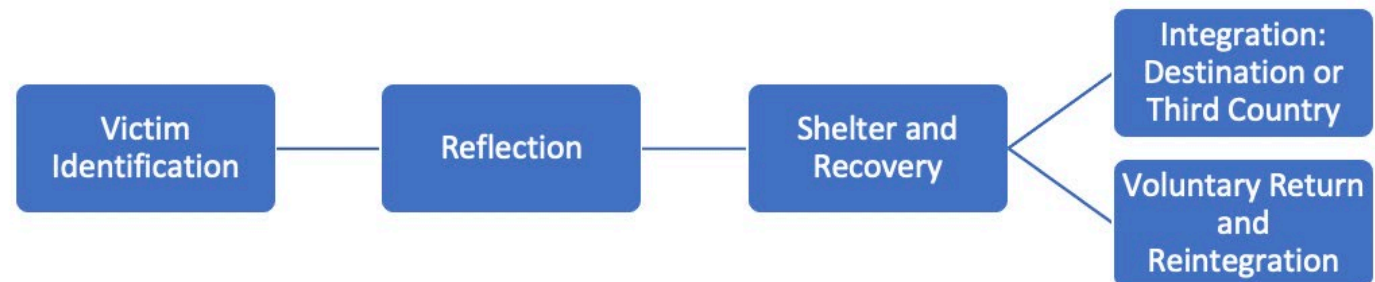
- Protect the privacy and identity of victims
- Provide victims with information on relevant court and administrative proceedings
- Provide victims with appropriate reintegration assistance
- Consider age, gender, and special needs of victims when providing assistance
- Provide for the physical safety of victims
- Ensure national legislation allows victims to obtain compensation for damage suffered

LEGAL SERVICES: VICTIMS WHO HAVE BEEN TRANSPORTED ACROSS INTERNATIONAL BORDERS

- If transported across international borders, victims are entitled to diplomatic and consular representatives
- Victims will need help securing the appropriate replacement travel documents
- Victims may need access to legal residence status
 - Either permanent or temporary residence status
 - Obtaining a visa or stay of removal

REINTEGRATION SERVICES

- Victims may choose to return to their home country voluntarily
 - The home country is obligated to accept the victim and ensure safety
- They may want to stay in the country to which they were transported
- Victims should have either option available
- Returning home is challenging
 - Victims need assistance for reintegration
 - Psychological, social, and financial support
- law enforcement should assess the safety of the home environment



SERVICES FOR CHILDREN

- Initially, children need a safe place to go
- Address immediate and most urgent needs
 - Including food, health care, and counseling
- You must consider the unique needs of child victims

SERVICES FOR CHILDREN

Special accommodations for child victims:

- Appoint a guardian for the child
- Keep the child separated from his or her suspected offender during the legal process
- Provide special protection for the child
- Find appropriate shelter that accommodates the child's age and needs
- Consider the best interest of the child before taking actions to return the child to his or her home country
 - Find long-term care and housing if the home country is not safe for the child

NON-CRIMINALIZATION OF VICTIMS

- Victims should not be criminalized or punished because of his or her role in the crime
 - Applies to acts victims committed that are related to the crime or which were coerced
- Victims are not criminals and should not be re-victimized
- Best practice to include this in national legislation
- Non-criminalization is important for immigration reasons
- Fear of prosecution will make victims' trauma worse and discourage them from seeking help

NON-CRIMINALIZATION OF VICTIMS

Law enforcement officers should treat victims as victims by doing the following:

- Rescue victims from perpetrators of child labor, forced labor, and human trafficking
- Provide victims with protection
- Conduct a criminal investigation
- Refer victims to appropriate victim services
- Check the victims' documents related to immigration and work
- Inspect places of employment
- Conduct raids and patrol areas where suspected criminal activities occur
- Offer assistance throughout the legal process
- Keep victims updated and informed

EXERCISE 3.1.2: DETERMINING THE NEEDS OF VICTIMS



OBJECTIVE:

- To identify the needs of victims of trafficking and the potential risks that create those needs.

KEY MESSAGES:

- Victims of child labor, forced labor, and human trafficking have faced violence and threats from traffickers and exploiters.
- Needs should be assessed in an individualized manner, as each victim has faced different challenges or could have reacted to situations differently.
- Needs may differ depending on the stage the victim is at in the recovery and reintegration process.
- Victims need protection from harm or threats as well as access to services and assistance to help them regain their safety, security, privacy, and legal rights.
- Victims need to know all of their options and information about their situation.



LESSON 3.2: TRAUMA-INFORMED CARE



OBJECTIVE

- Understand the differences between stress and trauma
- Understand the impact of child labor, forced labor, and human trafficking on the mental health of victims
- Understand how to empower victims and to avoid re-traumatization

OVERVIEW OF LESSON 3.2

- Differences between stress and trauma
- Impact of child labor, forced labor, and human trafficking on mental health
- Victim assessment
- Empowering victims
- Sharing the trauma story
- Reintegration

DIFFERENCES BETWEEN STRESS AND TRAUMA

- Traumatic events are more extreme versions of stressful events
- Effects of stress are reduced when the stressor is removed
- Effects of trauma continue long after the traumatic events have passed
- The memory of traumatic events linger, affecting the body and mind of the victim

IMPACT OF CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING ON MENTAL HEALTH

- Impacts to mental health can occur after being removed from the exploitative situation,
 - Impacts how victims think, feel, and act.
- Common symptoms experienced by victims of WFCL, forced labor, and human trafficking include:
 - Anxiety and depression: Feeling nervous, anxious, hopeless, sad, worthless, overwhelmed, and restless.
 - Guilt, shame, fear, anger, worry, and inability to trust others.
 - Bad memories, nightmares, flashbacks, avoidance, jumpiness, and edginess.
 - Dissociation: memory loss, feeling of being disconnected from oneself and/or the rest of the world

VICTIM ASSESSMENT

- A victim assessment is typically done by a counselor, often from an NGO specializing in working with victims of child labor, forced labor, and/or human trafficking. The counselor's assessment will play an important role in the victim's recovery and may also help plan for the victim's role in the trial process.
- During the assessment, the counselor will work to identify the victim's strengths and get to know the victim as a person, not just as a victim of child labor, forced labor, and/or human trafficking. Focusing on the victim's strengths and good qualities can help empower the victim. It is a best practice to focus on the victims as a whole, not solely viewing him or her based on the situation that happened to him or her.

EMPOWERING VICTIMS

- Think of victims as survivors
- To empower them, ask strength-based questions like these:
 - Given all of the challenges you have faced, how were you able to survive?
 - What have you learned about yourself during the struggles you have faced?
 - What people or groups have been able to support you when you were struggling?
 - What organizations have been able to support you?
 - Do you think you can rely on these people, groups, and organizations in the future?

EMPOWERING VICTIMS

- What incidents in your life have given you hope?
- What do you want out of life?
- What are your special talents or abilities?
- What do you enjoy?
- What have you done that you are most proud of?
- What people do you enjoy being with?
- How do you think your life might change?
- What gives you a sense of purpose beyond yourself?

SHARING THE TRAUMA STORY

- It is important for victims to share their story
- Can be difficult for victims to remember exactly what happened
 - And to put it in chronological order
 - Victim's story may change over time due to trauma
 - That does NOT mean that the story is not true
 - Counselors work with victims to help them control memories and feelings and share their stories

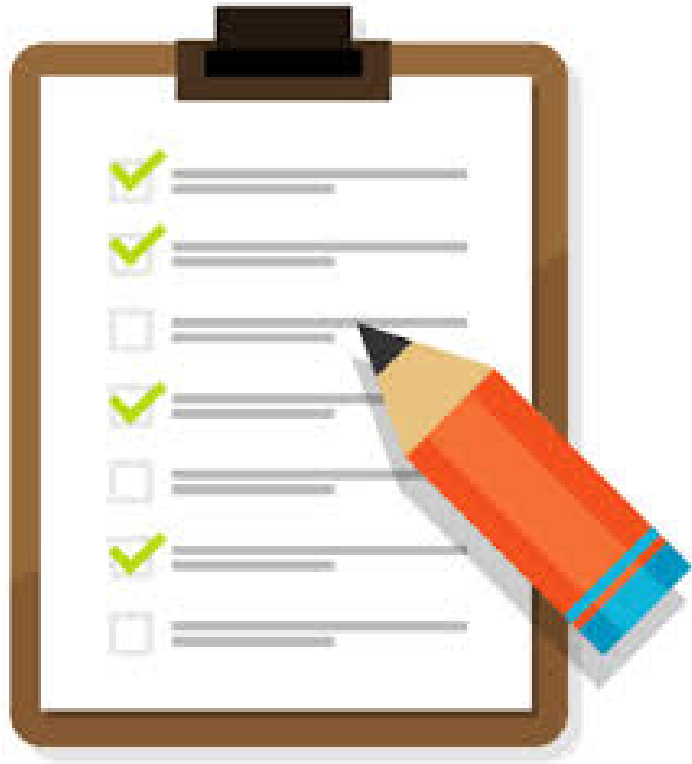
SHARING THE TRAUMA STORY

- Memories of traumatic experience can be overwhelming
 - May need to tell story in small pieces
- Recording interviews can reduce risk of retraumatization
- Make it clear that the victim will not be blamed, judged, or stigmatized
- Children may benefit from using pictures or props

REINTEGRATION

- Consider impact of trauma and victim concerns about returning home
 - Fear of rejection by family/community
 - Fear of retaliation by trafficker/exploiter
 - Fear of stigma
- Return and reintegration are voluntary
 - Discuss risk and safety concerns
 - Individualized plans

EXERCISE 3.2.2: TRAUMA-INFORMED CARE USING ETP CASE STUDIES



OBJECTIVES:

- To incorporate trauma-informed care principles into interactions with and plans for a victim.

KEY MESSAGES:

- Using trauma-informed approaches can help a victim recover and tell his or her story. It's important to remember that a victim's story may change over time due to trauma.
- Using empowering language can help a victim regain confidence.
- Make sure to include the victim in discussions about services and reintegration; always being mindful of the victim's safety.



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LESSON 3.3: REFERRAL MECHANISMS



OBJECTIVE

- Learn about the role of National Referral Mechanisms and sub-national referral mechanisms and how they operate.

OVERVIEW OF LESSON 3.3

- What are Referral Mechanisms?
- Role of Referral Mechanisms
- National Referral Mechanisms (NRMs) and Sub-National Referral Mechanisms
- Components of Referral Mechanisms
- Examples of NRMs and Sub-National Referral Mechanisms

WHAT ARE REFERRAL MECHANISMS?

- National and sub-national mechanism for child labor, forced labor, and/or human trafficking cases
- Process and framework for victim identification and support
- Increases ability of government and civil society service providers to work together
- Variety of forms

ROLE OF REFERRAL MECHANISMS

- Protect rights of victims
- Provide victim services
- Implement national/local action plans
- May allow better data tracking
- Streamline referral process and improve coordination

NATIONAL AND SUB-NATIONAL REFERRAL MECHANISMS

- Can help to have coordination at the local level
- NRMs may have better access to funding
- NRMs can refer cases to local coordinating bodies
- Important to involve immigration authorities
- Local level may not be able to identify cases

COMPONENTS OF REFERRAL MECHANISMS

- Need safety and service protocols in place
- Best to use a network of providers, not a single provider
 - Multidisciplinary team with comprehensive services
 - Include a variety of service providers, provide them with training
 - Include groups familiar with language and culture of victim populations

COMPONENTS OF REFERRAL MECHANISMS

Referral Mechanisms should include:

- Identification of victims, appropriately treat and provide services to victims
 - Respect victim rights and allowing them to make decisions
- System for referring victims to service providers
- Formal mechanism designed to harmonize victim assistance with investigations and prosecutions
- Multidisciplinary framework with participants from a range of sectors
 - Respond to victim needs and conduct monitoring and evaluation

SERVICE DIRECTORY

- Referral mechanisms can focus on centralizing contact information for service providers and maintaining relationships with them
- The service directory should include:
 - Who: Name of the organization or service provider and their contact information
 - What: Type of assistance or services that they provide
 - Where: Location(s) where their services can be accessed
- Develop standard operating procedures (SOPs,) guidelines, or MOUs for coordination and service provision
- Create a referral form to streamline the process.

NRM ESTABLISHMENT BEST PRACTICES

- Make protecting victims the first priority of all anti- child labor, forced labor, and human trafficking efforts
- Framework or infrastructure should consider these issues broadly
 - All types of the crimes and how they may evolve
 - Being flexible and open to change is important
- All victims should have access to support and protection
- Include a broad range of services,
 - Address each victim's specific needs
- Human rights-based victim protection mechanisms can help prosecutions

NRM ESTABLISHMENT BEST PRACTICES

- Include government and civil society
- Structure should assess and build on national capacity to create a sustainable framework
- Be transparent and assign clear roles and responsibilities
 - Based on the capabilities and mandates of organizations and offices involved
- Engage in regional and international cooperation
- Implementation should help ensure accountability and legitimacy



EXAMPLES OF NRMS AND SUB-NATIONAL REFERRAL MECHANISMS



U.K.

- NRM for modern slavery
 - Includes human trafficking, forced labor, and some of the WFCL.
- Only first responders can refer cases to the NRM
- Non-first responders must refer cases to a designated first responder
 - First responders can then make referrals through the NRM
- First responders must complete a form providing information about the victim
 - Separate forms for children and adults
 - Consent is required to report adult victims, not required to report child victims.

LONDON, U.K.

- Metropolitan Police developed 1-page online referral mechanism
- Can be accessed by 60 different organizations in London
 - Easier for partners to identify and refer victims of human trafficking.
- Resulted in more trafficking victims identified
 - More trafficking investigations conducted by the police

COLOMBIA

- Must report suspected human trafficking cases to the Human Trafficking Task Force of the Ministry of the Interior
- Ministry determines if the case is a human trafficking case and makes referrals for services

THE NETHERLANDS

- Dutch Foundation against Trafficking in Women (STV) coordinates referrals for sex trafficking victims
- STV help desk has four key tasks:
 - Arranging shelter
 - Keeping in touch with services providers
 - Maintaining regional support networks and setting up new support networks
 - Recording data about victims and sharing data with National Rapporteur

THE NETHERLANDS

- STV does not run shelters, coordinates shelter with NGOs who provide services.
- Cases are referred to the regional support networks
 - National STV will coordinate services if not covered by regional network
- Individualized plan for services developed for each victim,
 - Includes addressing immediate and long-term needs.
 - Identifies the needed service providers, who are kept informed.

GEORGIA

- Potential victims are identified mainly by task forces and mobile units and referred to either the national police or the Permanent Group
 - Permanent Group: five-member board comprising NGOs and international organizations.
- National police and Permanent group can grant official victim status and full state services and support.
- Creates alternative to law enforcement controlled identification procedures
 - For victims who do not want to work with state authorities
- Alleviates many law enforcement controlled identification issues
 - Such as forced cooperation in investigations, penalization, and re-traumatization

MOLDOVA

- NRM for human trafficking victims
 - Provide possible trafficking victims with access to services from a network of providers
- Regional offices in each region of the country
 - Coordinate rehabilitation with local law enforcement, service providers, and schools

NEW YORK STATE

- Law enforcement officer, social services, or legal services provider make referrals for possible trafficking victims
- Electronic submission process
- Division of Criminal Justice Services, in consultation with the Office of Temporary and Disability Assistance, review referrals to determine eligibility
- Response to Human Trafficking Program provides case management and referral services to confirmed victims
 - Focuses on victims who cannot otherwise access services
 - Such as those not yet been certified by the federal government
 - Services provided include things such as shelter/rental assistance, medical services, mental health counseling, legal services, food assistance, and other needs identified on an individual basis

EXERCISE 3.2.2: TRAUMA-INFORMED CARE USING ETP CASE STUDIES



OBJECTIVES:

- To incorporate trauma-informed care principles into interactions with and plans for a victim.

KEY MESSAGES:

- Using trauma-informed approaches can help a victim recover and tell his or her story. It's important to remember that a victim's story may change over time due to trauma.
- Using empowering language can help a victim regain confidence.
- Make sure to include the victim in discussions about services and reintegration; always being mindful of the victim's safety.



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LESSON 3.4: PROCESS AND ROLES



OBJECTIVES

- Learn about the roles and responsibilities of the different agencies, offices, and organizations that play a role in building child labor, forced labor, and human trafficking cases, including providing services to victims
- Learn how to map the coordination and referral process

OVERVIEW OF LESSON 3.4

- Roles and Responsibilities
- Mapping the Referral Process
- Sample Flow Chart

ROLES AND RESPONSIBILITIES

- Hotlines are used to report cases
- Hotlines are operated by government agencies and NGOs
- Consider the roles and responsibilities of the following actors:
 - Labor inspectors and police
 - Prosecutors and judges
 - Immigration and border officers
 - Other government agencies
 - NGOs and CSOs

ROLES AND RESPONSIBILITIES: LABOR INSPECTORS

- Authorized to inspect workplaces
 - In response to a tip or as routine inspections
- Investigate child labor cases
 - Can issue on-the-spot fines for labor violations
- Work with employers to help them comply with local rules
- Bring cases to labor office or court

ROLES AND RESPONSIBILITIES: POLICE

- Investigate forced labor and human trafficking cases
 - In some jurisdictions, investigate child labor cases
- Conduct initial screening and identification of victims
- Conduct initial interviews and make referrals
- Specialized units investigate human trafficking and child victims
 - Special training required

ROLES AND RESPONSIBILITIES: PROSECUTORS

- Prosecute human trafficking cases
 - Dedicated unit with specialized prosecutors
- Prosecute forced labor and child labor cases
- Sometimes responsible for investigating cases
- Responsible for ensuring victims are prepared for court
 - Must have proper victim protections

ROLES AND RESPONSIBILITIES: JUDGES

- Responsible for hearing human trafficking and forced labor cases
- Hear child labor cases
 - In the first instance or on appeal
 - Hear cases of WFCL
- Must help create a victim-sensitive trial

ROLES AND RESPONSIBILITIES: IMMIGRATION AND BORDER OFFICERS

- Screen people arriving and departing
 - Including potential trafficking cases
- Conduct interviews and make initial referral for possible cases

ROLES AND RESPONSIBILITIES: OTHER GOVERNMENT AGENCIES

- Social services provide social workers
 - Counseling, develop victim assistance plans, present at interviews
- Child welfare agencies provide services for child victims
 - Identifying a guardian and housing, assisting with treatment plans, present at interviews
- Ministry of Education reenroll children in school

ROLES AND RESPONSIBILITIES: NGOS AND CSOS

- Assist with victim services and reintegration
- Provide services such as:
 - Medical and psychological services
 - Family mediation and counseling
 - Monitoring the victim's reintegration process
 - Monitoring children once placed in a shelter
 - Help re-enroll children in school
 - Provide or coordinate vocational training
- Help with job placement and career counseling
- Assistance in obtaining copies of documents
- Legal assistance in civil and criminal cases
- Assistance in obtaining visas
- Managing telephone hotlines
- Providing safe transportation

MAPPING THE REFERRAL PROCESS

- Helps identify how victim needs should be met
- Step 1:
 - Map the stages of the case process for victims
 - Identify victim needs at each stage
- Step 2:
 - Identify the agencies and organizations that address each phase
 - Identify each of the victims' needs

MAPPING THE REFERRAL PROCESS

The mapping process should include:

- Identifying who will aid victims at each stage
- Building a child labor, forced labor, and/or human trafficking referral system
 - As identified during the initial process mapping

MAPPING THE REFERRAL PROCESS

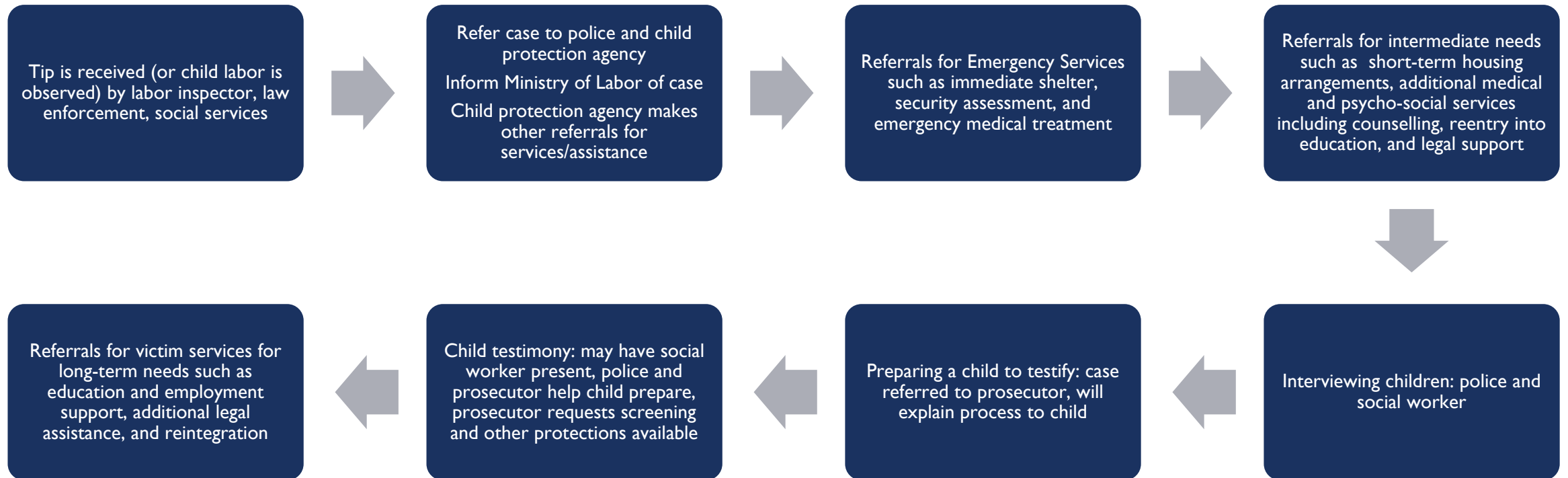
The referral process could include the following stages:

- Identification
- Investigation
- Victims services for emergency/immediate needs
- Victim services for intermediate needs
- Interviewing victims
- Victim services for long-term needs
- Preparing a victim to testify in court
- Assisting a victim during a trial
- Post-trial and follow-up

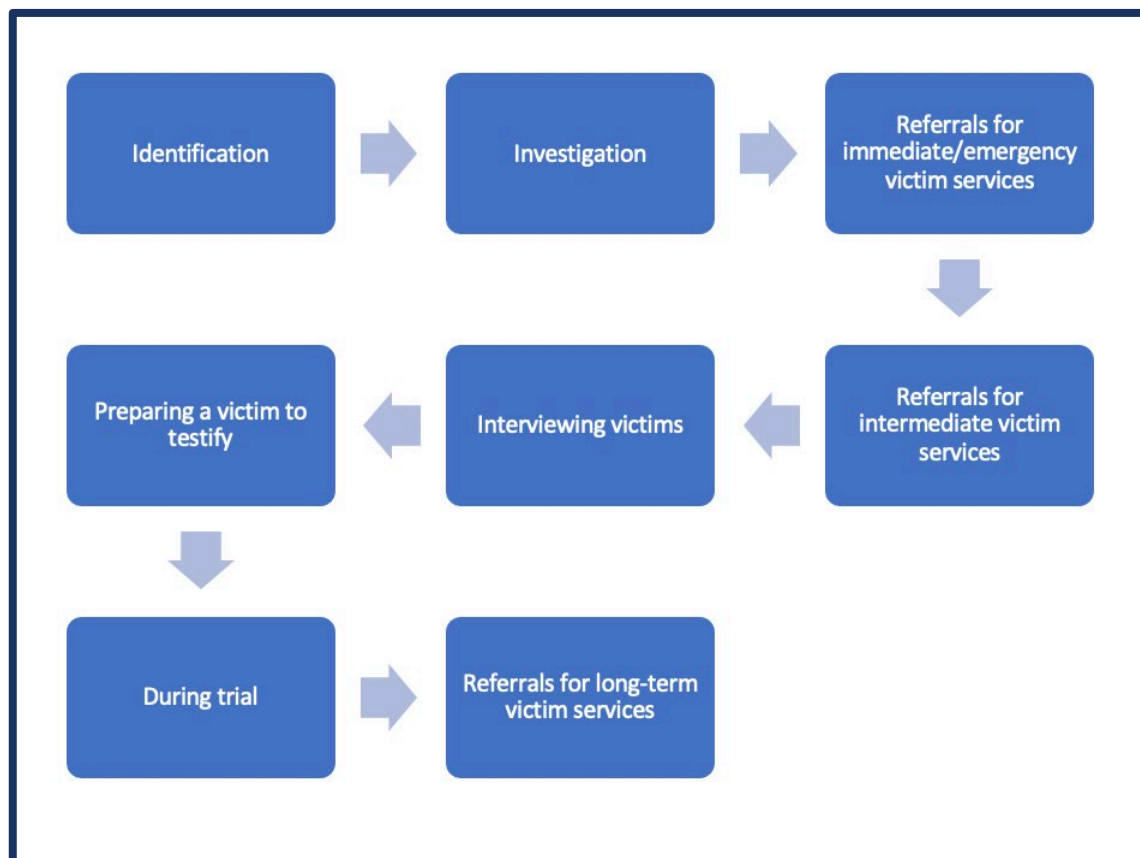
MAPPING THE REFERRAL PROCESS

- After identifying roles and responsibilities, identify groups in charge of each stage
- Identify agency responsible for reporting hotlines and referrals
- Create a process map flow chart
- The flow chart should identify:
 - Roles and responsibilities at each stage
 - When referrals should be made

SAMPLE FLOW CHART



EXERCISE 3.4.2: REFERRAL MAPPING



OBJECTIVE:

- To map the referral process for child labor, forced labor, and/or human trafficking cases.

KEY MESSAGES:

- There are many agencies, offices, and organizations that play a role in assisting child labor, forced labor, and human trafficking. Knowing the roles and responsibilities of these groups can help ensure that victims receive needed services.
- Knowing when to make referrals and who to refer cases to helps ensure that victims receive the services they need and in a timely manner.



LESSON 3.5: MANDATORY REPORTING



OBJECTIVES

- Understand the benefits and challenges of mandatory reporting
- Understand how mandatory reporting can work in practice

OVERVIEW OF LESSON 3.5

- Mandatory reporting
- Benefits of mandatory reporting
- Challenges of mandatory reporting

MANDATORY REPORTING

- Creates a duty to report suspected cases
- Can help identify more victims
- Can help victims gain access to services
- Can increase investigations
- May make victims less likely to seek help

MANDATORY REPORTING

- Definition:
 - *A legal requirement that certain individuals notify a designated agency when they suspect that someone may be a child labor, forced labor, or human trafficking victim.*
- Often applies to medical professionals or people working with children
- Obligation covers child trafficking and WFCL
- Consent may be required when victim is an adult
- Reports made to law enforcement and social services

BENEFITS OF MANDATORY REPORTING

- Increases in reported cases
 - Allows more victims to receive assistance
 - Enables better understanding of the crimes
- Encourages mandatory reporters to learn how to identify cases
- Medical professionals can interact with child victims and maintain confidentiality

CHALLENGES OF MANDATORY REPORTING

- Conflicts with strict medical confidentiality requirements
- If victims become aware, it may cause them not to seek medical treatment
 - Fear of reprisals, prosecution, or deportation
- Mandatory reporters may need training to identify cases
- Penalties for failing to report cases
 - Undue burden on people working with children
- Definitions for identification are very narrow



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LESSON 4.1: CASE EVALUATION



OBJECTIVES

- To learn how to evaluate a case, including whether or not to bring child labor, forced labor, or human trafficking charges.

OVERVIEW OF LESSON 4.1

- Importance of Case Evaluation
- Four areas to consider when evaluating a case

FUNDAMENTALS: WHAT'S AT STAKE

Whether or not to bring charges is one of the most consequential decisions a prosecutor can make.

What's at stake: *the life, liberty, and/or property of the accused as well as the safety and wellbeing of the public.*

FUNDAMENTALS: OBJECTIVE & INDEPENDENT ANALYSIS

Deciding whether to bring charges requires an objective and independent analysis.

THE STANDARD

Whether, based, on the existing evidence, there is a reasonable prospect of conviction.

IN OTHER WORDS...

Is there sufficient evidence to establish *each element of the proposed offense* with respect to the person being charged?

FUNDAMENTALS: EVIDENCE TO CONSIDER

- Statements

From: witnesses, police and other investigative officers, relevant experts, victims, the accused.

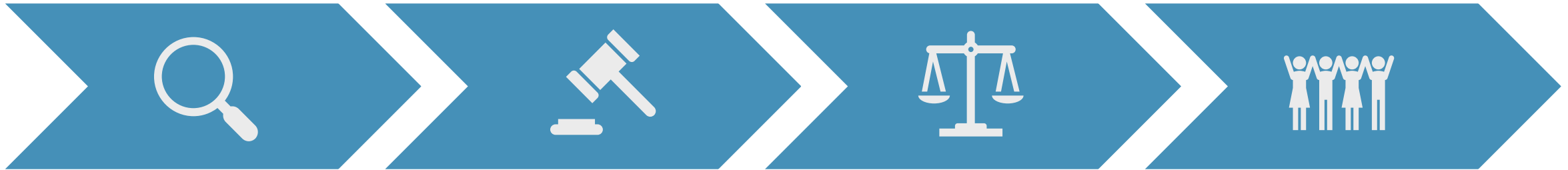
- Documents

- Physical Evidence

- Medical Evidence

FUNDAMENTALS: FOUR AREAS TO CONSIDER

A proper evaluation of the case should include consideration of four key areas:



FACTUAL THEORY
OF THE CASE

LEGAL THEORY
OF THE CASE

EVALUATION OF
THE EVIDENCE

PUBLIC INTEREST
CONSIDERATIONS

THE FACTUAL THEORY OF THE CASE



Legal Theory
of the Case

Evaluation of
the Evidence

Public Interest
Considerations

Focus on what
happened

- What really happened?
- What are the key facts?
- What is the best evidence?
- What are the motives?

THE LEGAL THEORY OF THE CASE

Factual Theory
of the Case



Evaluation of
the Evidence

Public Interest
Considerations

Apply the
factual analysis
to the law

- What are the potential charges?
- What elements would need to be proven?
- What state of mind is required?
- What facts, and sources, can you use to prove these elements?

EVALUATION OF THE EVIDENCE



Consider whether the evidence provides reasonable grounds to believe that the suspect committed the offense

- Relevance
- Admissibility
- Credibility
- Whether it is reliable and accurate
- The strength of any rebuttal evidence

EVALUATING THE EVIDENCE OF THE CASE



EVALUATION OF THE EVIDENCE

- Build an Evidence Table to organize the evidence by the **charges** and **elements** you are pursuing.
- The evidence table should inform the order of witnesses, topics of examination, and exhibits.

EXAMPLE EVIDENCE TABLE

ELEMENT TO PROVE	EVIDENCE	SOURCE OF EVIDENCE	COUNTER-EVIDENCE	COMMENTS
CHARGE 1: HUMAN TRAFFICKING				
Element 1: The recruitment, transportation, transfer, harboring or receipt of persons	<ul style="list-style-type: none"> ▪ Falsified passport ▪ Car used in transporting victim ▪ Victim statement 	<ul style="list-style-type: none"> ▪ Found at job site during rescue operation ▪ Found parked at job site during raid ▪ Victim interview 	<ul style="list-style-type: none"> ▪ Statement of the accused 	
Element 2: By means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception...	<ul style="list-style-type: none"> ▪ Medical records documenting victim injuries ▪ Text messages threatening violence ▪ Victim statement 	<ul style="list-style-type: none"> ▪ Medical exam conducted after rescue ▪ Victim's mobile phone ▪ Victim interview 	<ul style="list-style-type: none"> ▪ Accused says he did not send the text messages 	<ul style="list-style-type: none"> ▪ Need corroborating evidence tying him to the messages

EXAMPLE EVIDENCE TABLE

ELEMENT TO PROVE	EVIDENCE	SOURCE OF EVIDENCE	COUNTER-EVIDENCE	COMMENTS
CHARGE 2: HAZARDOUS CHILD LABOR				
Element 1: Child under the age of 18	<ul style="list-style-type: none"> ▪ Birth certificate ▪ Victim statement 	<ul style="list-style-type: none"> ▪ Family of the victim 	<ul style="list-style-type: none"> ▪ False documents claim the victim is 20 years old 	
Element 2: Work likely to harm health, safety, or morals (includes work on the Hazardous Work List, which includes prostitution)	Prostitution: <ul style="list-style-type: none"> ▪ Website advertising sexual services ▪ Victim statement 	<ul style="list-style-type: none"> ▪ Public website ▪ Victim interview 	<ul style="list-style-type: none"> ▪ Accused claims the website is not his 	<ul style="list-style-type: none"> ▪ Need to tie the website to the employer

FUNDAMENTALS: PUBLIC INTEREST CONSIDERATIONS



Consider the public interest aspects of the case

- The harm done to the victim and/or community
- The status of the victim (e.g. age, vulnerability)
- The suspect's age at the time of the offense
- Whether sources of information need protecting
- Whether the charges are proportionate to the alleged crime.

EXERCISE 4.1.2: CASE EVALUATION SCENARIO



OBJECTIVE:

- To familiarize participants with the concepts relevant to case evaluation.

KEY MESSAGES:

- In order to properly evaluate a potential case, one must consider the following:
 - What charges can properly be supported by the evidence?
 - Are the potential sanctions appropriate for the defendant in the event of conviction?
 - Are there other charges that would be more appropriate?
 - Is there a reasonable prospect of conviction on these charges?
 - Can the existing evidence be strengthened by further investigation?



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LESSON 4.2: PRE-TRIAL AND BAIL



OBJECTIVES

To learn the basics about:

- the right to bail, and
- considerations for whether it is granted.

OVERVIEW OF LESSON 4.2

- Defining bail
- The right to bail and restrictions to that right
- Factors considered when making the determination to grant bail

DEFINING BAIL

The term “bail” refers to the conditions under which a defendant detained by the authorities can be released pending trial.

Bail generally involves a deposit of money or other property with the court to guarantee the defendant’s later appearance.

PURPOSE

To provide assurance that the defendant will appear in court when required.

THE RIGHT TO BAIL

In many countries, individuals have the right to bail unless there are compelling reasons not to grant bail.

THE RULE

Ordinarily, everyone has the right to liberty and to be presumed innocent unless convicted by a court.

THE EXCEPTION

There may be a presumption against granting bail in serious cases (violent, sexual, or terror-related crimes)

RESTRICTIONS TO THE RIGHT TO BAIL

The right to bail may be subject to **reasonable** restrictions. A court will determine whether to grant bail, and under what circumstances, based on the following factors:

- The gravity of the charge against the defendant
- The strength of the case against the defendant
- The seriousness of the punishment associated with the charge
- The risk that the accused will commit further crimes
- The risk that the accused will seek to intimidate or harm witnesses
- The risk that the accused will flee to another jurisdiction

FACTORS IN CONTEXT

The Court will also consider:

- The background and circumstances of the accused
- The accused's ties to the local community, and
- The health of the accused.

The conditions imposed by the court may not be “excessive” or the failure to grant bail will be tantamount to imprisonment without any conviction of a crime.

THE ROLE OF ATTORNEYS

PROSECUTION

Demonstrate compelling reasons for denying bail and the imposition of suitable bail terms

DEFENCE

File bail petition

Provide mitigating facts that address flight risk: citizenship, marital status, family obligations, community involvement

BAIL REQUIREMENTS

Bail may also be granted subject to several conditions when appropriate:



Money



Home
confinement



Check-ins by
authorities



Surrender of
passport

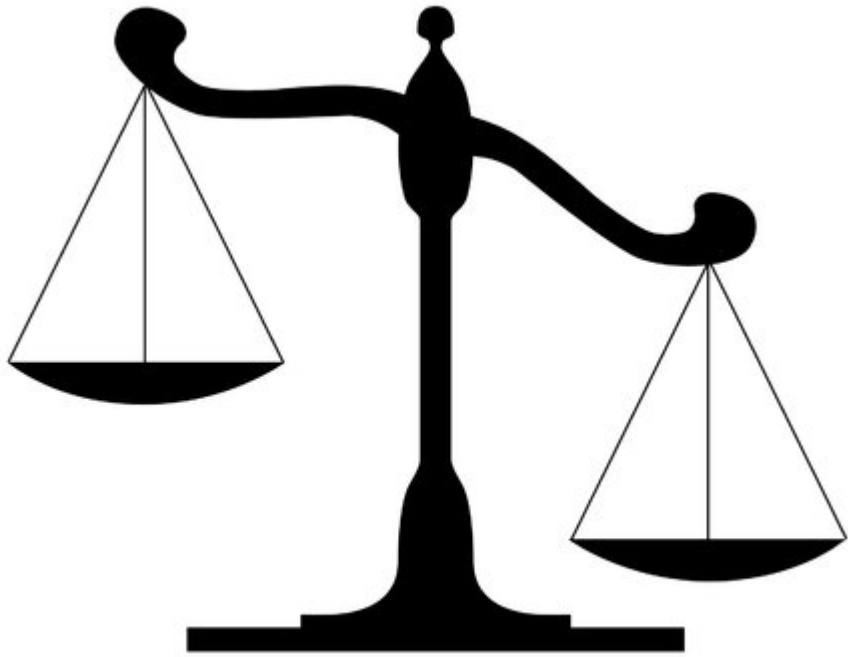
The conditions placed on bail should be appropriate to the circumstances of the defendant and public interest

BAIL PRE-TRIAL VS BAIL PENDING APPEAL

A person convicted of a crime may seek to be released on bail pending an appeal of the conviction, but the court's consideration of this request will look to very different factors than for pre-trial bail:

KEY DIFFERENCES	FACTORS CONSIDERED	CONDITIONS
The accused will normally bear the burden of establishing why bail should be granted	The potential success of the appeal.	Can be subject to the same conditions as pre-trial bail
The accused is no longer entitled to the presumption of innocence	The risk that the full sentence will be served while the appeal is heard	

EXERCISE 4.2.2: BAIL SCENARIOS



OBJECTIVE:

- To become familiar with the considerations relevant to determinations as to whether to grant bail to a defendant before trial.

KEY MESSAGES

- Defendants are entitled to bail under most circumstances
- The purpose of bail is to permit a defendant to remain free until proven guilty while balancing against the prospect that the defendant will flee and not return for trial or the defendant will commit additional crimes or intimidate or harm potential witnesses against him/her



LESSON 4.3: CONSIDERATIONS FOR VICTIMS IN THE TRIAL PROCESS



OBJECTIVES

- Understand the things about the trial process that may be especially important to victims of child labor, forced labor, or human trafficking. This may include providing information to victims, protecting victims' rights, and using victim impact statements.

OVERVIEW OF LESSON 4.3

- Children: Special Considerations
 - Before Trial
 - During and Post-Trial
- Considering the Needs of the Victim
- Victim Impact Statements



CHILDREN: SPECIAL CONSIDERATIONS



SPECIAL RIGHTS

- In many countries, child witnesses in court have **special rights**
- Process should accommodate the **best interests of the child**
- Children have the right to:
 - Be heard and express their views
 - Be treated with dignity and compassion
 - Protection from hardship during the judicial process
 - Information on the status of the case

PREPARING CHILDREN TO TESTIFY: FIRST STEPS

- Provide adequate information to parents/guardians and child
 - E.g. availability of services, court procedures, time and place of hearing, progress of the case
- In some countries, victim support or other relevant units provide orientation sessions
- Take the **age of the child** into account when providing information
- Have an **open attitude** and answer questions

PREPARING CHILDREN TO TESTIFY: GENERAL TIPS

- Use a **multi-agency approach**
 - Victim support staff, parents, child, social workers
- Try to schedule hearing in the morning at time that is compatible with school schedule
- Provide a child-friendly room where child can wait during trial until testimony
 - Provide water and snacks if appropriate

CHILDREN TAKING THE WITNESS STAND: SPECIAL MEASURES

- Some countries do not require oaths for children below a certain age
- Special measures for any person **under age of 18**
 - Video recorded evidence, testifying from behind a screen, or in-camera testimony
- Court takes into account
 - Age and maturity
 - Ability of the child to understand the situation

CHILDREN TAKING THE WITNESS STAND: DO'S

- **DO:**
 - Use clear, simple, and age-appropriate language
 - Be protective of child on stand
 - Ensure that questioning on both sides is respectful
 - Ask the judge to enforce breaks should the child request one
 - Let the child explain in his or her own words
 - Have patience

CHILDREN TAKING THE WITNESS STAND: DON'TS

■ DO NOT:

- Ask repetitive questions
- Speak too quickly
- Ask for unrealistically specific details or times
- Shout
- Be aggressive or impatient

CHILDREN IN COURT: ATTENDANCE OF PARENTS AND CHILD

- Parents are entitled to attend their child's testimony
 - Court can order their attendance or their removal depending on circumstances
- Have **social worker** present instead if *parent's presence appears to cause child stress or fear*
- Try to excuse child from proceedings when attendance is not required
 - Best for child to attend school



BEFORE TRIAL



OVERVIEW

- Child labor, forced labor, and human trafficking victims have been through a **very difficult experience**, sometimes over the course of many years
 - May be hesitant to work with law enforcement to prosecute alleged wrongdoers
- Before any trial, victims must be **well informed of rights and processes**
 - Make an informed decision about their participation
 - Feel more comfortable about their role

PROCEDURAL INFORMATION

- Charges against the accused and possible outcomes
 - Potential sentence/penalty
 - Possibility of acquittal
- Evidence to be relied upon by both sides
- Potentially **painful** or **upsetting** testimony or exhibits
- Most victims **not familiar** with court proceedings
 - Where defendant will sit, who will ask questions, under oath
- Victim will be **more confident** if they **understand** process

VICTIM'S RIGHTS

- In some jurisdictions, victims can invite **support persons** (family and friends) to trial
- In some courtrooms, **additional protection mechanisms** may be available
 - **Video/teleconferencing** so victim is not in same room as defendant when testifying
- Prosecution should provide **interpreter** for victim if needed
- **Avoid re-traumatization**

VICTIM'S RIGHTS (CONT.)

- If no trial, right to information about **investigation** and **reason why no trial** will be held
 - E.g., no perpetrators have been identified, no trial because of procedural rules
- **Plea bargains** or **deferred prosecution agreements**
 - Victim can give views about a plea bargain
 - **Cannot** override prosecutor's final decision



DURING AND POST-TRIAL



VICTIM'S RIGHTS

- Be **present**
- Be **heard**
- Attend court **free** from **intimidation** or **harassment**

SECURITY MEASURES

- Security in court (armed guards, metal detectors)
- Law enforcement transportation to and from court
- Use separate exits and entrances to the court
- Redaction of name and address from statements provided pre-trial or read out in trial
- Closing court to public for portions of hearings
- Appear in concealed manner (face covered, testifying from behind a screen, etc.) or via videoconference
- Read their victim impact statement accompanied by a support person

ENGAGING WITH VICTIMS

- Prosecutor's obligation to victim **does not** end with verdict
- Inform victims regarding:
 - Appeals, sentencing, parole, and release
 - Potential or actual appeals
 - Prior notice of parole hearings or possible release
- Victims' rights:
 - Speak at post-conviction proceedings (sentencing hearings)
 - Express opinion about possible release (via written statement submitted to hearings)



CONSIDERING THE NEEDS OF THE VICTIM



OVERVIEW

- Must **not** be discriminated against on the basis of:
 - Race, color, gender, age, language, creed, religion, nationality,
 - Political or other opinion, cultural belief or practices, property
 - Birth or family status, ethnic or social origin, disability
 - Any other grounds
- Take into account cultural values and beliefs

GENDER CONSIDERATIONS

- Most (but not all) victims of sex trafficking are **female**
 - Likely to have suffered extreme forms of trauma from men
 - May be reluctant to discuss experiences with male interviewers
 - Ask if victim prefers a female interviewer
- **Male** victims of child labor/forced labor/human trafficking may be particularly reluctant to participate in interviews
 - Victimhood implies weakness and vulnerability, which often conflicts with view of masculinity
 - May be uncomfortable discussing with a female interviewer, use a male interviewer

GENDER AND OTHER CONSIDERATIONS

- All victims are likely to have **fear** and **embarrassment** while testifying
 - Potentially in front of *person who inflicted trauma upon them*
 - No magic solution; remain **aware** of dynamic and address it
- Ask if the victim wants to speak to male or female officer
- Officers should wear **plain clothes** to avoid intimidation
- If needed, provide **interpreter** for victim to speak in language of his/her choice

BEST PRACTICES

- Victims suffer from physical, emotional, and mental harm (**Post-Traumatic Stress Disorder**)
- Best practices
 - **Location:** private room
 - **Volume:** quiet, free from disruption, loud noises, interruptions
 - **Basic comfort:** ensure victim is comfortable, access to refreshments, tissues, breaks
 - **Irritants:** avoid unpleasant stimuli (smoking)
 - **Safety:** make victim feel safe; separate male and female victims, accompany minors

SAFEGUARDING THE VICTIM'S RIGHT TO DIGNITY

- Victims have already experienced indignity
- Important to **preserve their dignity** and help them **heal from trauma**
- Allow vulnerable victims to contact family or caregiver
- Determine whether parent, guardian, or social worker should be present
- Address victim in manner appropriate to age and intellectual development

COMMUNICATING WITH VICTIMS: DO'S

DO:

- Attempt to communicate trust, support, and confidence
- Calm and comfort victims. Ask “How are you doing?”
- Allow victims to tell stories in their own words
- Reassure them their feelings are natural
- Listen and validate their experience with empathy and support
- Be encouraging but not unrealistic
- Treat victim and experiences as unique
- Understand that many victims have extreme difficulty reconstructing their life after violent crime

COMMUNICATING WITH VICTIMS: DON'Ts

DO NOT:

- Judge or blame the victim
- Make promises to the victim
- Frame the victim's experience to similar experiences, including your own
- Make decisions or choices for victims
- Make references to religious platitude
- Take sides with or against a victim



VICTIM IMPACT STATEMENTS



VICTIM IMPACT STATEMENTS

- A victim has a **right to present a victim impact statement**, which may be considered by courts when determining a sentence
- Statement made by victim or victim's representative (if victim is incapacitated)
 - Outlines psychological, emotional, physical, economic, or social impact of offense
 - Written or oral
 - Information on impact of offense on victim's life and safety concerns
 - Way of implementing **right to be heard**

VICTIM IMPACT STATEMENTS

- If victim wishes to make victim impact statement, victim should be referred to **victims' service agency** for assistance
- **Not mandatory**
- Inform victim about role of victim impact statement and **who may see it**: prosecution, defense, accused, judge, magistrate

STRUCTURE OF VICTIM IMPACT STATEMENT

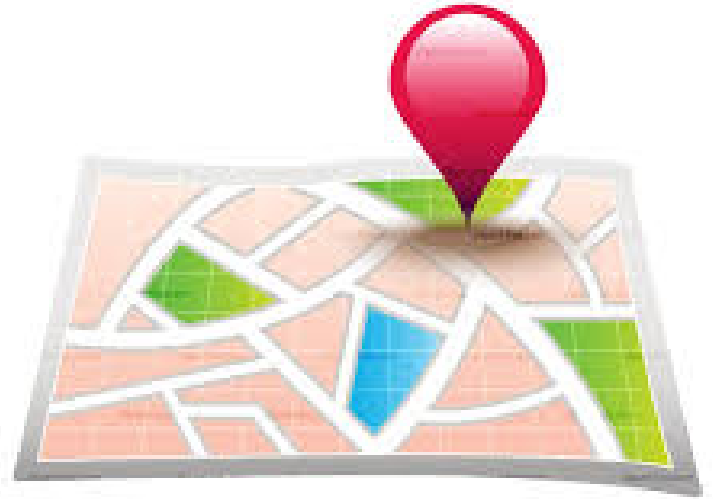
- Information provided should be relevant to victim and their family's experience only

Type of harm	Example
Financial	Lost wages, medical or treatment expenses, transportation costs
Social/lifestyle	Changes to social commitments, accommodation, employment, education
Physical	Injuries, details of physical effects
Emotional or psychological	If crime resulted in death, victim's representative may write about loved one who was killed, their importance, relationship to victim, life they led

ADDITIONAL CONSIDERATIONS

- Victims can **withdraw** participation in case at any time
- Victim impact statements can be used at any time, **including post trial proceedings (parole)**

EXERCISE 4.3.2: VICTIMS' RIGHTS SCENARIO



OBJECTIVE:

- To familiarize participants with the victims' rights concepts.

KEY MESSAGES:

- Children have rights that we need to take into consideration.
- It is critical to take the victim's feelings and needs into account.
- A victim-centered approach may be both most appropriate and most effective.
- Trauma may make it difficult to communicate with a victim.
- Some kinds of interviewers may be more likely to establish meaningful communication with a victim.



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LESSON 4.4: OPENING STATEMENTS



OBJECTIVE

- To learn skills to conduct an effective opening statement and ensure successful prosecutions of child labor, forced labor, and human trafficking cases.

WHAT IS AN OPENING STATEMENT?

- Prosecutors' first opportunity to explain their case to the court
- Preview of the merits of the case
- Statements on what the evidence and witnesses will prove

WHY IS AN OPENING STATEMENT IMPORTANT?

- Provides the first impression of the case
- Helps judges, magistrates, and juries quickly understand the facts and law at issue
- Serves as a road map of the trial

DEVELOPING AN OPENING STATEMENT – KEY ELEMENTS

- Theme of the case
- Legal theory of the case
- Persuasive organization of the facts

DEVELOPING A THEME OF THE CASE

- Concise explanation of why justice/moral reason compels a judge or jury to rule in your favor
- What aspects of the incident are most concerning?
- What necessary legal elements are most clearly demonstrated by the weight of the evidence you will present?

DEVELOPING A THEORY OF THE CASE

- Statements of why the law and facts support a ruling in the prosecution's favor
- Utilize a phrase, quotation, common saying or concept that captures the essence of the case for or against the defendant
- Would this theory of the case be applicable to reference throughout the case?

PERSUASIVE ORGANIZATION OF THE FACTS

- Discussion of facts in an order that persuades the judge or jury
- Who are the witnesses, and what will the court hear from them?
- What are the charges and the relevant elements that must be proved?

DEVELOPING AN OPENING STATEMENT – IMPORTANT CONSIDERATIONS

- Include only true statements that the prosecutor can prove
- Focus on big ideas and theme, central evidence and witnesses
- Outline the evidence and key points of the case in a persuasive manner, NOT argumentative
- Consider addressing weaknesses in the case

WEAKNESSES IN THE CASE

- Address any critical weaknesses or “bad evidence” in the case before your opponent does
- Can help building credibility with the judge/magistrate/jury
- Do not be defensive – weave your facts to rebut weaknesses and explain your point of view

EXAMPLE STRUCTURE

1. Theme/theory of the case
2. Brief outline of your opening
3. Introduction to key actors, places, and things
4. Key issues in contention
5. Concise narrative of the facts (chronologically or by elements)
6. Key evidence/witnesses and what they will prove
7. Weakness in the prosecution's case
8. Conclusion and request for a verdict

PRESENTING AN OPENING STATEMENT

- Start strong and end strong
- Know your audience
- Use simple language
- Be concise
- Avoid repetition and rhetorical questions

PRESENTING AN OPENING STATEMENT

- Be professional and courteous
- Use visual aids
- Talk, do not read, to your audience
- Practice voice level, tone, and pace

KEY MESSAGES

- An opening statement is the prosecutor's first opportunity to explain their case to the court
- By properly developing, organizing, and delivering the opening statement, a prosecutor can make a great first impression for their case



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LESSON 4.4: DIRECT EXAMINATION (EXAMINATION-IN-CHIEF)



OBJECTIVE

- To learn skills to conduct effective direct examinations and ensure successful prosecutions of child labor, forced labor, and human trafficking cases.

PURPOSE OF DIRECT EXAMINATION

- To have witnesses tell the story of the case
- To obtain oral evidence for prosecution's case

FUNDAMENTALS

- **Witness** is storyteller and focus of attention
- Open-ended questions
- Conversational and inquiring (but with anticipated answers based on preparation)
- Exhibits introduced

ORGANIZING A DIRECT EXAMINATION

- Introduce and **accredit** witness
 - Ask questions that will help fact finder understand:
 - How the witness knows what they know and
 - Why fact finder should believe witness
- Set the scene
- Describe action

ORGANIZING A DIRECT EXAMINATION (CONT.)

- Questions typically follow **chronological** order
- Direct examination tells a story split into different chapters
 - Each set of questions has its own title or heading
 - **Transitions** between each set of questions
 - Ex: “You’ve been telling us about the promises made to you by Defendant, now I would like to move on to the actual working conditions you experienced.”

FORMULATING QUESTIONS: OPEN-ENDED QUESTIONS

- Require **elaboration** rather than simple “yes” or “no” answer
- Allow witness to tell their story
- Begin with:
 - “Who?” “What?” “When?” “Where?” “Why?” “How?”
 - “Describe”
 - “Explain for me”
 - “Tell me about”

FORMULATING QUESTIONS: DON'Ts

- **DO NOT** ask leading questions
- Leading questions suggest the answer that the questioner hopes or expects to receive
 - Leading: “The weapon was owned by your cousin, correct?”
 - Non-leading: “Who owned the weapon?”
- Defense counsel may object; exceptions may be made if introductory or undisputed

FORMULATING QUESTIONS: DON'Ts

- **DO NOT** ask compound questions
 - Compound: “How many hours per day were you working, and did work cause you to miss school?”
 - Break into two questions: “How many hours per day were you working?” [Witness answers.] “Did work cause you to miss school?”

ADDITIONAL TIPS: MAKE THE STORY INTERESTING

- **Humanize** the witness
- **Practice** your pace, inflection, tone
- Use exhibits, diagrams, and physical evidence
- Simplify the story; eliminate clutter; and use **plain language**

ADDITIONAL TIPS: LISTEN ACTIVELY AND ASK FOLLOW UP QUESTIONS

- Prosecutor: “What were your job duties at the garment factory?”
- Witness: “My job was to operate the machinery.”
- Prosecutor: “You said you operated the machinery. Can you tell us more about what that entails?”

ADDITIONAL TIPS: ANTICIPATE CROSS-EXAMINATION

- Bring out critical **weaknesses** during your examination-in-chief
- Weave responses to weaknesses of your case into your presentation

KEY MESSAGES

- Allow the witness to tell the story
- Use open-ended questions to facilitate the storytelling



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LESSON 4.4: CROSS-EXAMINATION



OBJECTIVE

- To learn skills to conduct successful cross-examinations.

WHAT IS CROSS-EXAMINATION?

- Questioning of a witness called by the other party

PURPOSE

- Obtain favorable evidence that supports prosecution's case
- **Discredit** unfavorable evidence and/or the witness who gave it
- Test the veracity of a witness
- Test accuracy and completeness of witness' story
- Introduce additional exhibits
 - Note: Risky to wait until cross if there is chance that witness will not be called

PLANNING FOR CROSS EXAMINATION

- Determine **goal** for cross-examining witness
- Cross-examine witness only if there is some **advantage** or effect to be gained
 - What might be needed from witness
 - Whether that evidence can realistically be obtained from witness
 - Whether cross-examination will affect opinions of judge or jury
- Decline cross-examination if no advantage to be gained

PLANNING FOR CROSS-EXAMINATION (CONT.)

- **Plan** questions that help you achieve goal
- **Arrange** questions by topic, rather than chronologically
- **Reassess** questions both during and after direct examination, particularly when new statements are made by witness
- In some jurisdictions, prosecutors cannot cross-examine a witness on topics not raised by defense or witness during direct examination

FORMULATING QUESTIONS

- Lawyer is the **storyteller** (witness should only be storyteller during direct examination)
- Maintain control of story as told by witness
 - Ask questions you already know the answer to
- Ask **leading questions** (permitted during cross-examination)
 - Suggests answer within the question
 - Limit witness to “yes” or “no” answers and prevent witness from further explanation that contradicts prosecutor’s story
- Use **simple language** and **focus** on one fact per question

FORMULATING QUESTIONS: EXAMPLE

- Prosecutor: You are a factory supervisor?
- Witness: Yes.
- Prosecutor: You have worked as a supervisor for 15 years?
- Witness: Yes.
- Prosecutor: And you have worked as a supervisor for XYZ Corp for 10 years?
- Witness: Yes.
- Prosecutor: And you start work at 9:00am every day?
- Witness: Yes.

TECHNIQUES FOR MANAGING DIFFICULT WITNESSES

Difficult Witnesses	Tips
Evasive witness	<ul style="list-style-type: none">• Repeat question until answered• Reword question• Refer to evasiveness in closing arguments
Argumentative witness	<ul style="list-style-type: none">• Ask only yes/no questions• Move quickly to next question• Do not argue with witness
Talkative witness	<ul style="list-style-type: none">• Cut witness off by asking next question• Ask witness to answer with only a yes/no
Dishonest witness	<ul style="list-style-type: none">• Ask for more details about the point in question• Repeat question later in cross-examination

TECHNIQUES FOR MANAGING DIFFICULT WITNESSES (CONT.)

- Do not become **argumentative** with witnesses
- Maintain **control** of conversation
- **Close** cross-examination as soon as you have the information you want

EXERCISE 4.4.1: OPEN AND CLOSED QUESTIONS

OBJECTIVE:

- To practice asking open-ended and closed questions in order to improve questioning styles for direct examination and cross-examination, respectively.



KEY MESSAGES

- Cross-examine witness only if there is an advantage (e.g., discrediting witness, obtaining favorable evidence)
- Lawyer is storyteller
- Ask leading questions



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LESSON 4.4: EXPERT WITNESSES



OBJECTIVE

- To learn skills to effectively use expert witnesses in a child labor, forced labor, or human trafficking prosecution.

WHAT DOES AN EXPERT WITNESS DO?

- Gives opinion based on experience, knowledge, and expertise in their field
- Provides **independent, impartial, unbiased evidence** to court
- Assists court in understanding evidence or determining fact in issue

TYPES OF EXPERT WITNESSES

- Experience experts
 - Testimony based on *training, personal observation, and experience*
- Scientific experts
 - Testimony based on *scientific tests and methods*

EXAMPLES OF EXPERT WITNESSES

- **Forensic scientists** – whether a crime has occurred, suspect's connection to the crime
 - DNA and fingerprint analysis
 - Ballistics
 - Drug testing
- **Forensic accountants** – financial accounts, records, fraud
- **Medical professionals** – nature and extent of injuries, illnesses, cause of death

LOCAL LAW AND EXPERT WITNESSES

- Local law governs admissibility of expert testimony
- Likely requires that expert's qualifications be proven and satisfied to the Court before testimony is accepted

HOW TO USE EXPERTS EFFECTIVELY

- Speak with expert **early** on to clarify evidence and explain facts
 - Provide documents and other evidence for a complete analysis
 - Experts may be able to advise on other evidence lawyer should seek
 - Expert opinions can inform charging decisions or plea negotiations
 - Do **not** wait until trial to speak with your expert

HOW TO USE EXPERTS EFFECTIVELY (CONT.)

- Research expert witnesses
 - Know their **background** (education and work experience) and standing among colleagues
 - Is your expert's opinion **consistent** with the majority of experts?
 - Anything in your expert's **past** that reduces their credibility?

HOW TO USE EXPERTS EFFECTIVELY (CONT.)

- In some situations, lawyer can **choose** their expert witness
 - Be mindful that **not every expert** is effective
- Experts are more persuasive if they are:
 - Knowledgeable
 - Impartial
 - Dynamic
 - Confident
 - Well prepared

HOW TO USE EXPERTS EFFECTIVELY (CONT.)

- Listen and engage - do not have expert testify simply because it is required
 - Be flexible with case theory and listen to critiques and warnings – experts are impartial
 - Any flaw or weakness in expert testimony is argument for opposing side – earlier the exposure of weaknesses, the better
- Do **not** expect expert to fit into your case theory
- Do **not** cause expert to believe they are working for you

EXPERT'S TESTIMONY: TIPS FOR EXPERTS

- Be **brief**; no long narratives
- Use **simple language**; avoid technical and shorthand terms
- Use visual aids
- Use examples and analogies
- Speak as **equals**, not as someone with superior knowledge

Lawyer may practice with experts during case preparation to increase effectiveness of expert testimony

EXPERT'S TESTIMONY: DIRECT EXAMINATION

1. Introduction, credentials and qualifications
 - Years of study and relevant degrees
 - Years of experience with relevant matters
2. Expert's opinions
3. Process for forming the opinions
 - Analysis, test results, etc.
4. Bases for opinions
 - Explain and support conclusions

EXPERT'S TESTIMONY: CROSS-EXAMINATION

■ Expert's Qualifications

- Has the expert attained the highest degree in that field?
- How much hands-on experience do they have?
- Is their expertise in a different area than the one involved in the trial?

■ Bias and Interest

- Does the expert widely advertise her services?
- How much money does he make from testifying?
- Do they primarily testify for plaintiffs, defendants, or particular lawyer or law firm?

EXPERT'S TESTIMONY: CROSS-EXAMINATION (CONT.)

- Process Conducted
 - Did the expert's process match industry standards?
 - Were any mistakes made throughout the process?
- Data Relied On
 - Accuracy of information or sources given
 - Assumptions made to reach the conclusion

EXPERT'S TESTIMONY: CROSS-EXAMINATION (CONT.)

- What the Expert Did Not Do
 - Identify all the procedures and tests that can be done
 - Show some were never done
- Prior Inconsistent Statements
 - Commit the expert to her testimony
 - Credit the impeaching source
 - Confront the expert with the prior statement

KEY MESSAGES

- Experts can be powerful witnesses during child labor, forced labor, and human trafficking prosecutions
- Expert witnesses provide independent, impartial, and unbiased evidence
- Research, speak early with, listen to, and engage with expert witness
- Do not expect expert to fit into your case theory or cause them to believe they work for you
- You can discredit opposing side's expert witness during cross-examination



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LESSON 4.4: IMPEACHMENT



OBJECTIVE

- To learn how to use impeachment to ensure successful prosecution of child labor, forced labor, and human trafficking cases.

WHAT IS IMPEACHMENT?

- Process of **discrediting** a witness
- Most often occurs when opposing counsel asks questions during cross-examination
 - Elicit facts from witness that **discredit** or **expose inconsistencies** in witness' testimony
- Cause judge, magistrate, or jury to question witness' credibility and testimony

EFFECTIVE IMPEACHMENT

- Depends on lawyers' identification of witness to be impeached
- Before and during trial, try to determine which witnesses would be most helpful to discredit
 - I.e., which witness' testimony is most damaging to their case
- Pay attention to all contradictory facts and statements offered by defense
 - E.g., track any statements made during witness' testimony that are inconsistent with prior statements

PRIOR INCONSISTENT STATEMENTS AND LOCAL LAW

CONTRADICTION	OMISSION
<p>a. In court: the car was green</p> <p>b. In earlier statement: the car was red</p>	<p>a. In court: the car was green <i>and</i> had a flag</p> <p>b. In earlier statement: the car was green</p>

Local law may contain specific requirements for impeaching witnesses' prior statements

- Opportunities to impeach witnesses may be fleeting at trial
- Study these requirements and be prepared to seize opportunities

EXTRINSIC EVIDENCE

- New evidence not yet properly before the court
- Local laws have limitations as to when and what kind of extrinsic evidence can be used for impeachment
- Extrinsic evidence on a witness' credibility can distract court or jurors from current issue in dispute
- May lead to mini-trial of the witness rather than focusing on current legal proceeding against defendant
 - Likely excluded by local laws

ADDITIONAL CONSIDERATIONS

- Think carefully about **order** of questions and ensure questions are clear
- Consider which kinds of prior statements hold **most weight** and are **most valuable** to use during impeachment
 - Prior testimony under oath and written statements signed by witness
- Use **exact quotes** rather than paraphrasing prior inconsistent statements
- If they exist, have **source documents** accessible as backup

THREE C'S OF EFFECTIVE IMPEACHMENT

1. Commit
2. Credit
3. Confront

THREE C'S: COMMIT

- I. Make the witness **COMMIT** to the statement
 - Repeat and recommit the witness to statement they made in court
 - “You told us here in court that the car was green?”
 - Or ask question based on the earlier statement that you believe is correct
 - “The car was actually red, wasn't it?”

THREE C'S: CREDIT

2. CREDIT the circumstances

- Attempt to give as much credibility and weight as possible to prior statement
- Explain the circumstances surrounding the earlier, original statement: date, place, time, etc.
- Get the witness to admit to making earlier statement and that the witness understood the circumstances:
 - Identify statement, signature, etc.
 - Language that says the statement is truthful

THREE C'S: CREDIT (CONT.)

- For prior inconsistency:
 - Importance
 - Duty
 - Proximity in time
- For prior omission:
 - Opportunity
 - Duty
 - Need to be complete

THREE C'S: CONFRONT

3. **CONFRONT** the witness with the prior inconsistent statement
 - Confront the witness with the prior inconsistent statement
 - If in writing, identify the text with the prior statement and read verbatim
 - Do not give the witness a way out of the statement
 - Confront, then **STOP. DO NOT ASK** witness to explain the contradiction or omission.

KEY MESSAGES

- Be strategic when choosing which witnesses to impeach
- Impeaching a witness by prior inconsistent statements—either a contradiction or an omission—is a common and effective way to cast doubt on the witness' credibility
- Utilize the three C's when impeaching a witness: make the witness commit to their statement, credit the circumstances, and confront



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LESSON 4.4: CLOSING ARGUMENTS



OBJECTIVE

- To learn skills to conduct an effective closing argument and ensure successful prosecutions of child labor, forced labor, and human trafficking cases.

PURPOSE

- Judge, magistrate, and/or jury needs to feel that verdict is factually, legally, and morally correct
- **Last opportunity** to address factfinder and convince them to rule in your favor

OPENING STATEMENT VS. CLOSING ARGUMENTS

- In opening statement, lawyers are restricted to stating facts
 - e.g. *“Witness [X] will testify that [Event] occurred”*
- During closing arguments, lawyers can argue **merits of case**
 - e.g. *“As we know from Witness [X]’s testimony, [Event] occurred and this establishes who should be held responsible in this case.”*

ORGANIZING THE CLOSING ARGUMENT: THEME

- Every closing argument should have a **theme**
 - Stated at beginning of closing and referred to throughout
 - Link back to theme presented during opening statement to provide **continuity**
 - e.g. “*I promised to prove [x], [y], and [z] and I did...*”

ORGANIZING THE CLOSING ARGUMENT: OUTLINE AND TRANSITIONS

- Provide **outline** or **roadmap** for argument
- Cover these points and review outline again towards end of argument
- Example
 - “I am going to make three points why the Accused should be found guilty.”
 - Point 1, Point 2, Point 3
 - “I have presented to you three reasons why the Accused should be found guilty.”
- Use **headlines** and **transitions**

ORGANIZING THE CLOSING ARGUMENT: POSSIBILITIES

- Chronologically by witness
- Chronologically by events
- By charge
- By topic

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION

I. Use the best facts and arguments

- Discuss the facts that support each element
- Include logical inferences
- Use all relevant witness testimony, including opposing party witness testimony
- Accept what the opposing party concedes
- Argue credibly
- Tie to your theme

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION (CONT.)

2. Address the weaknesses in your case

- Anticipate and acknowledge weaknesses and bad facts
- Anticipate and raise questions about the other side's argument that the court should consider

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION (CONT.)

3. Use exhibits effectively

- Choose only the most persuasive exhibits
- Make them easy to read – project on a screen if possible
- Practice how you will handle exhibits and where you will store them

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION (CONT.)

4. **Know your audience**

- Use visual aids
- Avoid repetition and rhetorical questions
- Use simple language
- Be professional and courteous
- Talk, don't read, to your audience
- Voice level, tone, pace

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION (CONT.)

4. Know your audience

- DO NOT:
 - Place fact finder in litigant's shoes
 - Argue without strong conviction or connection
 - Attack opposing counsel or ridicule witnesses
 - Argue outside the record
 - Incorrectly state the facts or the law
 - Vouch for a witness personally or note personal belief in merits of the case

ORGANIZING THE CLOSING ARGUMENT: PRESENTATION (CONT.)

5. Start and end strong

Remember, closing arguments are a prosecutor's **last chance** to convince judge, magistrate, or jury that defendant should be found guilty.

EXERCISE 4.4.2: OPENING AND CLOSING STATEMENTS

OBJECTIVE:

- To practice conducting opening and closing statements for trial using commonly known fairy tales or stories.

KEY MESSAGES

- Opening statements and closing arguments are key aspects of trial practice since they are the **first and last things** the fact finder will hear.
- Plan both the opening statement and closing argument **before** the trial even starts; this will ensure prosecutors are prepared and the prosecutor's opening and closing are **parallel**.
- Ensure that both openings and closings have **a clear theme** and are **logically organized**.
- **Practice, practice, practice!**



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LESSON 4.5: EVIDENCE



OBJECTIVES

- Learn:
 - About the different types of evidence used in child labor, forced labor, and human trafficking cases
 - How to introduce such evidence at trial

OVERVIEW OF LESSON 4.5

- Introduction to Evidence
- Types of Evidence Used in Child Labor, Forced Labor, and Human Trafficking Cases
- How to Introduce Evidence at Trial



INTRODUCTION TO EVIDENCE



DEFINITION OF EVIDENCE

- Evidence is any information or object presented by either party in a lawsuit to its support case
 - Forensic evidence (fingerprints, blood stains, fibers, DNA, etc.)
 - Physical evidence (weapons, objects found at a crime scene, etc.)
 - Testimonial evidence (depositions, lay or expert testimonies in court, any permissible hearsay evidence, etc.)
 - Electronic evidence (text messages, social media posts, e-mails, etc.)
 - Illustrative evidence (photos, videos, graphs, charts, maps, etc.)
 - Documentary evidence (letters, invoices, records, etc.)

INADMISSIBLE EVIDENCE

- Not all evidence is admissible to a court proceeding
 - Inadmissible evidence will not be considered
- Includes evidence that is:
 - Irrelevant
 - Highly prejudicial to a party
 - So speculative or tainted that it only has a minimal probative value



TYPES OF EVIDENCE USED IN CHILD LABOR, FORCED LABOR, AND HUMAN TRAFFICKING CASES



DEFINITION OF CHILD LABOR

ILO defines child labor as “work that:

1. Is mentally, physically, socially, or morally dangerous and harmful to children; OR
2. Interferes with their schooling by:
 - i. Depriving them of the opportunity to attend school
 - ii. Obliging them to leave school prematurely; OR
 - iii. Requiring them to attempt to combine school attendance with excessively long and heavy work”

“Work” depends on child’s age, type and hours of work performed, conditions of work, and objectives pursued by individual countries

TYPES OF EVIDENCE IN CHILD LABOR CASES

- Prosecutors should try to gather evidence in the following categories:
 - Evidence of a child's age
 - Evidence of a child's type and hours of work, and conditions of work
 - Evidence of a negative impact on the child's education
 - Evidence of hazardous work
- These categories (and the following examples) are not exhaustive
- Use local knowledge to expand and modify this list
- Be creative in gathering evidence based on ILO definition of child labor and country's legislation

I. EVIDENCE OF A CHILD'S AGE

- Birth certificate, ID, passport
- School certificate
- Certificate signed by a physician (medical evaluation of the child's age)
- Sworn statement of the parents
- Dated pictures or other documents

II. EVIDENCE OF A CHILD'S TYPE AND HOURS OF WORK AND CONDITIONS OF WORK

- Employment contract
- Paycheck
- Documents containing work schedules, time sheets, assigned tasks, or reprimands from employer
- Internet sites of recruiters used for recruiting children
- Witness statements
 - Statements of police officers, co-workers, or friends

III. EVIDENCE OF A NEGATIVE IMPACT ON THE CHILD'S EDUCATION

- Documents attesting absence from school
- Documents showing the child works during school hours or abnormally long hours before or after school
 - Time cards
 - Attendance sheets
- Witness statements
 - Statements of teachers, classmates, or neighbors

IV. EVIDENCE OF HAZARDOUS WORK

- Underground, underwater, at dangerous heights, or in confined spaces
- Employment contracts, witness statements, emails, or other forms of communication and work schedules may demonstrate that work involves:
 - Handling dangerous machinery, equipment, and tools
 - Manual handling or transport of heavy loads
 - Hazardous substances or processes, high temperatures, noise levels or vibrations
 - Difficult working conditions (e.g. long hours, night shifts, unreasonable confinement)

DEFINITION OF FORCED LABOR

- “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”
- Does not include:
 - Compulsory military service
 - Normal civic obligations of citizens
 - Service exacted in cases of public emergency
 - Minor communal services

TYPES OF EVIDENCE USED IN FORCED LABOR CASES

- Prosecutors should aim to collect evidence on the following elements:
 1. “all work or service” – evidence that work or service was provided
 2. “menace of any penalty” – evidence of a threat such as criminal sanctions or various forms of coercion (violence, retention of identity documents, confinement, non-payment of wages)
 3. “voluntarily” – evidence of valid consent (or lack thereof) by person
- These elements are linked, e.g., adult employee’s consent may be invalid because consent was obtained by deception or coercion

EVIDENCE OF RECRUITMENT

- Physical job posters, pamphlets, leaflets, etc.
- Electronic advertisements
 - Social media posts or messages, instant messages on mobile applications, etc.
- Text messages of recruiting between trafficker and victim

EVIDENCE OF LACK OF CONSENT

- Discrepancy between the initial recruiting materials/promises and the actual work conditions
- Contract substitution or lack of employment contract
- Withholding of wages or no payment of wages
- Threats to withhold wages or of violence
- Debt bondage
 - Excessive fees for recruitment, transportation, food, accommodation, working tools
- Retention of identity documents

EVIDENCE OF POOR WORKING CONDITIONS

- Wage slips and other documentation showing violation of minimum wage laws
- Lack of health and safety equipment
- Evidence of people sleeping in places of work
- Lack of rest and vacations (long working hours every day, etc.)
- Harsh penalties for non-conforming job performance
- Retention of identity documents

DEFINITION OF HUMAN TRAFFICKING

Palermo Protocol definition:

“the recruitment, transportation, transfer, harboring 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**.”

TYPES OF EVIDENCE USED IN HUMAN TRAFFICKING CASES

- Prosecutor must prove three elements:
 1. The **act**
 2. The **means**
 3. The **purpose**
- For trafficking of **children**, prosecutors only need to prove **act** and **purpose**
- **Victim or witness testimony** can be used as evidence to prove **some** or **all** of elements of trafficking in persons

I. EVIDENCE OF ACT

- Recruitment,
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim
- Transportation,
 - Travel itinerary
 - Flight tickets, boarding pass stubs, etc.
 - Payment of travel details, receipts, invoices, etc.

I. EVIDENCE OF ACT (CONT.)

- Harboring
 - Food and lodging provided
 - One-way locks on doors
 - Video cameras or monitoring devices
 - Forfeiture of passports and other travel documents
 - Security guards closely monitoring the premise
 - Exclusive transportation vehicles (police report, statements by people who procure or operate such vehicles)
- Receipt
 - Wire transfers, ledgers, or bank statements linking recruiters and traffickers
 - Legal documents showing change in guardianship

II. EVIDENCE OF MEANS

- Threat or use of force or other forms of coercion
 - Injuries
 - Text messages, letters, documenting threats
- Abduction
 - Injuries or evidence of use of restraints
 - Weapons or restraints used to commit abduction
- Fraud
 - Fake labor contract
 - False advertising

II. EVIDENCE OF MEANS (CONT.)

- Deception
 - False promises
 - Documented lies
- The abuse of power or of a position of vulnerability
 - Documentation showing change in guardianship
- Giving or receiving of payments or benefits to achieve the consent of a person having control over another person
 - Bank statements, wire transfers, other financial documentation

II. EVIDENCE OF MEANS (CONT.)

OR

- Evidence of the victim's age to establish that the victim is a child so that there is no need to show further evidence of means
 - Birth certificate
 - Passport or other ID card
 - School records

III. EVIDENCE OF PURPOSE OF EXPLOITATION

- The prostitution of others or other forms of sexual exploitation
 - Evidence of sexual intercourse or contact (including traces of semen, hair, or blood on victims, on bedding, etc.)
 - Unwanted/unplanned pregnancy
 - Evidence that identifies related injuries, illness, or disease
 - Evidence that establishes the age of a victim (many jurisdictions have harsher punishments if the victim is under certain age)
 - Documents or electronic records that show prices for sexual services

III. EVIDENCE OF PURPOSE OF EXPLOITATION (CONT.)

- Websites used for recruiting victims or selling sexual services
- Sex toys, sexual implements, lubricants, sex work clothing, etc.—these may be evidence themselves, but may also have traces of biological evidence that could link them to individuals
- Multiple keys or access instruments to hotels, brothers, or areas known for prostitution
- Photographs or videos
- Marks/tattoos on body

III. EVIDENCE OF PURPOSE OF EXPLOITATION (CONT.)

- Evidence of forced labor or services, slavery or practices similar to slavery, or servitude
 - Evidence of violence (injuries) or restraint
 - Evidence that links a victim's injuries to a particular type of equipment
 - Evidence that links piece of equipment to an individual through fingerprints, hair, etc.
 - Employment contracts (or lack thereof)
 - Evidence of people sleeping in what should be places of work exclusively

III. EVIDENCE OF PURPOSE OF EXPLOITATION (CONT.)

- Wage slips and other documentation showing a violation of minimum wage laws
- Lack of health and safety equipment
- Hard labor, long hours
- Evidence of removal of human organs
 - Injuries and scars of the victim
 - Medication taken by the victim



HOW TO INTRODUCE EVIDENCE AT TRIAL



OVERVIEW

- Relevant evidence not obtained through illegal procedures or means is admissible
 - Unless any exclusionary evidentiary rule applies
 - Rules that exclude certain types of out-of-court statements
 - Evidence is **relevant** when it tends to make a fact corresponding to element of offense more or less probable than what would be without evidence

OVERVIEW (CONT.)

- Judge considers how:
 - Evidence is obtained
 - Whether evidence is relevant, reliable, and credible
 - Whether any exclusionary evidentiary rules will nonetheless exclude the evidence
- To prove a fact with evidence, evidence needs to be **properly identified** and **traceable** to the relevant fact
- Evidence may face **less or more scrutiny** from judge as to its integrity depending on its nature

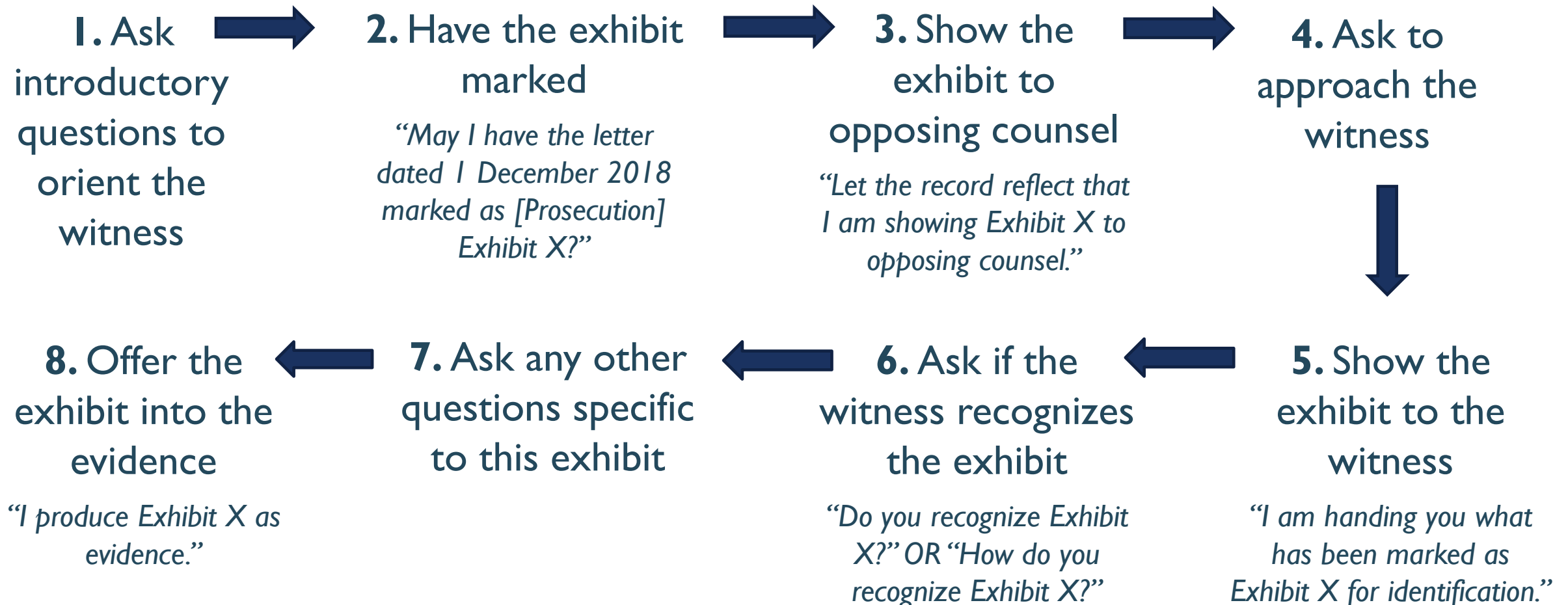
OVERVIEW (CONT.)

- Two types of evidence introduced at trial:
 1. Personal observation statements introduced through testimony
 2. Exhibits, such as documents, photos, electronic exhibits, objects, substances, samples, etc.

LAYING THE FOUNDATION

- When introducing an exhibit into evidence at trial, the prosecution must first properly “lay the foundation” for such evidence.
 - Identify, authenticate, and connect exhibit with an issue in the trial
 - Often established by witness who can testify to identity and authenticity of exhibit

LAYING THE FOUNDATION: STEPS



LAYING THE FOUNDATION (CONT.)

- Once admitted, exhibits can be used in courtroom and shown to any witness to:
 - **Corroborate** or **impeach** testimony
 - **Assist** witness in explaining testimony
 - **Refresh memory**

CHAIN OF CUSTODY

- Process used for collecting, documenting, and protecting evidence
- Common errors in maintaining a chain of custody include:
 - Not labeling evidence or missing important information from labels
 - Evidence being handled without gloves being worn
 - Evidence not being bagged
 - Evidence being mishandled, tampered, or damaged

CHAIN OF CUSTODY (CONT.)

- Determine:
 - Whether there is **any defect** in chain of custody or **time** to gather more evidence to overcome defect
 - If some evidence cannot be used due to defective chain of custody
 - Whether other evidence is capable of proving all elements of offense
- Be prepared to:
 - Present **good chain of custody**
 - Answer judge's and opposing counsel's questions



TESTIMONIAL EVIDENCE



CREDIBILITY OF THE WITNESS

- Witnesses should testify regarding time, place, and circumstances of personal observation
- **Speculation** in testimony not acceptable
 - Will be subjected to challenge for credibility
- Witness credibility can be challenged on following grounds:
 - **Competency** (capacity to understand)
 - **Sensory limits** (capacity to observe or hear)
 - **Memory** (capacity to remember)
 - **Communication** (capacity to respond to questions)
 - **Bias** (capacity to be objective and free of conflicts of interest)

CREDIBILITY OF THE WITNESS (CONT.)

- Prosecutors can use these grounds to:
 - Assess **strength** and **weakness** of witness's testimony
 - Determine whether to let them testify at trial
 - Prepare witness for trial testimony
 - Prepare appropriate response to **likely attack** of witness's credibility by opposing party

CREDIBILITY OF THE WITNESS (CONT.)

- Benefits to this process
 - **Enhance** prosecution's performance at trial
 - Help prosecutors **weed out weak or unreliable testimony**
 - Gather more evidence
 - Make **informed prosecutorial decisions** so that limited governmental resources are used in a way more likely to result in **successful prosecution**

VOIR DIRE OF CHILD WITNESS AND CORROBORATION OF A CHILD WITNESS: OVERVIEW

- Children may not understand meaning of telling truth in court under oath
- ***Voir dire*** is used in some jurisdictions to determine if child is of a tender age (e.g. 14 years or younger):
 1. Understands the nature of an oath
 2. Possesses sufficient intelligence
 3. Understands the duty to tell the truth

VOIR DIRE OF CHILD WITNESS AND CORROBORATION OF A CHILD WITNESS: OVERVIEW (CONT.)

- If child passes examination, court will receive child's testimony
 - If child fails *voir dire* exam or if judge fails to conduct exam properly, court may still receive child's testimony as **unsworn testimony** as long as it determines child has **sufficient intelligence** and **understands duty to tell the truth**
 - **Additional evidence** may be required to corroborate child's testimony, such as another competent witness's testimony
 - If child's testimony cannot be corroborated, court **may exclude** child's testimony

VOIR DIRE OF CHILD WITNESS AND CORROBORATION OF A CHILD WITNESS: EXCEPTIONS

- Not necessary in cases:
 - Involving sexual offense (some jurisdictions)
 - Where only concrete evidence is testimony of child of tender age
- Court may assess credibility of child's testimony without use of *voir dire*
 - If court considers testimony to be truthful, it may convict the accused

VOIR DIRE OF CHILD WITNESS AND CORROBORATION OF A CHILD WITNESS: OTHER CONSIDERATIONS

- Different countries have different rules on assessing credibility of child witness
 - Prosecutors should familiarize their countries' specific rules
 - If prosecution's case somewhat heavily relies on child's testimony, prosecutor should be prepared to **establish credibility** of child's testimony in court
 - Preferably with some credible corroborating evidence



ELECTRONIC AND FORENSIC EVIDENCE



ADMISSION OF ELECTRONIC EVIDENCE

- **Increasingly important** in child labor, forced labor, and human trafficking cases
 - More and more perpetrators use **online platforms** to recruit and control victims
- Examples
 - Social media posts and messages
 - Text messages
 - Instant messages on mobile applications
 - Web browsing and online searching histories
 - Login histories
 - Account information

ADMISSION OF ELECTRONIC EVIDENCE (CONT.)

- Depending on country's specific laws, authentication done through:
 - Certificate signed by responsible person
 - Witness's personal knowledge of the electronic evidence
 - Circumstantial evidence

ADMISSION OF ELECTRONIC EVIDENCE (CONT.)

- Electronic output may be considered a document for admissibility purposes
 - Must have been produced during **regular use**
 - Must be of a type expected in **ordinary use**
 - Computer/device generating output must have been **operating properly**
 - E.g. bank records admissible if they were made in usual and ordinary course of business, and book is in custody of the bank

ADMISSION OF ELECTRONIC EVIDENCE (CONT.)

- Safest way to authenticate an electronic record is via a **certificate**
 - Identify the electronic record and manner of production
 - Provide details on device that produced electronic record (make, brand, type, serial number)
 - Be signed by responsible person

ADMISSION OF ELECTRONIC EVIDENCE: AUTHENTICITY

- Witness with **personal knowledge** of electronic evidence can **verify** authenticity of evidence
 - Person who wrote the message testifies to its authenticity
 - Person who saw the message being authored or received can testify about identity of author or recipient
- **Independent witnesses** required to testify on other matters
 - Verifying evidence was seized properly
 - **Videotaping** seizure of electronic evidence is a best practice

ADMISSION OF ELECTRONIC EVIDENCE: AUTHENTICITY (CONT.)

- **Circumstantial evidence** can also be used to verify authenticity
 - Unique ties to purported author
 - Known email address or phone number
 - Use of electronic signature, username, nickname, business logo, etc.
 - Name as stored on recipient's phone
 - Use of the same email address or phone number on prior occasions

ADMISSION OF ELECTRONIC EVIDENCE: AUTHENTICITY (CONT.)

- **Unique facts** used in messages can verify sender's identity
 - Facts only a small number of people would know
 - Containing personal or contact information of family members
- Witness could testify that author told them to expect message before it was sent or that sender acted in accordance with and responded to the message
- Linking activity to **IP address** associated with user

ADMISSION OF ELECTRONIC EVIDENCE: WEIGHT

Even if admitted into evidence, *weight* given to electronic evidence is guided by:

- Reliability of the manner in which the evidence was generated, stored, or communicated
- Reliability of the manner in which the evidence was maintained
- Manner in which the originator of the evidence was identified
- Any other relevant factor

ADMISSION OF ELECTRONIC EVIDENCE: WEIGHT (CONT.)

Expert witnesses may need to testify about workings or contents of device, hard drive, cloud, etc. to explain what was found and how the device or account functions

- **Increases reliability** and **weight** of electronic evidence in eyes of factfinder

ADMISSION OF FORENSIC EVIDENCE

- Typically, forensic evidence has same rules as physical evidence
 - Must be **related** to fact or issue in the case
 - Must have been **properly obtained** to be admissible
- Lawyers use **expert witnesses**, not lay witnesses, for forensic evidence
 - Either person who conducted analysis or expert with similar qualifications
 - If not sufficiently qualified, evidence could be challenged in court

ADMISSION OF FORENSIC EVIDENCE (CONT.)

- Expert should:
 - Analyze evidence using **proper procedure**
 - Be prepared to detail that procedure during testimony

EXERCISE 4.5.2: ADMITTING EVIDENCE DRILL

OBJECTIVE:

- To practice the process of laying the foundation for introducing an exhibit into evidence at trial.

KEY MESSAGES

- Evidence can be used to prove different elements of a crime.
- Multiple pieces are needed to prove the different elements of crimes and different charges.
- Before a judge will admit evidence into the record, the lawyer must lay the foundation for that piece of evidence.
- “Laying the foundation” is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial.



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LESSON 4.6: MUTUAL LEGAL ASSISTANCE (MLA)



OBJECTIVE

- Learn what MLA is and how to request MLA

WHAT IS MLA?

- Process by which States seek and provide assistance to other States in servicing of judicial documents and gathering evidence
- Child labor, forced labor, and human trafficking can be transnational
 - Use MLA to gather info prosecutors want and need from foreign states

TREATIES

- Bilateral or multilateral MLA treaties between or among states
- If no such treaties exist, United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (**Organized Crime Convention**) provide framework
 - Requires its States parties to provide each other MLA to fullest extent possible
- Research whether there is MLA treaty between your state and foreign state
 - If treaty exists, follow procedures in treaty
 - If no such treaty, follow Organized Crime Convention

ARTICLE 18 OF ORGANIZED CRIME CONVENTION

Examples of purposes for which MLA can be requested

- Taking evidence or statements
- Effecting service of judicial documents
- Executing searches and seizures
- Examining objects and sites
- Providing information, evidence, expert evaluations, documents, and records
- Identifying or tracing proceeds of crime, property, or instrumentalities for evidence and their seizure for the purpose of confiscation
- Facilitating the appearance of witnesses
- Any other type of assistance not barred by domestic law

ARTICLE 18 OF ORGANIZED CRIME CONVENTION (CONT.)

- Request for MLA shall contain:
 - a) Identity of the authority making the request
 - b) Subject matter and nature of the investigation, prosecution, or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution, or judicial proceeding
 - c) Summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents
 - d) Description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed
 - e) Where possible, the identity, location, and nationality of any person concerned
 - f) Purpose for which the evidence, information, or action is sought

OTHER CONSIDERATIONS

- MLA treaties increasingly require States parties designate **central authority** to receive requests
 - Generally Ministry of Justice
- If no MLA treaty
 - Recommended that prosecutors designate central authority in MLA requests

OTHER CONSIDERATIONS (CONT.)

- United Nations Office of Drugs and Crime (UNODC) has **computer software** that helps write MLA requests that conform with requirements of Organized Crime Convention
- Can be linked to UNODC Directories of Competent National Authorities (CNA) to retrieve CNA contact info for MLA requests

KEY MESSAGES

- Because the crimes of child labor, forced labor, and human trafficking can be transnational, national borders be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims located in foreign states.
- Prosecutors should consider using MLA to gather the information they want and need from foreign states.



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LESSON 5.1: SENTENCING GUIDELINES



OBJECTIVES

- Learn about sentencing guidelines and challenges
- Practice child labor, forced labor, and human trafficking sentencing scenarios

OVERVIEW OF LESSON 5.1

- Types of Sentencing
- Importance of Sentencing Guidelines
- Factors in Sentencing
- Sentencing Scenarios

TYPES OF SENTENCING

- Discretionary sentencing
 - Individualized, discretionary approach
 - Problem of sentencing disparities
- Mandatory sentencing
 - May reduce sentencing disparities
 - Increase overcrowding in prisons
 - Hinders the appropriate discretion of courts

WHY ARE SENTENCING GUIDELINES IMPORTANT?

- Guide the process of determining sentences
- Structure the use of discretion to reduce disparities
- Provide a framework for exercising discretion
- Link the sentencing process to the overarching objectives of sentencing

WHY ARE SENTENCING GUIDELINES IMPORTANT?

- Align the sentencing process with the country's Constitution
- Address the need to reduce the use of custodial sentences and promote the use of non-custodial sentences
- May encourage the participation of victims in the sentencing process

WHAT DO SENTENCING PROCEDURES LOOK LIKE?

- Sentencing procedures can vary by jurisdiction
- Generally require a judge to issue a sentence after considering a series of special factors
- Some jurisdiction require a pre-sentence report

FACTORS TO BE CONSIDERED WHEN DETERMINING THE SENTENCE

- Circumstances under which the offense was committed
- Offender's age
- Offender's health and means of livelihood
- Offender's attitude and remorsefulness
- Offender's likelihood of reform
- Offender's standing and role in the community

FACTORS TO BE CONSIDERED WHEN DETERMINING THE SENTENCE (CONT.)

- Impact of the offense on the child labor, forced labor, or human trafficking victim
- Aggravating and mitigating factors
- Concurrent or consecutive sentencing
- Restitution
- Other relevant information

EXERCISE 5.1.2: SENTENCING SCENARIOS



OBJECTIVE:

- To determine appropriate sentences for child labor, forced labor, and human trafficking offenses

KEY MESSAGES:

- There are a variety of factors to consider when sentencing cases, such as whether the offender is a first-time or repeat offender, the severity of the offense, the offender's remorsefulness, and other factors that will be discussed in the lesson.
- In child labor, forced labor, and human trafficking cases, factors to consider include the impact on the victims, the victims' age, and other factors that will be discussed in the lesson.
- Discretionary sentencing leaves room for judges to consider the facts and circumstances of each individual case. It also means that different judges could evaluate the same case and give different sentences.
- Mandatory penalties and aggravating factors can help make sentences more uniform but may also lead to an increase in incarceration and an inability to respond to the unique circumstances of a case.



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LESSON 5.2: RESTITUTION



OBJECTIVES

- Learn about restitution and how to determine damages.

OVERVIEW OF LESSON 5.3

- Role of Restitution
- Importance of Restitution
- Potential Sources and Avenues of Compensation
- Case Studies

WHAT IS THE ROLE OF RESTITUTION?

- Make recipients whole
- Put victims in the situation they would have been in had they not been subjected to child labor, forced labor, or trafficking
- Compensate victims for their physical, psychological, and financial harm

IMPORTANCE OF RESTITUTION TO VICTIMS

- Can include withheld wages, medical expenses, and damages
- Encourages victims to engage with the justice system if they are far from home and not permitted to work during the trial process
- Provides victims with income
- Assists victims to pay off their debts to a third party

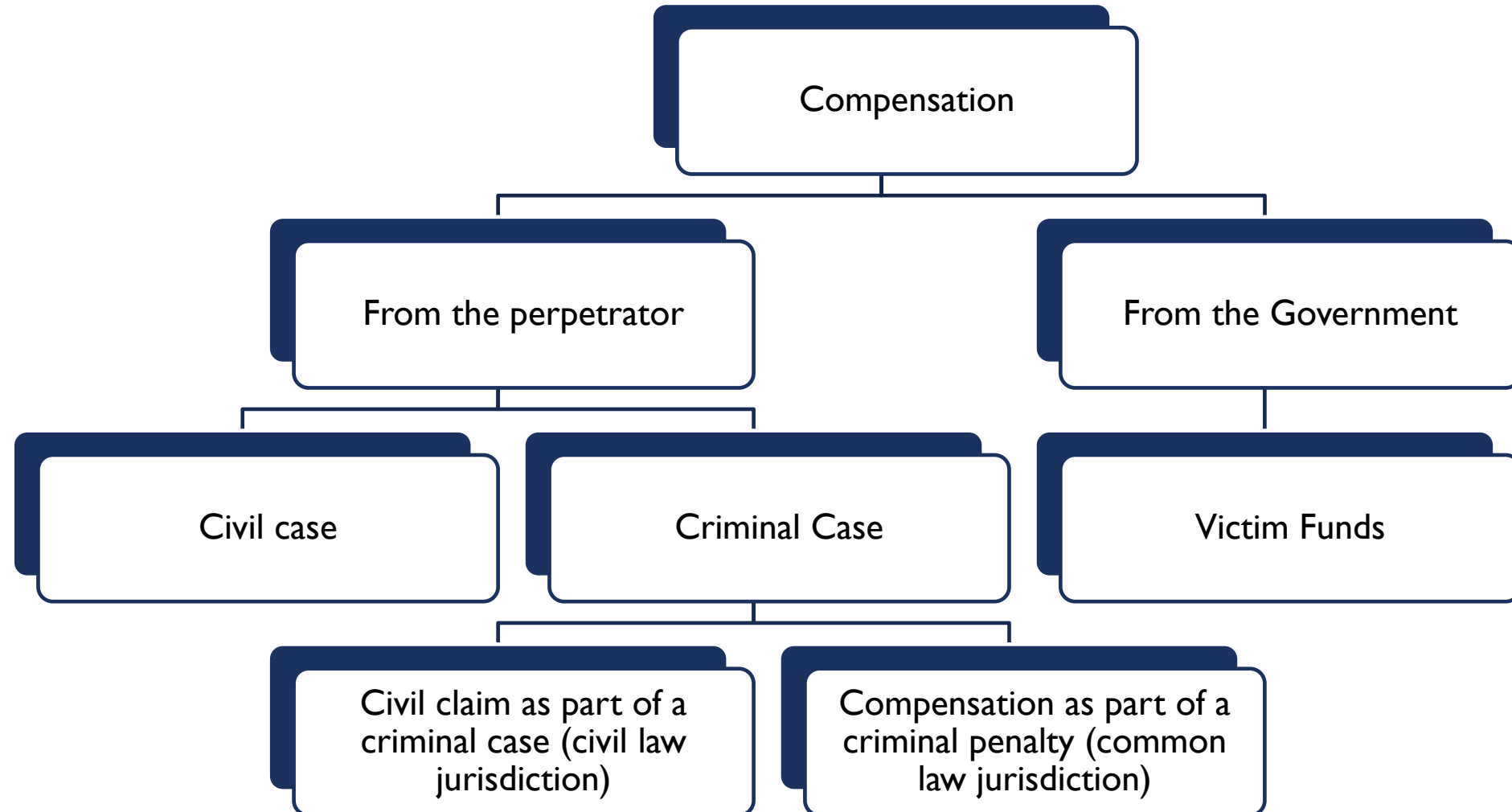
BARRIERS TO ADEQUATE COMPENSATION

- Victims' lack of understanding of the process
- Victims' lack of access to legal assistance
- Victims' lack of time and resources needed to pursue a civil claim

POTENTIAL OPTIONS FOR COMPENSATION

- Allowing victims to sue offenders or others involved in the exploitation in a civil suit, to receive civil damages
- Allowing victims to receive criminal damages paid by offenders
- Imposing requirements that convicted offenders be ordered to pay compensation or restitution
- Creating dedicated funds for victims to claim compensation directly from the government for injuries or damages caused by a criminal offense

POTENTIAL OPTIONS FOR COMPENSATION



CIVIL PROCEDURES

- In many jurisdictions, victims can gain access to compensation, and sometimes damages, through civil cases
- May be able to use administrative proceedings in a Labor Court to collect back pay and unpaid wages
- Victims often have to pay their court fees and are not entitled to an attorney
 - Can make the process expensive and daunting
 - Many victims have a limited understanding of the country's language and/or lack formal education

CRIMINAL PROCEDURES

- Not all countries allow victims to receive compensation or restitution during criminal proceedings
- Some jurisdictions issue offenders a fine paid to a victims' fund
 - Used to provide services for victims and to compensate victims
- Some jurisdictions allow victims to receive damages as a part of the offender's sentence

DAMAGES

- Typically must either be set or approved by a judge
- Determined on a case-by-case basis
- Can cover medical costs, psychological support, and pain and suffering

EXERCISE 5.2.2: RESTITUTION AND THE ETP CASE STUDIES



OBJECTIVE:

- To practice determining restitution for victims.
- Learn about the benefits that restitution could bring to the Enforcement Training Program (ETP) case study victims.

KEY MESSAGES:

- Restitution can come in different forms and through different means. Depending on what is permitted within a jurisdiction, restitution may cover medical costs, unpaid wages, and pain and suffering.
- Restitution can help a victim recover and start a new job and/or reestablish him or herself. Restitution can also reassure victims that they are valued and that what happened to them was wrong.



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LESSON 5.3 – PLEA BARGAINING



OBJECTIVES

- To learn about plea bargaining and its benefits and challenges

OVERVIEW OF LESSON 5.3

- Requirements for a Plea Bargain
- Roles and Responsibilities
- Arguments for Plea Bargaining
- Arguments Against Plea Bargaining

WHAT ARE PLEA BARGAINS?

- Also known as plea negotiations
- As of 2017, 66 countries used some form of plea bargaining
- Defendant pleads **guilty**, often to **lesser crime**, with expectation of **reduced sentence**
- Can help improve case management and reduce time before verdict
- Care should be taken to ensure that there is still access to justice
- Considerations: strength of evidence, accused's criminal history, seriousness of offense



REQUIREMENTS FOR A PLEA BARGAIN



GENERAL REQUIREMENTS

1. **Sufficient admissible evidence** to sustain charges related to the plea
2. Charges **accurately reflect** culpability of the accused
3. Charges give the court **adequate scope** to impose appropriate penalty

In many jurisdictions, there are offenses that cannot use plea bargaining

- Reviewing proposed charges is important first step

NEGOTIATIONS

- **Charge:** Accused will often plead guilty in exchange for a lesser charge
- **Sentence:**
 - Sometimes a reduced sentence can be negotiated
 - Must be approved by the judge
 - Prosecutor can often request but cannot guarantee lesser sentence
- **Facts:** the accused pleads guilty, and certain facts are entered into the record

STANDARDS OF VALIDITY

- Ensure that accused understands agreement and what is gained/lost
- Agreement must:
 - Be written in a language that the defendant understands
 - State in full the terms of the agreement
 - Contain all relevant facts including admissions
 - Be signed by accused, lawyer, victim(s) (if the agreement provides compensation)



ROLES AND RESPONSIBILITIES



PROSECUTORS

- Must respect rights of victims and of accused
 - Can be challenging when accused does not have attorney
 - Make sure accused understands options and can make an informed decision
 - Make sure accused can access due process while being mindful of need for justice for victims (compensation)

PROSECUTORS (CONT.)

- Once plea is accepted, read facts in court
 - Accused will admit or deny facts
 - Never accept plea if facts upon which plea is agreed do not conform to facts of investigation and crime charged

ACCUSED

- May have to forfeit:
 - Proceeds earned from child labor, forced labor, and human trafficking
 - Instrumentalities used to commit crimes, i.e. any property other than real property or any buildings, fixtures, or improvements
- Agreement or court may determine if forfeited assets should be used to compensate victims

ACCUSED (CONT.)

- Court must find that accused is competent and voluntarily agreed to plea agreement
 - Agreement is binding once court accepts it
 - If not voluntary or misrepresented, accused may apply to court to set aside agreement

VICTIMS

- Plea bargain may provide for compensation or restitution to be paid by accused to child labor, forced labor, and human trafficking victims

JUDGES

- In most jurisdictions, judges do not participate in plea negotiations
- Typically responsible for confirming factual basis for plea, determining that agreement was voluntary, and exercising discretion in sentencing
- Inform accused of their rights
 - Plead not guilty,
 - be presumed innocent until proven guilty,
 - remain silent and not testify during proceedings,
 - not to be compelled to give self-incriminating evidence,
 - Full trial,
 - Be represented by counsel of choice or to have legal representative,
 - Examine witnesses called by prosecution,
 - Call witnesses in support of case

JUDGES (CONT.)

- Inform accused that they waive right to:
 - Full trial
 - Appeal, except for extent or legality of sentence
- Inform accused that prosecutor has right to use statements in plea agreement against the accused should they be prosecuted for perjury or false statements



ARGUMENTS FOR PLEA BARGAINING



GENERAL BENEFITS

- Increases judicial economy, benefiting community and public courts
- Removes uncertainty of trial
- Victims do not have to wait long time to hear outcome and receive compensation
 - Do not have to remain in shelters during long trial process
 - Can return to school, work, and communities more quickly

ALLOCATING SCARCE RESOURCES

- Prosecutors do not have to use time and office resources to prepare for and prosecute a case
 - Can instead conduct thorough investigation, relying on work done by police and labor inspectors to build evidence-based argument that leads to plea agreement
- Reduces case backlog and case load for judges, prosecutors, and public defenders
 - Extensive backlogs lead to months or years before case has court date, and trials take long time to complete
 - Reduces amount of time required to bring case to trial and provides opportunity to focus more time and effort on cases that do go to trial

PROVIDING DEFINITIVE RESOLUTION

- Defendants
 - Know the outcome and don't have to spend long time for result
 - Know they'll likely receive reduced sentence
- Prosecutors
 - Know outcome and don't have to worry about presenting case during trial

PROVIDING DEFINITIVE RESOLUTION (CONT.)

- Victims
 - Receive closure by knowing offender was found guilty and sentence was given
 - For foreign victims who wish to be repatriated, it is more likely that decision is reached before victim leaves country



ARGUMENTS AGAINST PLEA BARGAINING



ARGUMENTS AGAINST PLEA BARGAINING

- Too soft on criminals
 - **Undermine** deterrent effect of criminal penalties
- Offer inducements that produce **involuntary/false** guilty pleas
 - Lengthy wait for trial and possibility of severe sentence makes it wise to accept plea with lower fine and/or reduced imprisonment, even if they are innocent
 - Having greater social emphasis on not punishing innocent people can reduce this, as can having additional restrictions for plea bargaining

ARGUMENTS AGAINST PLEA BARGAINING (CONT.)

- Shifts power to prosecutors, leaving judges to do little more than ratify plea deal
- Contrary to constitutional principles, ethics, and offend fair trial rights and guarantees

KEY MESSAGES

- Plea bargains can have benefits such as reducing case backlog, reducing prison sentences, and providing all parties and victims with closure.
- Plea bargains can result in innocent defendants pleading guilty to crimes they did not commit. If plea bargains include jail time, they can lead to an increase in the prison population.
- Regulating plea bargains to reduce case backlogs without negatively impacting the rights of defendants can help alleviate some of these risks.



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LESSON 5.4: JUDICIAL ETHICS



OBJECTIVES

- Learn about the Bangalore Principles and how to apply them
- Put the ethical principles into practice using a series of scenarios

OVERVIEW OF LESSON 5.4

- The Bangalore Principles
- Considerations for Online Activities



THE BANGALORE PRINCIPLES



GENERAL

- UN-affiliated committee drafted Bangalore Principles to provide guidance and establish standards for judges
- Principles
 - Independence
 - Partiality
 - Integrity
 - Propriety
 - Equality
 - Competence
 - Diligence
- UN Social and Economic Council encouraged countries to create judicial ethics codes based on Bangalore Principles

INDEPENDENCE

Judges need to hear and decide cases without being subject to anyone's influence

Security of tenure until the age of retirement.

- a. Allows judges to make decisions based on the law and precedent
 - b. Judges do not have to make politically based decisions to help them be reelected by the public or reappointed by the executive
1. Financial security with the right to a salary and pension
 - a. Should not be subject to the arbitrary change by the government in charge
 2. Institutional independence for administrative matters
 - a. Not dependent on another branch of government or subject to their control or influence, even in day-to-day activities

IMPARTIALITY

- Disqualify judges if they have bias or prejudice
 - Recuse oneself if judge has personal connection to case (friend, family member)
- Needed as **both matter of fact** and as **reasonable perception**
 - Public may believe that there was prejudice even if judge has no personal interest
 - E.g., consider recusal if case involved school that judge's child attended
- Judge may not act under influence of subjective or objective bias
 - Must offer sufficient guarantees to exclude legitimate doubt as to their impartiality

IMPARTIALITY (CONT.)

- Should not have **ex parte** communications or give appearance of having ex parte communications
 - When a party to case talks, writes, or communicates in some other form with judge about issues in case **without** other party's knowledge
- Should not meet alone with party to case, even if meeting is social
 - Gives impression of bias
- Disqualify oneself from matters in which they have conflict of interest
 - E.g., if forced labor case involves company that judge owns stock in
- Best efforts should be made to show that judge can try without bias

INTEGRITY

“Justice must not merely be done but also be seen to be done”

Consider the following factors before making a judgment:

- Whether the act is public or private in nature
- Extent to which the conduct is protected as an individual right
- Degree of discretion that the judge is exercising
- Whether the conduct was specifically harmful or reasonably offensive to others
- Degree of respect or lack of respect to the public
- Degree to which the conduct demonstrates bias, prejudice, or improper influence

PROPRIETY

Judges must act with propriety at all times since they are subject to public scrutiny

- *Live an exemplary life* - demonstrate that judges meet the high standards needed to administer justice
- *Use discretion and caution when socializing*
- *Avoid situations that may cast suspicion on their propriety* - public can lose trust in the fairness of the justice system
- *Recuse oneself from cases involving friends or family* - risk of bias, real or perceived, is too high in these types of cases

PROPRIETY (CONT.)

- *Members of the legal profession should not be permitted to use judge's personal phone or residence to contact clients* - can be perceived as favoring one side in a case and conducting proceedings outside of the court and away from the public
- *Refrain from public controversies and political activities* - can give appearance of bias and limit ability to hear future cases in a way that appears fair
- *Be cautious and exhibit restraint when providing references, character testimony, or in publications*
- *Do not disclose confidential information* - can be traumatizing for victims and put them at risk and undermines the authority and integrity of the court
- *Do not accept gifts* - gives the impression of trying to gain favor

EQUALITY

Equal treatment to all is an essential part of justice. Judges should:

- *Not make derogatory comments* - in court and in all aspects of life
- *Ensure court staff complies with court standards and not engage in prejudicial behavior*
- *Prevent lawyers from engaging in racist or sexist behavior* - avoid the impression that court approves of racism or sexism
- *Set the tone for a fair trial by showing all parties equal dignity and respect* - particularly important for child labor, forced labor, and human trafficking victims, and other vulnerable individuals

COMPETENCE AND DILIGENCE

- Judge's judicial duties must always come first
 - Must be performed with legal knowledge, skill, thoroughness, and preparation
 - May require research on topics, legislation, and case law to hear a case on an unfamiliar topic or aspect of law competently
- Judges must:
 - Make sure they devote sufficient time and effort to judicial duties
 - Be aware of latest developments in international law
 - Maintain decorum during all proceedings

COMPETENCE AND DILIGENCE (CONT.)

- Law should be applied evenly to all people, without abuse of process
- Judiciary responsible for training judges and developing training curriculum
 - Training plays important role in judges deciding cases effectively
 - Can cover new legislation, best practices, and other topics
- Judges should be punctual and transparent during trial
 - Make decisions in a timely manner
 - Maintain order and decorum of the court throughout all trials



CONSIDERATIONS FOR ONLINE ACTIVITIES



CONSIDERATIONS FOR ONLINE ACTIVITIES

- Online activity is public → judges need to be careful what they communicate, post, or “like”
- Determine if activity readily identifies judge with court system
- Determine whether activity will reveal info about case or confidential court info
 - Do not post info that reflects poorly on court or expresses opinion about controversial topic that comes before court
 - Publicly expressing opinion could demonstrate bias

CONSIDERATIONS FOR ONLINE ACTIVITIES (CONT.)

- Consider if posting online will detract from dignity of court or judicial process
- Judges should ask themselves whether they would be comfortable with post becoming **front page news**

EXERCISE 5.4.2: APPLYING ETHICS TO EVERYDAY PRACTICE

OBJECTIVE

- Practice applying the Bangalore Principles to everyday scenarios

KEY MESSAGES

- Judicial ethics help ensure the judiciary is seen as impartial and having integrity.
- Having a code of judicial ethics makes it easier for judges to know how to ensure that their conduct helps promote public trust in the judicial system.
- Because of the responsibility judges have, judges' actions are under more scrutiny than those of most people. Judges have the privilege of serving as role models.
- In making choices both in and out of court, judges can look to local guidance and the Bangalore Principles.
- When in doubt, ask if the comment or action would be embarrassing if it became front page news.