



IDENTIFYING AND INVESTIGATING FORCED LABOUR AND HUMAN TRAFFICKING (MALAYSIA PERSPECTIVE)

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INTRODUCTION

- ▶ Anti trafficking in person act 2007 (ATIP) enacted by Parliament.



PREAMBLE

- ▶ An Act to prevent and combat trafficking in persons and smuggling of migrants and to provide for matters connected therewith.



ATIP

- ▶ “trafficking in persons” means all actions involved in acquiring or maintaining the labour or services of a person through coercion, and includes the act of recruiting, conveying, transferring, harbouring, providing or receiving a person for the purposes of this Act”



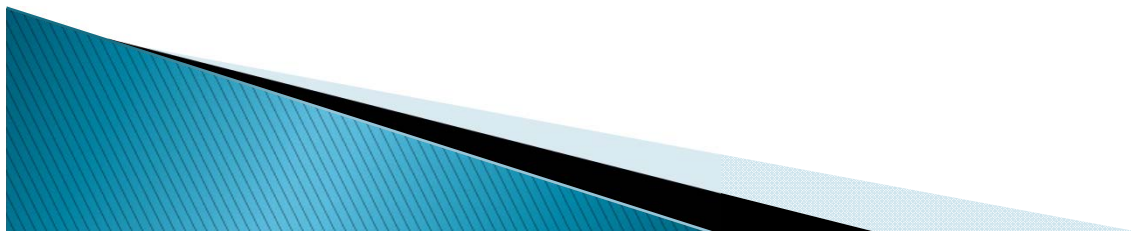
ATIP

- ▶ “coercion” means—
- ▶ *(a) threat of serious harm to or physical restraint against any person;*
- ▶ *(b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person;*
- ▶ or
- ▶ *(c) the abuse or threatened abuse of the legal process;*



ATIP

- ▶ “exploitation” means all forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, any illegal activity or the removal of human organs;



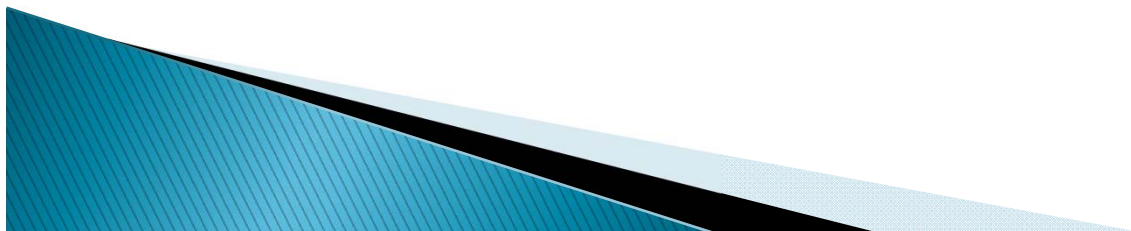
ATIPSOM

- ▶ ATIP was amended in 2010 inter alia include labour department as one of the enforcement agency.
- ▶ To include provisions relating to smuggling of migrants.
- ▶ Renamed as anti trafficking in person and smuggling of migrants act 2010 (ATIPSOM)



ATIPSOM

- ▶ ESTABLISHMENT OF ANTI TRAFFICKING COUNCIL (MAPO)
- ▶ CARE AND PROTECTION OF VICTIMS
- ▶ ENFORCEMENT
- ▶ PROVISION ON OFFENCES



MAPO

- ▶ COUNCIL UNDER THE HOME MINISTRY.
- ▶ TO COORDINATE MATTERS RELATING TO HUMAN TRAFFICKING.



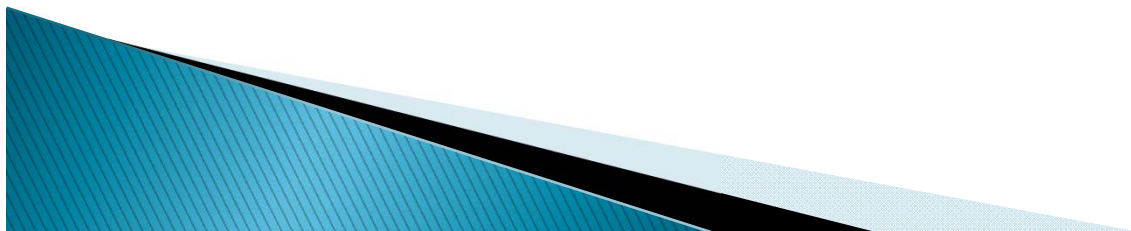
MAPO

- ▶ ESTABLISH COMMITTEES:–
- ▶ Legal – lead by the attorney general chambers
- ▶ Enforcement – lead by Royal Malaysian Police
- ▶ Protection of victims– Lead by Dept of welfare
- ▶ Forced labour– Lead by Human Resource Ministry
- ▶ Publicity –lead by the information ministry



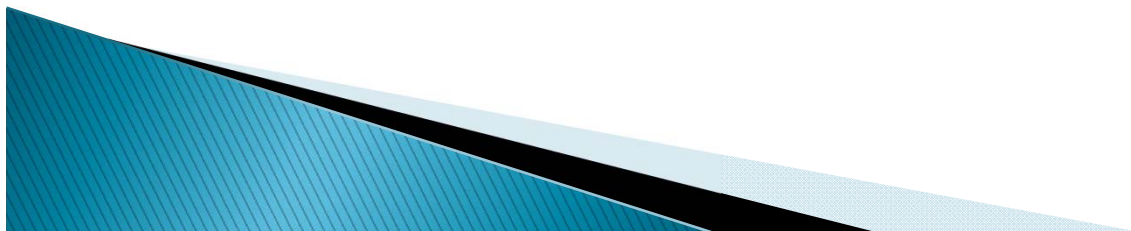
Enforcement

- ▶ Rescuing victims and place in a shelter home.
- ▶ To obtain interim protection order (IPO)
- ▶ To apply for protection order (PO) for victims who have been identified as trafficking victims.



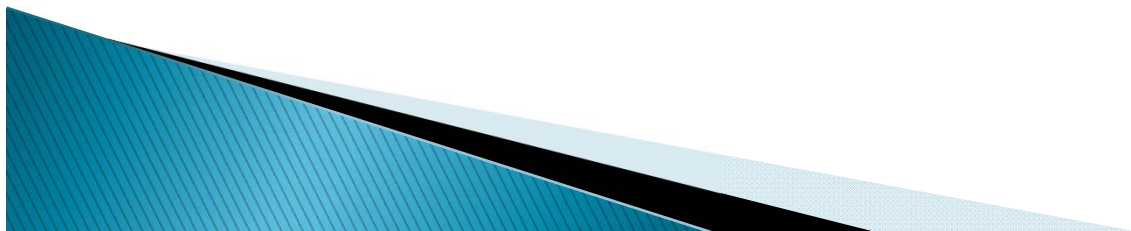
Enforcement

- ▶ Investigation :-
- ▶ Conduct searches
- ▶ Interrogation/interviews
- ▶ Arrest
- ▶ Intelligence



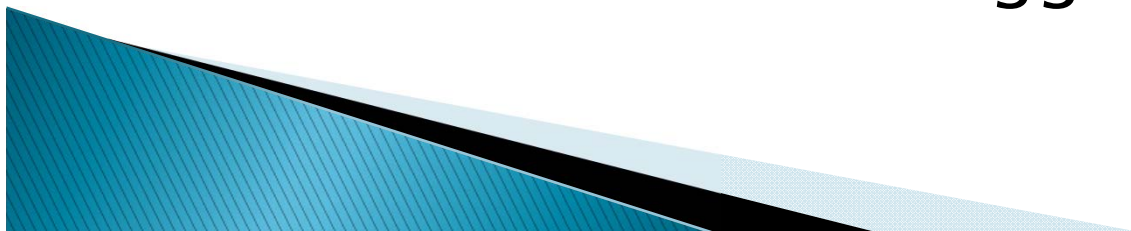
Offences

- ▶ Offence of trafficking in persons
- ▶ Any person, who traffics in persons not being a child, for the purpose of exploitation, commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to fine. S12



Offences

- ▶ Offence of profiting from exploitation of a trafficked person
- ▶ Any person who profits from the exploitation of a trafficked person commits an offence and shall, on conviction, be punished with imprisonment for a term not exceeding fifteen years, and shall also be liable to a fine of not less than fifty thousand ringgit but not exceeding five hundred thousand ringgit.



CONTRIBUTING FACTORS

- ▶ HUGE DEMAND FOR FOREIGN WORKERS.
- ▶ DEMAND FOR ILLICIT ACTIVITIES -I.E PROSTITUTION.



VICTIM CHARACTERISTIC

- ▶ MAJORITY FOREIGN FEMALE VICTIMS
- ▶ RECEIVES PRIMARY EDUCATION
- ▶ FROM POOR FAMILY
- ▶ CAME FROM RURAL AREA



CATEGORY OF EXPLOITER

- ▶ SYNDICATE
- ▶ EMPLOYERS
- ▶ RECRUITMENT AGENTS



MODE OF ENTRY

- ▶ SOCIAL VISIT PASS
- ▶ EMPLOYMENT PASS



MODUS OPERANDI

- ▶ BY OFFERING DUBIOUS EMPLOYMENT.
- ▶ EMPLOYED LEGALLY BUT FORCED INTO FORCED LABOUR SITUATION.
- ▶ OFFERING LEGITIMATE WORK WITHOUT LEGITIMATE EMPLOYMENT PERMIT.
- ▶ ABUSING FOREIGN WORKERS APPLICATION PROCESS.



METHOD OF COERCION

- ▶ WITHHOLDING OF WAGES.
- ▶ NON RENEWAL OF EMPLOYMENT PERMIT.
- ▶ SOCIAL PASS EXPIRED.
- ▶ PHYSICAL AND MENTAL ABUSE.
- ▶ RESTRAINING OF MOVEMENT



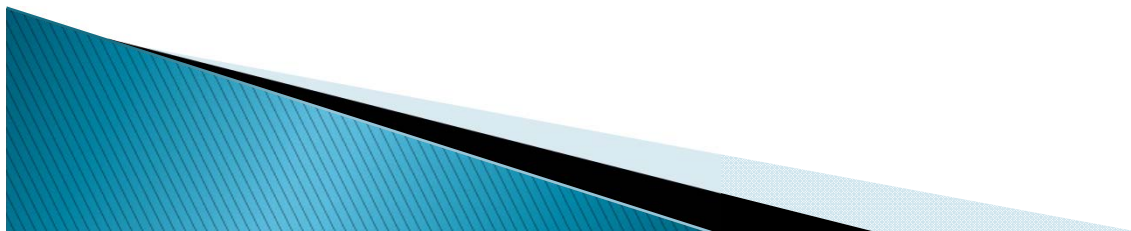
MATTERS TO BE IDENTIFIED IN FORCE LABOUR/TRAFFICKING CASES

- ▶ WHAT INDICATORS WERE INVOLVED?
- ▶ WHETHER SERVICES RENDERED BY VICTIM DUE TO FEAR OF ANYFORM OF PENALTY?
- ▶ WHO CREATED THE FEAR ?



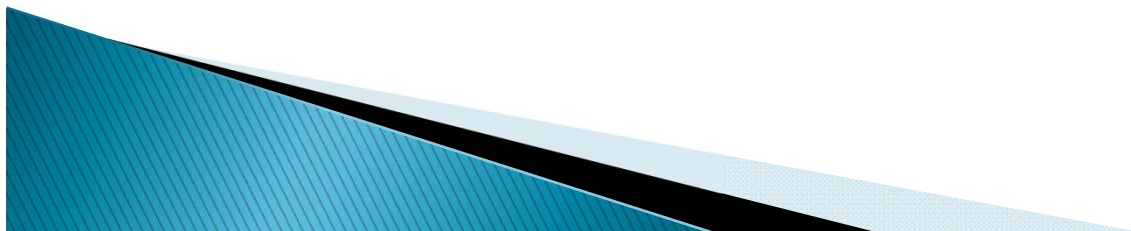
SUGGESTIONS TO IMPROVE COMBATING TRAFFICKING/FORCED LABOUR

- ▶ BETTER MONITORING SYSTEM IN THE SOURCE COUNTRY.
- ▶ BETTER MONITORING SYSTEM IN THE RECEIVING COUNTRY I.E RED FLAG STATUS.
- ▶ RECRUITMENT DONE THROUGH G TO G PROCESS.



SUGGESTIONS TO IMPROVE COMBATING TRAFFICKING/FORCED LABOUR

- ▶ DO A BACKGROUND CHECK ON THE EMPLOYER.
- ▶ TRAINING ON WORKERS MUST INCLUDE SYLLABUS RELATING TO AWARENESS ON TRAFFICKING/FORCED LABOUR.
- ▶ SPECIAL DATABASE SET UP RELATING TO HUMAN TRAFFICKING/FORCED LABOUR.



THANK YOU

