



# LAW ENFORCEMENT STANDARD OPERATING PROCEDURES:

*for responding to trafficking in persons*

Kingdom of Lesotho

May 2021

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## ACRONYMS

<b>AHT</b>	Anti-Human Trafficking
<b>A-TIP</b>	Anti-Trafficking in Persons
<b>AU</b>	African Union
<b>BID</b>	Best Interest Determination
<b>CGPU</b>	Child and Gender Protection Unit
<b>CPWA</b>	Children’s Protection and Welfare Act (of Lesotho)
<b>CRC</b>	Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organizations
<b>CT</b>	Counter Trafficking
<b>DoS</b>	Department of State (of the Government of the United States of America)
<b>DPP</b>	Director of Public Prosecutions (of the MoJ)
<b>FIU</b>	Financial Intelligence Unit
<b>GCM</b>	Global Compact on Safe, Orderly and Regular Migration
<b>GoL</b>	Government of Lesotho
<b>JBCC</b>	Joint Bilateral Commission of Cooperation (between the Kingdom of Lesotho and the Republic of South Africa)
<b>J/TIP</b>	Justice for Trafficking in Persons (US Department of State)
<b>ILO</b>	International Labour Organization
<b>INTERPOL</b>	International Criminal Police Organization
<b>IOM</b>	International Organization for Migration
<b>LMPS</b>	Lesotho Mounted Police Service
<b>MCU</b>	Migration Control Unit
<b>MoD</b>	Ministry of Defence
<b>MoET</b>	Ministry of Education and Training
<b>MoFA</b>	Ministry of Foreign Affairs and International Relations
<b>MoG</b>	Ministry of Gender
<b>MoGYSR</b>	Ministry of Sport, Youth, Sport and Recreation
<b>MoH</b>	Ministry of Health
<b>MoHA</b>	Ministry of Home Affairs
<b>MoJCS</b>	Ministry of Justice and Correctional Service
<b>MoLCA</b>	Ministry of Law and Constitutional Affairs
<b>MoLE</b>	Ministry of Labour and Employment

<b>MoPPS</b>	Ministry of Police and Public Safety
<b>MoSD</b>	Ministry of Social Development
<b>MPFA</b>	Migration Policy Framework for Africa
<b>NRM</b>	National Referral Mechanism
<b>NSS</b>	National Security Service (of MoD)
<b>OHCHR</b>	Office for the High Commissioner for Human Rights
<b>PoE</b>	Port of Entry
<b>SADC</b>	Southern African Development Community
<b>SARPPCO</b>	Southern African Regional Police Chiefs Co-operation Organisation
<b>SDG</b>	Sustainable Development Goals
<b>SOP</b>	Standard Operating Procedures
<b>TIP</b>	Trafficking in Persons
<b>TOCC</b>	Transnational Organized Crime Convention
<b>TOR</b>	Terms of Reference
<b>UASC</b>	Unaccompanied or Separated Children
<b>UN</b>	United Nations
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VOT</b>	Victim of Trafficking

## INTRODUCTION

This document, the Law Enforcement Standard Operating Procedures (SOP) for Responding to Trafficking in Persons, has been produced to support law enforcement in Lesotho to respond to trafficking in persons, including carrying out investigations and supporting prosecutions, as well as identifying victims of human trafficking and ensuring their appropriate protection. The document sets out both legislative and practical measures. It is intended to be comprehensive, yet and user-friendly, in line with international standards and reflective of national structures, legislation and needs. This is a living document and will need to be updated periodically under the purview of the Multisectoral Committee to reflect evolving needs, trends, capacities and frameworks.

## SECTION 1 - OVERVIEW OF STANDARD OPERATING PROCEDURES

### 1.1 Target audience:

The Standard Operating Procedures (SOP) document is for use by law enforcement and related government entities in the Kingdom of Lesotho, particularly those who have a role in investigating human trafficking, as well as identifying, interviewing and referring VOTs. Specifically, this includes: Lesotho Mounted Police Services (LMPS), Ministry of Home Affairs (MoHA), Ministry of Labour and Employment (MoLE), Ministry of Defence, National Security Service (NSS), Ministry of Justice (MoJ), Magistrates, Office of the Director of Public Prosecution (DPP), the Directorate of Corruption and Economic Offences, National Security Service, Customs, among others.

### 1.2 Objective:

The overall objective of this document is to support law enforcement in Lesotho to manage TIP cases in a coordinated and consistent manner, in line with national policy and legislation and international best practice. Ultimately, it is expected that this will strengthen the overall response to human trafficking, including for prosecution, protection and prevention.

### 1.3 How to use the SOP:

The Lesotho Law Enforcement Standard Operating Procedures for Responding to Trafficking in Persons (hereinafter the SOP) is intended to support law enforcement in Lesotho to understand what trafficking in persons is, what the relevant international standards and national legislative provisions are, and to support consistent application of these. Its use will help to strengthen investigations, as well as improve inter-departmental, as well as cross-border and international cooperation.

The SOP is intended to improve not only the investigation and prosecution of TIP cases, but also to contribute to the protection of victims and ensuring that their rights are upheld. It also highlights the importance of law enforcement in the prevention of human trafficking.

The document is informed by national legislation (referenced in green throughout) and international law (referenced in blue throughout).

While the SOP is primarily to be used as a reference document for law enforcement to use when undertaking their duties, it can also be used to compliment training efforts, both pre-service and in-service training. See [Section 6.3](#), capacity building, for more details.

#### 1.3.1 Outline:

This document starts by providing a brief overview of Lesotho's TIP profile, as well as actions taken by the Government of the Kingdom of Lesotho in response to human trafficking. It then sets out the definition of Trafficking in Persons, as well as the relevant international, regional and national guiding frameworks on human trafficking, with particular focus on the Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011. It also elaborates on the difference between human trafficking and migrant smuggling.

The main body of the document focuses on the role of law enforcement in the investigation of TIP cases and supporting TIP prosecution more broadly, as well as the identification, referral and protection of VOTs. It sets out **measures** that need to be taken, **who** is responsible (and who provides support), as well as relevant **legislative provisions** (and other relevant references).

The final section of the SOP references the broader roles of law enforcement in the response to trafficking, including for data collection, management and use, the prevention of human trafficking and capacity building measures.

## 1.4 Guiding principles

This document is guided by the following core principles, which are informed by the relevant international, regional and national legal frameworks (see [Section 2](#)), including the SADC Strategic Plan of Action on Combatting Trafficking in Persons (2017) and the Principles and Guidelines on the human rights protection of migrants in vulnerable situations ([OHCHR, 2017](#)):

**Rights based approach:** Adopting a rights-based approach to the implementation of these SOPs entails considering rights principles in all stages of the response to TIP. This includes ensuring that interventions are in conformity with international human rights frameworks and standards, and that the resultant impacts on the concerned individuals are considered in all actions. Also see [Section 2.2.3](#) below.

**Do no harm:** In addition to a human rights-based approach, the 'do no harm' principle emphasises the importance of protecting VOTs at every stage of engagement and ensuring that VOTs are not subject to further victimization or re-traumatization.

**Informed consent:** All actions pertaining to VOTs should be based on the principle of informed consent. This means that the details of any actions, sharing of information, or other interventions should be clearly communicated with the VOT, in a language that they understand, and decided upon in close consultation with the VOT, prior to being implemented. If possible, written consent for all relevant actions should be documented as part of VOT's case file.

**Non-discrimination:** The principle of non-discrimination is fundamental to the response to TIP. Individuals encountered during the implementation of these SOPs should face no discrimination on the basis of nationality, race, religion, gender or any other factor.

**Gender-sensitive and child-centred approaches:** Gender is a central component of an individual's migration and/ or trafficking experience. Gender constitutes a specific kind of vulnerability and the roles, expectations, relationship and power dynamics associated with being a man, woman, boy or girl, exposes individuals to different types of vulnerabilities and risks. Therefore, gender should be taken into consideration at all stages of interaction. In addition to this, the needs of children should follow a child rights approach, with the best interest of the child at the centre (also see [Section 5.4.1](#) below).



and of any age category. The destination of Basotho VOTs identified outside of the country has primarily been South Africa, though VOTs have also been identified in other African countries, Asia, Europe and the United States of America. Those in South Africa have been found to be primarily exploited in agriculture and mining settings.

## SECTION 2 GUIDING FRAMEWORKS ON HUMAN TRAFFICKING

### 2.1 Definitions

#### 2.1.1 Trafficking in Persons:

Trafficking in Persons, otherwise known as Human Trafficking, is defined in Section 2 of the Lesotho Anti-Trafficking in Persons (Amendment) Act (2021) as:

**The Act (what's done):** *"[t]he recruitment, transportation, transfer, harbouring or receipt of persons..."*

**The Means (how it's done):** *"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..."*

**The Purpose (why it's done):** *"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"*

This is broadly consistent with the definition in Article 3 (a) of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime (2000) – explored in more detail below.

#### 2.1.2 Child trafficking:

For cases of child trafficking (i.e. for the trafficking of those below the age of 18 years) the '**Means**' does not need to be present. Therefore, for child trafficking cases, so long as the **Act** (of recruitment, transportation, transfer, harbouring or receipt of persons) is present, and that this is done for the **Purpose** of exploitation, then it fits the definition of TIP.

This is reflected in the Anti-Human Trafficking (Amendment) Act, 2021, Section 2 - Interpretation: *"[t]he recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered as trafficking in persons even if the act does not involve any of the means set out in paragraph (a)".*

#### 2.1.3 Victims of Human Trafficking:

VOTs are also defined in the Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011 (Part I, Sect. 2) as: *any person who is a victim of the offence of trafficking*. A victim of trafficking is defined as such regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted (also reference the Trafficking Protocol on Trafficking), or whether exploitation actually took place. Additionally, in line with the Lesotho Anti-Trafficking in

Persons (Amendment) Act, 2021, Section 2 (2): *“The consent of a victim of the commission of the offence of trafficking in persons to be exploited under paragraph (a) shall be no defence”.*

Considerations for the protection of victims of human trafficking are also guided by the core human rights treaties, as well as the specific measures as provided for in the Transnational Organized Crime Convention and the Palermo Protocol on Trafficking (see [Section 2.2](#)).

Protection measures, and law enforcement roles, are reflected in more detail in [Section 5](#), as well as the complimentary Guidelines on the National Referral Mechanism for the Protection of Victims of Human Trafficking in Lesotho (2021). These are based on the provisions prescribed in the [Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011](#) and [Anti-Trafficking in Persons Regulations \(2015\)](#).

### 2.1.4 The difference between trafficking and smuggling

The United Nations (UN) Smuggling Protocol (2000 - see below), Article 3, defines migrant smuggling as: *Article 3 - Procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a persons into a State Party of which the person is not a national or permanent resident*

The main difference between human trafficking and migrant smuggling links to the fact that the **purpose** of human trafficking is ultimately for exploitation. In addition to this, the **means** used in trafficking cases, such as the use of force, coercion or other ‘means’ that exclude the free and informed consent of the victim of trafficking, differ from smuggling cases. In smuggling, the concerned individual usually has knowledge of the process and consents to it. Human trafficking is typically referred to as a crime against the individual, whereas migrant smuggling is termed as a crime against the state.

These differences are exemplified in the diagram below:

Differences	Trafficking	Smuggling
1. How money is made	<u>Exploitation</u> of victim	Facilitating <u>illegal border crossing</u>
2. Does the individual consent?	Victim <u>consent is invalid</u> because of ‘means used’ (i.e. deception, coercion, force)	<u>Individual agrees</u> to travel with full information about journey, destination and costs
3. Relationships	Trafficker - Victim <u>Relationship continues</u> in country of destination	Smuggler - Migrant (Client) <u>Relationship ends</u> once border is crossed in country of destination

Source: IOM, 2020

## 2.2 International frameworks

### 2.2.1 TOC Convention:

The [UN Convention against Transnational Organized Crime](#) (TOCC) and its supplementary Protocols (also known as the Palermo Protocols) is the primary international instrument dealing with Trafficking in Persons. The TOCC was adopted by the UN General Assembly in 2000.

The TOC Convention is supplemented by three protocols:

- [Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children](#) (the Trafficking in Persons Protocol)
- *The Protocol against the Smuggling of Migrants by Land, Sea and Air (the Smuggling Protocol)*
- *The Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition*

The Law Enforcement SOP will be particularly concerned with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which, for the purpose of this document, will hereinafter be referred to as the Trafficking Protocol.

### **2.2.2 The Trafficking Protocol:**

The purpose of the [Trafficking Protocol \(Article 3\)](#), which entered into force in 2003, is:

- *To prevent TIP*
- *To protect and assist VOTs*
- *To promote cooperation among states.*

The Trafficking Protocol includes provisions relating to what are often referred to as the four Ps of trafficking: Prevention, Prosecution, Protection and Partnership. These are all addressed in the Lesotho SOP for Law Enforcement. Of particular relevance to law enforcement are the following articles:

Article 5: Establishing trafficking as a criminal offence

*“(a) Subject to the basic concepts of its legal system, **attempting to commit an offence established in accordance with paragraph 1 of this article;***

*(b) Participating as **an accomplice in an offence established in accordance with paragraph 1 of this article;** and*

*(c) **Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article”.***

- Protection of witnesses (Art 24)
- Assistance and protection of victims (Art 25)
- Specific measures to cooperate with law enforcement (Art 26, 27, 28)
- Training and technical assistance (Art 29)

### **2.2.3 International Human Rights Instruments:**

In addition to the TOCC, the following international human rights instruments are also relevant to TIP (list not exhaustive):

Instrument	Ratified by Lesotho
Universal Declaration of Human Rights, 1948	N/A
International Covenant on Economic, Social and Cultural Rights, 1966	YES
Convention on the Elimination of All Forms of Discrimination against Women, 1981	YES
Convention on the Rights of the Child, 1989	YES
Convention on the Rights of Persons with Disabilities, 2006	YES
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families	YES
African Charter on the Rights and Welfare of the Child	YES

Also see [Annex I](#) for a more detailed list of Lesotho’s ratification of relevant international and regional instruments. These international instruments may be particularly relevant to specific trafficking cases, depending on the individual characteristics of the VOT or the trafficking case (see [Section 5.5](#) below).

The [United Nations Global Plan of Action Against Human Trafficking](#) was adopted by the UN General Assembly in 2010. It focuses on the prevention, protection, prosecution and partnership for addressing trafficking in persons. It links to relevant global mechanisms, such as the UN General Assembly, Special Rapporteurs and the Human Rights Council, and references international agreements with relevance to TIP.

#### 2.2.4 Other international guiding frameworks:

The [2030 Agenda for Sustainable Development](#) and the [Global Compact for Safe, Orderly and Regular Migration](#) both have goals, objectives and/or targets relevant to the protection of VOTs. Among others these include:

#### 2030 Agenda for Sustainable Development:

*Target 5.2 - elimination of violence, including trafficking, sexual & other types of exploitation*

*Target 8.7 - eradication of forced labour, modern slavery & human trafficking, worst forms of child labour*

*Target 16.2 - end abuse, exploitation, trafficking and all forms of violence against and torture of children*



SDG 17, [partnership for the goals](#), emphasises the importance of cross-border, regional and international partnerships.

## Global Compact for Safe, Orderly and Regular Migration:

The Global Compact for Safe, Orderly and Regular Migration (GCM) was adopted by the UN General Assembly in 2018 and is the first international framework to comprehensively address all aspects of migration. Though not legally binding, the GCM sets out measures to facilitate inter-state cooperation on migration matters, including trafficking in persons.

GCM Objective 10 (prevent, combat & eradicate trafficking in persons in the context of international migration) is of most direct relevance. However, Objectives 7 (reducing vulnerabilities in migration) and Objective 12 (strengthened procedures for screening, assessment & referral) are also relevant for the law enforcement response to TIP.

The GCM focuses on national sovereignty and international cooperation, and also highlights the importance of the rule of law and due process, and responses that are human rights focused, gender-responsive and child sensitive (also see [Section 1.4](#) and [Section 5.4](#))

## 2.3 Regional Frameworks:

The Kingdom of Lesotho is situated in Southern Africa and is part of the African Union (AU), as well as the Southern African Development Community (SADC). All seventeen Member States of the Southern African Development Community (SADC), including Lesotho, have either ratified or acceded to the United Nations Convention on Transnational Organized Crime and its supplementary Trafficking Protocol.

Relevant TIP-related frameworks at continental and regional level include (but not limited to):

**2.3.1 Migration Policy Framework for Africa (MPFA) (2018):** In 2005 the African Union adopted the Migration Policy Framework for Africa (revised in 2018), which is complimentary to AU Agenda 2063 and sets out the linkage between migration, Agenda 2063, and the SDGs. The MPFA focuses broadly on migration governance, as well as cross-border and regional cooperation, among other things. Section 5.2 is dedicated to addressing human trafficking, and includes recommended strategies for legislation, prevention, protection, prosecution and investigation, as well as partnership. Measures include:

### Sect. 5 (iv)

- *Develop policies and guidelines on how to investigate and prosecute trafficking in persons, and provide training to relevant criminal justice officials such as police officers, prosecutors and judges*
- *Establish specialized multi-disciplinary counter-trafficking law enforcement units of specialised prosecutors' offices to effectively prosecute trafficking cases*
- *Increase prosecution of traffickers and others involved in such activities, including through greater transnational cooperation, such as mutual legal assistance, and extended witness protection to trafficked persons who want to testify against traffickers*

**2.3.2 10 Year SADC Strategic Plan of Action on Combatting Trafficking in Persons, especially women and children (2009-2019):** Member States of the Southern African Development Community adopted the 10-year action plan to support a coordinated regional response to trafficking in persons. The Action Plan is intended to support information sharing and learning, capacity building and identification of effective practices in response to TIP. The Action Plan was updated in 2020.

**2.3.3 SADC Protocol on Gender and Development (2008):** The SADC Protocol on Gender and Development considers gender mainstreaming in SADC initiatives. It aims to empower women, eliminate discrimination and achieve gender equality. Lesotho has ratified this Protocol. Centrally, it includes the following:

- *Article 11 (d) laws, policies and programs should be implemented to develop and protect the girl child by ‘protecting girls from economic exploitation, trafficking and all forms of violence including sexual abuse’:*

(Also refer to [Section 5.4.2](#)).

**2.3.4 SADC Protocol on Mutual Legal Assistance in Criminal Matters (2002):** Lesotho has ratified the SADC Mutual Legal Assistance Protocol, which is intended to contribute to the objectives of regional integration, with particular focus on welfare, peace and security. The Protocol sets out common rules with regard to assistance in criminal matters, such as human trafficking. Of particular relevance is:

- *Article 2 stipulates that “States Parties shall [...] provide each other with the widest possible measure of mutual legal assistance in criminal matters”. Mutual legal assistance is defined by the Protocol as “any assistance given by the Requested State in respect of investigations, prosecutions or proceedings in the Requesting State in a criminal matter, irrespective of whether the assistance is sought or is to be provided by a court or some other competent authority”.*

(Also reference [Section 4.4](#))

**2.3.5 SADC Protocol on Extradition (2002):** The SADC Protocol on Extradition is intended to reduce criminality in the SADC region. It enables Member States to extradite to the other persons who are wanted for prosecution or enforcement of sentences relating to criminal offences (such as human trafficking) who are in another respective Member State. The Protocol sets out procedures to be followed to allow for the process to begin. Lesotho has ratified the Extradition Protocol. Of central relevance is the following provision:

- *Article 2 makes provision for each State Party to agree to “extradite to the other, in accordance with the provisions of this Protocol and their respective domestic law, any person within its jurisdiction who is wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offence.”*

(Also reference [Section 4.4](#))

**2.3.6 The Joint Bilateral Commission of Cooperation (JBCC) between Lesotho and South Africa (2001):** The JBCC is the agreed framework of cooperation between the Kingdom of Lesotho and the Republic of South Africa. Inter-alia, it includes reference to consolidating and developing a special relationship, which will guide the strategic partnership and further intensify and enhance economic, social good governance, security and stability cooperation between the two countries. In particular:

- *Article 5 of the Cooperation Agreement includes the key objective of the commission as being to maintain peace and security between two countries and general stability in the Southern Africa region through collective action based on the respect for democratic institutions human rights and rule of law.*

(Also reference [Section 4.4](#))

## 2.4 National Policy and Legislative Framework

The Kingdom of Lesotho ratified the Transnational Organized Crime Convention and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2003. Thereafter, in 2011 Lesotho's parliament enacted the Anti-Trafficking in Persons Act No.1 of 2011. The section that follows sets out national legislation of core relevance to the law enforcement response to human trafficking.

### 2.4.1 The Lesotho Anti-Trafficking in Persons Act No. 1 of 2011 and Anti-Trafficking in Persons (Amendment) Act (2021)

The *Lesotho Anti-Trafficking in Persons Act No.1 of 2011* is made up of eight parts. Of particular significance to the Lesotho SOP for Law Enforcement are:

- **Part I Preliminary (including interpretation, scope of application and extra-territorial jurisdiction).** Among other things, this section sets out definitions for the interpretation of the Act, including definitions of human trafficking, exploitation, victim of human trafficking et cetera. Importantly, it also sets out the scope of application in Section 3., which specifies that:

*This Act applies regardless of whether the conduct constituting the offence of trafficking took place inside or outside Lesotho, if: (a) Lesotho is a receiving country or the exploitation occurs in Lesotho; (b) the receiving country is a foreign country but the trafficking or smuggling starts in Lesotho; (c) Lesotho is a country of transit, or the trafficked persons actually resides in Lesotho at the time of the commission of the offence.*

Section 4 extra-territorial jurisdiction): *An offence under this Act committed outside Lesotho by a person who, while being a citizen of or permanently residing in Lesotho, shall be dealt with as if it has been committed in Lesotho*

- **Part II Offences and Penalties.** Part II sets out the various penalties of persons who commit offences of, or related to, or that facilitate human trafficking. The Anti-Trafficking in Persons (Amendment) Act (see below) updates some of these penalties and therefore should be cross-referenced (see [Annex II](#)). Penalties range from life imprisonment where the victim is a child, to 10 years for engaging the services of a victim of trafficking. Part II also sets out compensation that should be paid to the victim but the offender(s).

- **Part III Enforcement.** The section on enforcement reflects measures to be taken, as well as who they should be taken by, in enforcing the Act. Among other things these relate to port and border control, right to stop, search and examine persons, documentation and/or goods. It also stipulates powers of arrest.

- **Part IV Identification, care and protection of VOTs.** Part IV on VOT identification and care provides guidance on determining who is (or may be) a VOT, as well as how to make this determination, and reporting and referring VOTs. Section IV also sets out the role of law enforcement (police) in assisting VOTs, the suspension of deportation, and regularization of immigration status. It includes measures for assisting foreign (or national) VOTs identified in Lesotho, as well as nationals of Lesotho that have been trafficked outside of the country.

- Other sections relevant to protection of VOTs and international cooperation, including extradition agreements, are reflected in Parts V and VIII, respectively.

The **Anti-Trafficking in Persons (Amendment) Act** was adopted in 2021 and introduces some important changes to the TIP-related definitions, as well as to offences and penalties.

More detail on the relevant provisions is included in [Annex II](#).

#### ***2.4.2 Anti-Trafficking in Persons Regulations (2015)***

Complimentary to the Anti-TIP Act is the **Lesotho Anti-Trafficking in Persons Regulations (Legal Notice No. 135 of 2015)**. Among other things, the Anti-TIP Regulations set out the roles of the National Multi-Sectoral Committee on Anti-Trafficking in Persons, as well as ministerial roles and responsibilities for responding to TIP. Schedules 1 and 3 of the Regulations set out guiding principles for interviewing VOTs and a form for use in screening/ identifying VOTs (these are annexed to this document; see [Annex VI](#) and [Annex VII](#) respectively). More detail on the relevant provisions of the Regulations is included in [Annex II](#), as well as a summary of the main roles of actors engagement in the response to TIP (as provided for in the Regulations), in [Annex IV](#).

#### ***2.4.3 Children’s Protection and Welfare Act (2011)***

The Lesotho **Children’s Protection and Welfare Act (CPWA) No.7 of 2011** criminalizes child sex trafficking and prescribes related penalties (Sect. 77). The CPWA also includes a definition of ‘trafficking’ in Section 3, Interpretation. Part II of the Act underlines the core principles for all actions concerning the child (also relevant to child VOTs – see [Section 5.4.1](#) of this document), including: (i) best interest (Section 4); (ii) evolving capacities (Section 5); (iii) non-discrimination (Section 6). Section 22, State duties and responsibilities, includes (m) protection of children from sexual exploitation and abuse; (n) (every effort to) prevention of the sale, trafficking and abduction of children; (p) child victims of... exploitation receive appropriate treatment for their recovery and social reintegration. More detail on the relevant provisions is included in [Annex II](#).

#### ***2.4.4 Complimentary initiatives and national and sub-national level***

In addition to the Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011, the Amendment Act (2021) and related Regulations, the Government of Lesotho, with support from partners such as IOM, has put in place a number of counter trafficking initiatives. This includes the establishment of a Multi-Sectoral Committee on Trafficking in Persons and the development of a National Action Plan to Combat Trafficking in Persons 2021-2026. The National Action Plan to Combat Trafficking in Persons, Objective 4, sets out specific measures focusing on the law enforcement and justice system response, including measures for the detection, investigation and successful prosecution of the offence of trafficking in persons. In addition to this, the Government of Lesotho is piloting decentralized Anti-TIP structures: District Committees.

## **SECTION 3 LAW ENFORCEMENT ROLE IN THE RESPONSE TO TIP**

### **3.1 Overview**

Law enforcement agencies have an essential role in the response to trafficking in persons. Among other things this includes the detection and investigation of trafficking cases, as well as the identification and referral of Victims of Trafficking. The Lesotho Anti-TIP Regulations refer to Law Enforcement role, including in the following provisions: [Part V, Sect 25\(1\) and \(2\)](#); [Part V, Sect 26](#); [Part V, Sect 30](#); [Part V, Sect 35](#), among others. Also see [Annex II](#) and [Annex IV](#).

In Lesotho, the **Ministry of Police and Public Safety** (and the Lesotho Mounted Police Service) has a central role in the law enforcement response to TIP. The Trafficking in Persons (TIP) and Migrant Control Unit (MCU), which was established in October 2020, has a specific mandate

to address TIP and will work closely with other units of LMPS, particularly the Child and Gender Protection Unit (CGPU), which should also be engaged for cases involving children and/or women, in cooperation with the Department for Social Development.

As referenced above, the Lesotho National Action Plan to Combat Trafficking in Persons also sets out priorities for the law enforcement response in Lesotho. Among other things this includes measures aimed at ensuring that law enforcement entities are well equipped, including with adequate skills and knowledge, to respond to TIP. This includes conducting proactive and reactive investigations.

The law enforcement response to TIP also includes working in close partnership with other relevant anti-TIP actors, both within and beyond government, as well as beyond Lesotho's borders. *'Partnership'* is among the four Ps of trafficking, as set out in the Trafficking Protocol. The United Nations Action Plan against Human Trafficking specifies that the United Nations promotes comprehensive, coordinated and consistent responses to human trafficking at national, regional and international levels, to counter trafficking in persons.

Other relevant provisions: [The Lesotho Anti-TIP Regulations \(2015\)](#) includes detailed reference to the roles and responsibilities of various Ministries in the response to TIP. These are summarised in [Annex II](#) (summary of legal provisions) and [Annex IV](#) (overview of roles in TIP investigation and VOT protection).

### 3.2 Lesotho Multi-Sectoral Committee against Trafficking in Persons

Lesotho's national Multisectoral Committee on Anti-Trafficking in Persons has been established to provide technical leadership and guidance for the coordination of policy and programming for the national TIP response in the Kingdom of Lesotho. The Multisectoral Committee operates under the leadership of the Ministry of Home Affairs (MoHA) and, as referenced in its Terms of Reference (TOR) ([see Annex III](#)), is made up of representatives from:

- Ministry of Social Development
- Police/ Lesotho Mounted Police Service (LMPS)
- Ministry of Labour and Employment
- Ministry of Home Affairs
- Ministry of Gender
- Ministry of Health
- Ministry of Foreign Affairs
- IOM

Part II of the [Anti-Trafficking in Persons Regulations \(2015\)](#) also provides detail of the Committee composition and functions – see [Annex II](#).

In order to ensure active participation from wider stakeholders, sub-committees have been established under the overall Multi-Sectoral Committee. This includes a Prosecution Sub-Committee, which is Chaired by Ministry of Home Affairs. The Multi-Sectoral Committee, and its Prosecution Sub-Committee, are central to the development and implementation of this of the SOPs for Law Enforcement for Responding to Trafficking in Persons. The members of the Prosecution Sub Committee are as follows:

- Ministry of Home Affairs (Chair)
- Lesotho Mounted Police Service (LMPS)
- Department of Public Prosecutions
- Ministry of Justice
- Non-state actors/ CSOs focusing on TIP prosecution

This subcommittee provides guidance on TIP prosecution and informs the prioritization of anti-TIP actions.

As referenced above, the Government of Lesotho has recently commenced piloting of decentralized anti-TIP structures at district level: District Anti-TIP Committees. This decentralization can be an important mechanism for effectively following up on TIP cases and will also require good coordination among actors.

## SECTION 4 INVESTIGATING TIP CASES AND SUPPORTING TIP PROSECUTION<sup>4</sup>

This section of the SOP relates to a core element of the law enforcement response to trafficking in persons: investigating trafficking and supporting TIP prosecutions. TIP investigations, and associated intelligence gathering, are essential in ensuring that TIP perpetrators are prosecuted. It also contributes, in turn, to the prevention of trafficking and the protection of VOTs. This section of the SOP includes topics such as investigative approaches, intelligence gathering, cross-border and international cooperation on law enforcement matters, as well as border and immigration procedures.

### 4.1 Investigations:

**Overview:** There are a range of investigative approaches that can be employed in the response to TIP. This section provides guidelines on how investigations can be effectively undertaken, a summary of the core actors that will be involved and the relevant legislative provisions. The type and nature of trafficking in persons investigations will vary depending on the specifics of the trafficking case. This is because some are more complex than others, requiring involvement of a broad spectrum of specialised units, some are cross-border, and others may be more straightforward to investigate. Regardless, adequate planning and timely action are critical to securing evidence, as well as to prevent further criminal activities and/or harm to (potential) VOTs.

#### **Steps to consider:**

##### **Reactive investigations:**

- Reactive investigations are often victim led, and usually starts because of a case being reported by a complainant (this may be a VOT and/or a member of the community/public)
- Reactive investigations are largely dependent on victim/ witness testimony, at least in the first instance. However, the initial interview can provide important information to support follow-up investigations of different types

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<sup>4</sup> This section was broadly informed by: [www.unodc.org/documents/human-trafficking](http://www.unodc.org/documents/human-trafficking) (referenced April 2021)

- Once such a report has been received, it is important for law enforcement to gather as much information as possible about all elements of the crime, including the **Act**, the **Means** and the **Purpose** (recall the definition of TIP, [Section 2.1](#))
- Investigating recruitment and transportation modalities, for example, may help to build a more complete picture of the criminal linkages, as opposed to simply addressing one element of the crime, such as the exploitative labour practices
- This will require well planned, and well conducted interviews with the complainant/ VOT. [Section 5](#) and [Annex VI](#) provide guidance on VOT interviews, and [Annex VII](#) includes an interview Form from [Schedule III of the Anti-TIP Regulations](#). This incorporates questions on the three elements of TIP
- For any investigations involving VOTs, protective measures should be at the centre and the '**do no harm**' and other guiding principles should be considered **at all times** (refer to [Section 1.4](#) and [Section 5.1](#))

#### **Proactive investigations:**

- Proactive investigations are often used where there are indications that trafficking might have, or might be, taking place. This may include information on/ from:
  - o Advertisements for recruiting (potential) VOTs, or offering their services
  - o Premises used for exploitation, such as brothels, or for harbouring VOTs, such as 'safe houses'
  - o Intercepted communications between traffickers, and/ or between traffickers and VOTs
- Police usually initiate and lead proactive investigations based on intelligence (see [Section 4.2](#) below)
- Proactive investigations are often more effective than reactive investigations and can yield detailed information and intelligence on a crime of trafficking in persons. Law enforcement also has more control over proactive investigations, compared to those that are reactive
- Proactive investigations typically include an element of undercover work, including surveillance
- Surveillance can include monitoring business premises or other sites where exploitation may be taking place, border areas where trafficked persons may be entering the country, holding facilities or other sites where VOTs are kept *en route* to final destination
- Proactive investigations can be difficult to carry out in situations where surveillance is not practical, or where resources do not permit
- Unlike reactive investigations, proactive investigations do not need to rely on victim testimony. However, victim and witness testimonies are still often an important part of such investigation, and can provide corroborating evidence

#### **Disruptive investigation:**

- Disruptive investigations may be needed if it is not possible to carry out reactive or proactive investigations
- Such investigations may be initiated if there is immediate danger to the general public or to a trafficked person. Given the time sensitive nature of the situation, a disruptive investigation might be necessary

- The aim of disruptive investigations is, as the name suggests, for law enforcement to 'disrupt' trafficking-related activities. This can lead traffickers to reveal themselves or be 'caught in the act'
- Disruptive investigations are typically quick to carry out and don't require much lead-time and therefore law enforcement can respond quickly with minimal resources
- Regardless, planning is important to ensure that opportunities for crucial evidence are not lost, as well as to ensure the safety of VOTs

#### **Financial investigation:**

- Financial investigations can form an important part of human trafficking investigations, particularly in connection to the proceeds of the crime, or related assets. It is often undertaken in parallel with other types of investigation
- Given the many ways that the crime of human trafficking is carried out, the measures for carrying out financial investigations will depend on the nature of the TIP case but will likely involve the Financial Intelligence Unit working collaboratively with other law enforcement entities
- Financial investigations can look at indications of money laundering, financial connections/ transaction between perpetrators of different elements of the crime (i.e. those who have recruited VOTs, those who transport VOTs, those who exploit VOTs)
- When cash transactions are involved, these can be more challenging to investigate
- As with other types of investigation referenced above, such investigations can generate information and evidence to contribute to a broader case, and potentially lead to further investigation and corroborating evidence
- Financial investigations are typically most successful when carried out as part of a 'proactive' operation, prior to the arrest of suspects
- Assets frozen and/or confiscated, proceeds of the crime of trafficking, can also be channelled to the broader TIP response, including compensations for VOTs (see [Part VII, Forfeiture of Proceeds, of the Anti-TIP Act](#))

#### **Cyber investigation:**

- Cybercrime is becoming increasingly prevalent in a range of criminal activities, including human trafficking. The internet is frequently used for recruiting VOTs, as well as for other elements of the crime
- Exploitation of VOTs, in particular sexual exploitation, can take place via the darknet
- Engaging investigative divisions with expertise on cybercrime can strengthen broader investigations by yielding important information and evidence on online activities
- Cyber investigations and financial investigations are often complimentary; one can support the other, given that money often changes hands via the internet for cybercrimes
- As with financial investigations, cyber investigations are also typically most successful when carried out as part of a 'proactive' operation, prior to the arrest of suspects

#### **Crime scene investigations:**

- The nature, and potential value of crime scene investigations will largely depend on the broader investigations that have been undertaken. For example, if perpetrators were aware that they were being investigated, evidence may be concealed in advance
- Well planned disruptive investigations can lead to crucial evidence being identified at the crime scene(s). This can include:

- Fingerprints
- DNA samples
- Criminal proceeds, cash, for example, or evidence of transactions
- Photographic or related evidence
- Documentation (including identity documentation, travel documentation)
- Items used as part of exploitation (i.e. condoms, pornographic material or other items for sexual exploitation)
- Other
- Carefully managing the crime scene is essential to ensure such evidence is secured. This includes restricting access to the crime scene and ensuring that specialised, well-trained, and well-equipped officers are engaged to investigate the scene as soon as possible
- Evidence from crime scenes should be carefully transported and stored, as well as and appropriately documented, with access limited

***Who is responsible (and supports):*** TIP investigations are typically led by the **Ministry of Police and Public Safety** (and the Lesotho Mounted Police Service). The Trafficking in Persons (TIP) and Migrant Control Unit (MCU), which was established in October 2020, has a specific mandate to address TIP and will work closely with other units of LMPS, particularly the Child and Gender Protection Unit (CGPU), which should also be engaged for cases involving children and/or women.

The following actors may also be engaged:

- Other law enforcement entities, including immigration and other border authorities, customs, among others may also be involved
- Specific types of investigation may involve a range of specialised entities. For example, the Financial Intelligence Unit will be essential for financial investigations, divisions with expertise on cybercrime, et cetera, as well as the Ministry of Communications, Science and Technology
- Where illegal border crossing is linked to human trafficking, the Ministry of Home Affairs, including immigration authorities, may provide critical support
- Where children are involved, a legal guardian should be present, and the Ministry of Social Development should be engaged
- TIP investigations also rely on a range of other actors, including:
  - Communities: community leaders, and community members who often have a unique understanding of dynamics contributing to TIP, including illicit activities.
  - Civil Society Organizations and NGOs working with VOTs
  - Private sector, including banks or businesses who are concerned about irregular practices
  - Other

Also see [Annex IV](#), which provides an overview of roles and responsibilities in the law enforcement response to TIP.

Joint investigation teams can also be a critical part of successful investigations, particularly for complex cases (refer to [Article 19 in the Trafficking Protocol](#)). Such joint investigations can either be within Lesotho, or between Lesotho and one of more other State(s).

**Legislative provisions:** The Lesotho Anti-Trafficking in Persons Act of 2011 (in particular Part III Enforcement) and Anti-Trafficking in Persons Regulations of 2021 set out investigative measures, including in relation to interactions with VOTs (Part V and Schedules I and III). Additionally, the National Security Services Act (1998) includes relevant provisions, specifically in Chapter V (warrants, arrests, interception, monitoring and search). Also refer to the Money Laundering and Proceeds of Crime Act (2008) and its Amendment (2016) and the Prevention of Corruption and Economic Offences Act (1999).

The Transnational Organized Crime Convention: Article 19 on Joint investigations; Article 20 on Special investigative techniques; Article 26 on Measures to enhance cooperation with law enforcement authorities, among others.

Also see [Annex II](#), which provides more detail on legislative provisions.

## 4.2 Intelligence

**Overview:** Intelligence gathering is closely linked to investigations and is an essential part of securing prosecution of TIP perpetrators. Trafficking, due to its very nature, is likely to leave trails that can in turn lead law enforcement to uncover criminal activities. Intelligence on TIP may relate to understanding the methods of recruitment, transport and transfer of victims of trafficking, places and circumstances for harbouring victims, and methods of deception, control or other means (as set out in the definition of TIP) used. Additionally, understanding the types of exploitation that are taking place is critical. Intelligence supports this. Indeed, the exploitation phase is often where trafficking cases are identified and can lead to a full investigation taking place. It can also help to reduce risk during investigations, both to law enforcement and to (potential) VOTs. This section broadly sets out the types and sources of intelligence and investigative approaches that are relevant to TIP.

**Measures:** The main **types of intelligence** in TIP cases are typically strategic intelligence and tactical intelligence. Ideally, both should be used concurrently. This will help to build a comprehensive and more detailed understanding of the crime.

### Strategic intelligence

- Strategic evidence is usually connected to the modalities and general circumstances of the trafficking case
- This requires gathering intelligence on general trafficking modalities relevant to Lesotho, emerging trends, and specific (suspected) trafficking cases
- This can be highly localised, nation-wide, or international in scope
- Strategic intelligence can be gleaned from ongoing or previous law enforcement operations and thereafter used to strengthen the future response to TIP, including enhanced and targeted investigations, focused prevention efforts, planning and capacity building
- Strategic intelligence can focus on:
  - o Common trends in VOT demographics (including nationality, sex, age)
  - o Trends in border crossing or broader connections between countries
  - o Areas where exploitation is taking place

### Tactical intelligence:

- Tactical intelligence can be used to prevent, detect or disrupt trafficking activities
- It can be used to inform investigations, and can lead to crucial evidence being gathered

- Tactical intelligence usually relates to specific elements of an investigation, and pinpoints specific advance information required to secure carry out an investigation
- Information to be sought can include:
  - o Methods of recruitment, including advertisements et cetera
  - o Transportation modes and routes
  - o How documentation for VOTs is obtained (i.e. fraudulent, through corruption, other)
  - o How the trafficking operation is coordinated, including types of communication used
  - o Types of exploitation, including those requiring clientele, such as sexual exploitation (i.e. how are the services advertised)
  - o Understanding what financial transactions have taken place and how this links back to perpetrators
- Tactical intelligence can also include gathering information on the movements of traffickers and their accomplices
- It can often set the scene or kick start certain phases of an investigation where the intelligence helps ensure an investigation is effectively targeted, and can support the rescue of VOTs
- As with strategic intelligence, tactical intelligence can also help strengthen the future response to TIP, including for improving investigations and prevention efforts

The **sources** of intelligence in TIP cases are broad but may typically include the following:

- o Documentation (fraudulent or otherwise)
  - o Advertisements (leading to recruitment for exploitation)
  - o Information from informants, including on possible victims
  - o Police or other law enforcement surveillance
  - o Financial transactions
  - o Online activities, including communications or transactions
  - o Information related to linked criminal activities, which may include money laundering, smuggling of migrants
  - o Information gathered from apprehended criminals
  - o Victims or witness statements
- (list is not exhaustive – there may be a range of other sources)*
- Intelligence is only of value if it is used effectively. Therefore, mechanisms for transmitting intelligence and modalities for ensuring effective cooperation between intelligence and investigation entities is essential

**Who is responsible (and who supports):** Intelligence authorities, including relevant units and experts within the Ministry of Defence and National Security, typically lead anti-TIP intelligence operations. This will support broader law enforcement efforts. Military Intelligence can also be essential in intelligence gathering on TIP cases, including in border areas.

The **National Security Services Act (1998)** provides detail on roles and responsibilities for intelligence gathering, including **Chapter V** (warrants, arrests, interception, monitoring and search); **Part II** (continuation, composition and organisation of service); Schedule 1 (Organizational Structure of the Service).

As with investigations, intelligence authorities rely on information from a range of organizations, including the private sector, community organizations, among others.

Also see [Annex IV](#), which provides an overview of roles and responsibilities in the law enforcement response to TIP, as does [Section 8 of Schedule I of the National Security Services Act \(1998\)](#) (Organizational Structure of the Service).

**Legislative provisions:** The [Lesotho Anti-Trafficking in Persons Act of 2011](#) (in particular [Part III Enforcement](#)) and [Anti-Trafficking in Persons Regulations of 2021](#) broadly provide for a cross-section of elements of the TIP crime, which can be referenced to inform intelligence gathering. Additionally, the [National Security Services Act \(1998\)](#) provides detail on roles and responsibilities for intelligence gathering, including [Chapter V](#) (warrants, arrests, interception, monitoring and search); [Part II](#) (continuation, composition and organisation of service); [Schedule 1](#) (Organizational Structure of the Service). Also refer to the [Money Laundering and Proceeds of Crime Act \(2008\)](#) and its [Amendment \(2016\)](#) and the [Prevention of Corruption and Economic Offences Act \(1999\)](#).

[The Transnational Organized Crime Convention: Article 19 on Joint investigations; Article 20 on Special investigative techniques; Article 26 on Measures to enhance cooperation with law enforcement authorities, among others.](#)

Also see [Annex II](#), which provides more detail on legislative provisions.

### 4.3 Border Management

**Overview:** According to available data, cases of trafficking in persons that the Government of Lesotho is concerned with are typically cross-border in nature, either involving foreign nationals trafficked to or through Lesotho, or of nationals of Lesotho trafficked across borders to neighbouring countries, or further afield (also see [Section 1.5](#)). Therefore, effective border management is essential to addressing the crime of Trafficking in Persons. Border management practices, as with every aspect of the response to TIP, should follow a rights-based approach.

**Measures:** Border management measures that should be considered include:

- Carry out border surveillance and gather intelligence on modalities that traffickers use to cross borders, including border crossing for VOTs. Note that this may be carried out with legitimate documentation, but that documentation may also be fraudulent
- Recognise that migrant smuggling and trafficking in persons (as well as other cross-border offences) are often closely connected, ensure that protocols are in place to address and identify any connections between these crimes
- Procedures and equipment for fraudulent document examination are invaluable
- Establish cooperative practices among authorities in border areas (including integrated border management practices). This should include clearly setting out roles and responsibilities, and actions, of law enforcement authorities and other actors in border areas, specifically in relation to responding to trafficking in persons and related matters
- Put in place adequate methods for record keeping, including data protection, sharing and security
- Putting in place electronic border management systems can enhance the monitoring of cross-border activity
- Ensure that adequate and appropriate space is available for conducting interviews, both with (suspected) traffickers and (potential) VOTs
- Endeavour to deploy appropriately trained and experienced personnel in border areas, with knowledge and expertise on trafficking in persons

**Who is responsible (and who supports):** The Ministry of Police and Public Safety, including the Lesotho Mounted Police Service, and border authorities, such as immigration and the Lesotho Revenue Authority, are typically at the core. The Ministry of Defence and National Security, including the Lesotho Defence Force and the National Security Service also have an important role to play. For cases involving children, the Ministry of Social Development should be engaged. Health officials and other relevant entities may also need to be involved.

Also see [Annex IV](#), which provides an overview of roles and responsibilities in the law enforcement response to TIP.

**Legislative provisions:** The [Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011, Part III Enforcement, Sections 14-16 Port and border control](#) stipulates the officers who are permitted to examine persons arriving and leaving Lesotho, as well as conditions for questioning a person entering or leaving Lesotho, powers to stop persons or vehicles, and search of persons and aircraft, as it relates to TIP. Also refer to the [Lesotho Aliens Control Act \(1966\)](#).

The [Trafficking Protocol Articles 11, 12 and 13](#) set out measures for border management in addressing TIP. Of particular relevance are the following provisions:

*Article 11 (1) Without prejudice to international commitments in relation to the free movement of people, states Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons*

*(2) Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carries, from being used in the commission of offences established {in the Trafficking Protocol}*

*(6) Without prejudice to article 27 of the Conventions {TOCC}, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication*

*Article 12 Security and control of documents: Each State Party shall take measures as may be necessary, within available means:*

*(a) To ensure that travel documents issued by it are of such a quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered replicated or issued; and*

*(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the state Party and to prevent their unlawful creation, issuance and use*

The Transnational Organized Crime Convention: [Article 15](#) on Jurisdiction; [Article 16](#) Extradition; [Article 17](#) on Transfer of sentenced persons; [Article 18](#) on Mutual Legal Assistance; [Article 19](#) on Joint investigations; [Article 20](#) on Special investigative techniques; [Article](#) on Protection of Witnesses; [Article 25](#) on Assistance to and protection of VOTs; [Article 27](#) on Law enforcement cooperation among others.

#### 4.4 Cross-border, regional and international cooperation

**Overview:** As referenced above, Lesotho experiences cross-border trafficking, including of foreign nationals trafficked to or through Lesotho, or of nationals of Lesotho trafficked across borders to neighbouring countries, or further afield (also see [Section 1.5](#)). Aside from effective border management, cooperation with other States is essential. For Lesotho this will primarily be with States within the SADC region, and principally with the Republic of South Africa, where

the majority of cases are located. However, such interactions beyond the SADC region will also be necessary.

**Measures:** Measures required for inter-state cooperation are varied and country specific. They will be defined by regional and cross-border dynamics, as well as specific agreements and arrangements put in place by the respective States

- A first step is gathering relevant information on dynamics (reference [Section 4.2](#) above on intelligence gathering)
- This can form the basis for the Government of Lesotho to initiate special agreements and/ or special arrangements with other States for responding to TIP. These agreements can outline procedures to be undertaken for joint TIP operations, protection of VOTs, mutual legal assistance and extradition, for example
- Joint investigation of trafficking cases between two or more states can be extremely effective in responding to TIP. [Article 19 of the TOCC](#) provides guidance on joint investigations, including ensuring full respect of the sovereignty of respective State Parties

#### **Mutual Legal Assistance<sup>5</sup>:**

- Mutual Legal Assistance (MLA) is a process by which States either seek assistance from, or provide assistance to, other States in criminal proceedings, including for gathering evidence
- MLA Steps often starts with formal request from the requisitioning state to the other (through the relevant judicial authority). In Lesotho this will be done through the Ministry of Foreign Affairs and International Relations
- The request will set out the requested action to be undertaken on behalf of the requisitioning state and could include collecting evidence, interviewing witnesses, for example
- The Ministry of Foreign Affairs and International Relations will submit the request, through diplomatic channels, to the recipient State
- The relevant law enforcement or other entity will then engage in the specified action, which will be channelled through the courts for authentication
- Thereafter it is sent to the requisitioning State through respective foreign ministries, eventually to reach the competent judicial authorities in the requisitioning State

#### **Extradition<sup>6</sup>:**

- Extradition involves the return of a person accused of convicted of a crim from one State to another following a formalised process. This is typically to ensure that they stand trial or serve a sentence in the requisitioning state
- The TOCC, Article 16, provides detailed guidance, and the SADC Extradition Protocol includes additional stipulations. *Note that: in order to identify which terms of these instrument apply, it will be necessary to know whether the the requesting and/or receiving countries have ratified/ domesticated these instruments. If the country form which assistance is sought is outside the SADC region, then the SADC Protocol will not*

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<sup>5</sup> [www.unodc.org/e4j/en/organized-crime](http://www.unodc.org/e4j/en/organized-crime)

<sup>6</sup> [www.unodc.org/e4j/en/organized-crime](http://www.unodc.org/e4j/en/organized-crime)

*apply. Note also that there may be multi or bi-lateral agreements in place. Responsible actors will need to identify which is the best fit for a given case/ circumstance, including an assessment of requirements of the case and what may have been used successfully in the past.*

**Who is responsible (and who supports):** The Ministry of Foreign Affairs and International Relations is a central element of inter-state cooperation, working closely with the Ministry of Justice, and relevant law enforcement entities, including the Ministry of Police and Public Safety. The Ministry of Defence and National Security, including the Lesotho Defence Force and the National Security Service may also need to be engaged, depending on the nature of the TIP operation.

Organizations such as INTERPOL (International Criminal Police Organization) and SARPCCO (Southern African Regional Police Chiefs Co-operation Organisation) are also instrumental in international cooperation on criminal matters.

INTERPOL<sup>7</sup>: The International Criminal Police Organization is an inter-governmental organization comprised of 194-member countries. Among other things, INTERPOL facilitates the sharing or and access to data on crimes and criminals and offers technical and operational support to member states. Each participating country host a National Central Bureau, which provides point of contact for the INTERPOL Secretariat, other national bureaus and regional hubs.

SARPCOO<sup>8</sup>: The SADC Organ on Politics, Defence and Security Cooperation established SARPCOO (Police Chiefs Sub-committee) in 2006. SARPCOO is the primary force in Southern Africa for preventing and fighting cross-border crime, such as trafficking in persons. It is supported by the Sub-Regional Bureau of INTERPOL (located in Harare).

Also see [Annex IV](#), which provides an overview of roles and responsibilities in the law enforcement response to TIP.

**Legislative provisions:** The Lesotho Anti-Trafficking in Persons Act, No. 1 of 2011: *Part VIII, Sect. 55 – Extradition*

Lesotho Anti-TIP Regulations (2015): *Part III, Sect. 7:*

- *The roles and responsibilities of the Ministry of Law and Constitutional Affairs, and Human Rights in combatting trafficking in persons is to (ii) recommend negotiation on mutual legal assistance and extradition treaties with other countries in coordination with the ministry of Justice and Correctional Service and the Ministry of Foreign Affairs and International Relations*

*Part III, Sect. 10:*

- *The roles and responsibilities of the Ministry of Foreign Affairs and International Relations in combatting trafficking in persons is to (b) explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in Lesotho and abroad, particularly in the formulation of policies and implementation of relevant programmes (also see [Section 6.2](#), Prevention of TIP)*

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<sup>7</sup> [www.interpol.int](http://www.interpol.int)

<sup>8</sup> [www.sadc.int/themes/politics-defence-security/police-sarpcco/](http://www.sadc.int/themes/politics-defence-security/police-sarpcco/)

The [SADC Extradition and Mutual Legal Assistance Protocols](#) can guide such cooperation (also see [Section 2](#)). The [Cooperation Agreement of the Joint Bilateral Commission between Lesotho and South Africa](#) set, as well as other relevant cross-border agreements, should also be consulted.

Additional relevant agreements at regional level include:

- *The [SARPCCO Multilateral Cooperation Agreement on Combating Crime within the Region](#) was signed on 1 October 1997 by Member States and came into effect on 29 July 1999. The agreement outlines commitments and objectives, and also sets out the conditions that would allow cooperation between police services.*
- *The [SARPCCO Agreement in Respect of Cooperation and Mutual Assistance in the Field of Crime Combating](#) is the basis of regional police cooperation. It includes reference to scenarios in which police officers may need to travel across borders in the region to undertake investigations or the seizure of exhibits and questioning of witnesses in connection with any such offence. Nevertheless, the local police force/service maintains authority in effecting the relevant police actions in each country.*
- The [Transnational Organized Crime Convention](#): Article 15 on Jurisdiction; Article 16 Extradition; Article 17 on Transfer of sentenced persons; Article 18 on Mutual Legal Assistance; Article 19 on Joint investigations; Article 20 on Special investigative techniques; Article on Protection of Witnesses; Article 25 on Assistance to and protection of VOTs; Article 27 on Law enforcement cooperation among others.

Article 10 of the [Trafficking Protocol](#):

*1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:*

*(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;*

*(b) The type of travel documents that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons*

*(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them*

Also see [Annex II](#), which provides more detail on legislative provisions.

## SECTION 5 IDENTIFICATION AND PROTECTION OF VOTs

As highlighted above, the identification and protection of Victims of Human Trafficking is of paramount importance. Among other things, primarily this ensures the protection of their human rights (as set out in international and national law), as well as their safety and security, and can also help in prosecution processes (i.e. gathering evidence).

While the Ministry of Social Development has primary responsibility for the protection of victims of human trafficking (see [Section 9 of the Lesotho Anti-TIP Regulations, 2015](#)), law

enforcement is also critical in ensuring that the rights of victims of human trafficking are upheld and that their protection needs are met. Aside from ensuring adequate protection, this can also support effective investigation of TIP and ultimately, the prosecution of perpetrators.

## 5.1 Guiding Principles for Protection

Protection measures, and law enforcement roles, are reflected in more detail in the [Guidelines on the National Referral Mechanism for the Protection of Victims of Human Trafficking in Lesotho \(2021\)](#). Note also that this document follows core principles on the rights of migrants in vulnerable situations (OHCHR, 2017) and in the SADC Strategic Plan of Action on Combatting Trafficking in Persons (2017). Among other things these include: primacy of human rights, informed consent, non-discrimination, inter-state cooperation and access to justice.

## 5.2 Identification, referral and protection of VOTs

This section provides a brief overview of the stages of assistance for the identification, case type determination, referral, and protection of VOTs.

In particular, the Lesotho [Anti-Trafficking in Persons Act, No. 1 of 2011](#) and [Regulations \(2015\)](#) include provisions relating to the protection of VOTs, including relevant actors for the provisions of support.

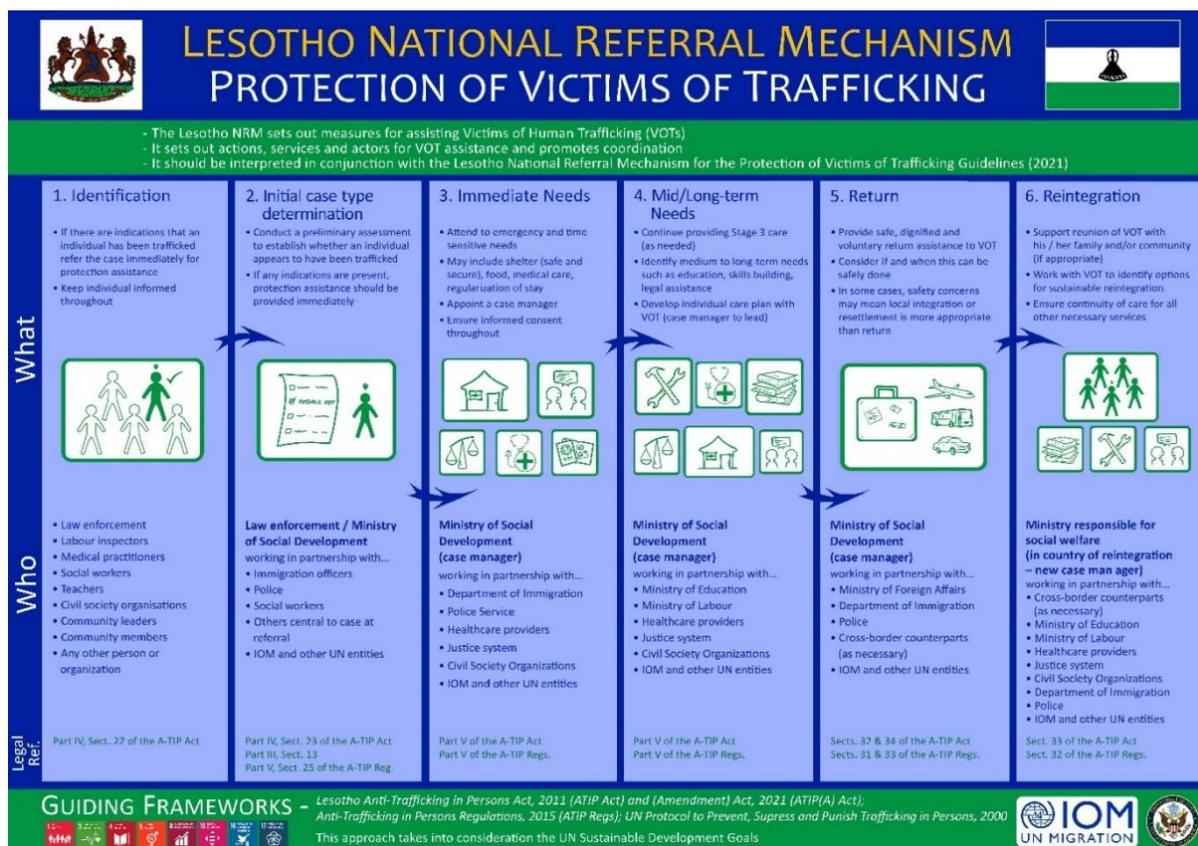
- **Anti-TIP Act:** Including Part IV Identification, care and protection of VOTs; Part V Centres for victims
- **Anti-TIP Regulations:** Including Section 9, Role of the Ministry for Social Development; Section 12 Role of the Ministry of Home Affairs; Section 13 Role of the Ministry of Police and Public Safety; Part V Rights of Victims of Trafficking

*(also see [Annex II](#) summary of legislative provisions and [Annex IV](#) government and partner roles)*

### 5.2.1 Lesotho National Referral Mechanism for the Protection of Victims of Human Trafficking – an overview

The Lesotho National Referral Mechanism for the Protection of Victims of Human Trafficking, developed in 2021, outlines the different stages for the provision of assistance to victims of human trafficking. The NRM promotes coordination among service providers. The NRM includes a chart (fig.2 below) and accompanying Guidelines.

Figure 2: Lesotho NRM Chart (see Annex V for larger version of the chart)



The NRM provides guidance on each of the following stages of assistance:

Stage 1: Identification of potential VOTs

Stage 2: Initial case-type determination

Stage 3: Providing for immediate needs

Stage 4: Providing for medium and long-term needs

Stage 5: Supporting return of VOT to country of origin, or resettlement to third country

Stage 6: Reintegration support, leading to case closure

Law enforcement officers have an important role in the implementation of the NRM, in particular during stages 1 (identification) and 2 (case-type determination), as well as Stage 5 (return of VOTs). The steps to be taken by law enforcement for the implementation of the NRM are set out below.

### 5.2.2 Step 1 – Initial interaction with potential VOTs



**Overview:** An essential first step in ensuring that VOTs receive the protection and support that they need is their timely identification and referral to services that can provide for their immediate needs. Potential VOTs can be identified by a range of organizations or individuals. However, law enforcement officers are particularly well placed to identify VOTs, including through investigations, surveillance, community outreach, and other aspects of their operations.

Effectively identifying VOTs and ensuring that they are protected can also support TIP prosecutions. For example, a victim of human trafficking may be able to provide intelligence or evidence on who was involved in their trafficking (perpetrators), what criminal activities took place, and where (additional) evidence may be located. This can also support the seizure of assets, as well as the rescue of other VOTs<sup>9</sup>.

Note: Identifying victims of human trafficking can be a challenge, as can identifying VOTs among other individuals and separating them from their perpetrators. Trafficked persons often do not identify themselves as victims and therefore may not identify or present themselves as a VOT.

It is important to note that the potential VOT may be extremely afraid to talk to the authorities. It is also important not to question the VOT for potential crimes the person may have committed during the trafficking process, for instance, the person may not be in possession of valid identity documents.

Although no two trafficking cases are the same, there are a number of indicators that can help with the identification of potential VOTs. These are '*prima facie*' indicators; indicators that give an indication (on first reflection) that an individual could be a VOT. Understanding the most common trafficking trends and other contextual factors can help with establishing *prima facie* indicators. For example, if there are typical routes that traffickers use, or nationalities among victims, then individuals identified along these routes of given nationalities could, *prima facie*, be identified as potential VOTs.

Such indicators are referenced in [Part VI, Section 22 of the Anti-Trafficking in Persons Act, 2011](#), and include:

- If there are signs of exploitation
- If movement is (or has been) restricted
- If the person displays signs of physical or emotional abuse
- If a person is subject to harsh working conditions, including work that they had not agreed to do, or work for little or no pay

Other *prima facie* indicators include age, nationality, sex, and location.

Note that these indicators on their own do not confirm that a case is one of trafficking but can rather give an indication that it may be. Further investigation will be needed to confirm if an individual is a VOT (see Stage 2 below).

**Law enforcement actions:** If law enforcement officers identify a potential VOT, the following steps should be taken:

1. Refer the case to the police for further assessment ([Section 23 of the A-TIP Act](#))
2. If the case involves a child (under the age of 18) a social worker should be engaged to provide support
3. Ensure that all actions are clearly communicated with potential VOT, noting that there may be language barriers

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<sup>9</sup> Government of the Republic of South Africa, 2020

4. Ensure that the guiding principles set out in [Section 1.4](#) of this document are closely followed, including: human-rights based approach; do no harm; informed consent; non-discrimination

**Who:** A broad range of law enforcement entities can be involved in the identification of VOTs. However, once a potential VOT is identified, a referral should be made to the Police.

**Legal reference:** Part IV, Section 22 of the Anti-Trafficking in Persons Act, 2011. Also refer to [Annex II](#), summary of relevant national legal provisions, as well as the full text of the specified legislation.

### 5.2.3 Step 2 – Initial case-type determination



**Overview:** As set out in the NRM Chart, identification of VOTs is typically conducted through an initial assessment. According to the Anti-Trafficking in Persons Act, this should be carried out by the police.

**Anti-TIP Regulations (2015):** *The roles and responsibilities of the Ministry of Police and Public Safety in combatting trafficking in persons include: (2) The police shall perform a first encounter assessment and refer the victim to a social worker*

The following steps should be taken by police officers who are carrying out initial case-type determination:

1. A police officer to whom a (potential) case of trafficking has been referred should undertake an initial assessment (within 24 hours) (Section 23 of the A-TIP Act)
2. If the assessment presents signs that an individual is likely to be a VOT, the case should be referred to protective services, which may be a safe shelter (Section 25 of the A-TIP Regs)
3. If the VOT is a child, urgent protection and support should be sought from a social worker and guardianship should be established (Children's Protection and Welfare Act)
4. The identity of the VOT should be protected at all times (Section 23 of the A-TIP Act)
5. Cases that are determined **not** to be trafficking cases, but where individuals still face vulnerabilities, may need to be referred through alternative channels. This includes (but is not limited to) asylum seekers or refugees, unaccompanied and separated children, and stranded migrants.

Refer to the [Lesotho Anti-Trafficking in Persons Regulations \(2015\)](#), which contains guidance for initial interviews of VOTs (also included in [Annex VI](#) of this document) and a form for screening and identification of VOTs (see [Annex VII](#) of this document).

**Who:** This stage is to be led and coordinated by the Police. The Trafficking in Persons (TIP) and Migrant Control Unit (MCU), which was established in October 2020, has a specific mandate to address the TIP will work closely with other units of LMPS, particularly the Child and Gender Protection Unit (CGPU), which should also be engaged for cases involving children and/or women.

### Relevant legislative provisions

- Lesotho Anti-TIP Act Part IV:

*Guiding principles in determining a victim (22 (a) - (g) sets out circumstances to be taken into account in when deciding whether a person is a victim of trafficking*

- Lesotho Anti-TIP Act: Part IV, 23 (2)(b)
  - (i) *If the victim is a child [they should be referred to] a designated social worker;*
  - (ii) *If the victim is an adult [they should be referred to] a designated protection centre for adults*

**NOTE:** *Where there are urgent protection needs or safety considerations, Stages 2 and 3 may take place simultaneously to ensure that VOTs receive the assistance that they need at the earliest possible time*

### 5.3 Law enforcement role in broader protection assistance:

Beyond the identification and referral of VOTs, law enforcement has a role to play in other stages of protection assistance. These are explored in more detail in the Lesotho National Referral Mechanism for the Protection of VOTs and include immediate, medium and long-term needs, as well as sustainable solutions.

#### 5.3.1 Step 3: Immediate needs



- Once a potential VOT has been identified, the important next step is onward referral for emergency protective services to ensure each VOT's immediate needs are met. A Risk Assessment should be carried out as soon as possible, and mitigation measures put in place for identified risks. Defining of the immediate needs happens simultaneously during the initial identification of the VOT, if possible. Otherwise, it is performed at the earliest appropriate moment after the initial identification.

#### Relevant legislative provisions

- Lesotho Anti-TIP Act: Part IV, 23 (1)
 

*An immigration officer, labour officer, social worker, probation officer, social service professional, medical practitioner, nurse, teacher, traditional healer or any other person who has reasonable grounds to believe that a person is a victim of trafficking shall report that suspicion to police officer for investigation*

Stage 2 of the NRM Chart sets out the services that might be needed to meet a VOTs immediate needs, as well as the partners/ service providers that may need to be engaged.

#### **Lead: this stage is to be led and coordinated by the Ministry of Social Development**

Services may include: Shelter, food and clothing, healthcare, counselling, legal support, regularization of stay (immigration documents, for example), among other things.

The immediate needs of a potential VOT are defined in two ways:

**Observation:** The observation of the condition, appearance and behaviour of the potential VOT. In situations of emergency, when the person is under severe stress, has medical problems and is in no condition to speak, his/her needs can be defined only on the basis of the observed symptoms. This is necessary when urgent actions need to be taken and the consent of the potential VOT cannot be obtained. The observation should at least complement the information conveyed by the VOT.

**Interview:** The interview is conducted when the VOT is in a condition to share information and to understand what is being communicated to him/her.

The VOT's main physiological needs (of food, water and rest) must be satisfied and any necessary medical care must be ensured.

Regularization of stay is important since VOT's do not have their own travel documentation and is reflected in Lesotho's national law.

- *Lesotho Anti-TIP Act: Part IV, 28 and 29, prohibition and suspension of deportation*  
*(28) Summary deportation of a victim is prohibited*  
*Sections (29) and (30) Provide options for the regularization of a VOTs immigration status, including suspension of deportation, temporary and permanent residence*

These are elaborated on in the Lesotho Anti-TIP Regulations (2015) Part V (Sect. 26):

- *Prohibition of summary deportation*  
*Foreign victims of trafficking who are found in Lesotho shall not be summarily deported from Lesotho but referred to the police to follow up a referral procedure*

Section 26 sets out measures for the issuance of a permit for a reflection period, as well as issuance of temporary residence and permanent residence.

A reflection period allows the VOT an opportunity to receive the immediate support that they need, and to being to recover from what they may have experienced as a result of being trafficked, before being required to take decisions about the way forward with their case.

VOTs should be informed of this by any officer who interacts with them; case managers, those providing legal or other assistance, can also highlight this right to the VOT.

**Victim and witness protection:** The Action Plan to Combat Trafficking in Persons reflects the importance of witness protection and access to justice.

Lesotho Anti-TIP Regulations (2015):

*Part III, Sect. 8 (b) –*

- *The roles and responsibilities of the Ministry of Justice and Correctional Service in combatting trafficking in persons is to (b) establish a mechanism for free legal assistance or representation for trafficked persons, in coordination with Legal Aid Services for civil proceedings*

### **5.3.2 Step 4: Medium and long-term needs**



Once a VOT's immediate needs have been provided for, the next step is ensuring the provision of adequate, comprehensive and individualised protection assistance to meet their medium term and long-term needs. This is reflected in Stage 3 of the NRM.

**Lead: this stage is to be led and coordinated by the Ministry of Social Development**

Though law enforcement role in this stage may be limited, it should be noted that this stage includes continuity of care. Immediate needs that were provided for in Stage 2 should be

continued, as appropriate, and services provided as part of medium-needs may need to be continued for the longer-term, including as part of return and reintegration support (see Steps 4 and 5 below). Therefore, support and assistance being provided by law enforcement entities in the earlier stages should continue, as appropriate, in this stage

### 5.3.3 Step 5: Return



At an appropriate point, when it is considered safe to do so, options should be considered for VOTs safe and voluntary return to country of origin. In cases where this is not possible or safe, options may be considered either for resettlement to a third country, or local integration in Lesotho. Also see provisions above under Step 2 relating to regularization of stay.

During this process the particulars of the trafficking case should be carefully considered, including ensuring safe passage of the VOT, addressing any concerns they have, modes of transport, and ensuring that measures are in place for their arrival.

#### For VOTs identified in Lesotho:

During this process, specific aspects of the trafficking case should be carefully considered, including ensuring safe passage of the VOT, addressing any concerns they have, modes of transport, and ensuring that measures are in place for their arrival.

Law enforcement agencies have an important role in supporting return operations.

#### Steps to consider include:

1. All aspects of return should be voluntary, and conducted in dignity, and informed consent. This is in line with the guiding principles set out in Section 1.4 of this document
2. Carry out a risk assessment to identify the safety of return, and put in place measures to mitigate any risks during the return process (Sect. 32 of the A-TIP Act)
3. Identify the most appropriate modalities and routes for return, considering the safety and best interest of the VOT at the centre of all actions
4. Contact the respective country/ community of return to establish how best to ensure continuity of care once VOT has returned
5. Ensure appropriate travel documentation is in place. This may need to be coordinated with appropriate consular services
6. Assess whether an escort is needed. This should be an appropriate individual with the necessary expertise, whose primary role is to protect the VOT during their journey and ensure that they safely reach their destination, in a dignified manner. (Sect. 35 of the A-TIP Act, special considerations for children)
7. As with earlier stages of assistance, the VOT should be actively involved, and well informed of their rights throughout (Sect. 32 of the A-TIP Regs)

8. Again, for all actions involving children, best interest principle should apply, as well as the child's evolving capacities (Children's Protection and Welfare Act Sect. 4-6)

*n.b. Return to country of origin, or to the country from which the individual was trafficked, may not be appropriate. After carrying out an assessment of the risks involved, if the safety of the VOT cannot be guaranteed, alternative options should be considered, including local integration (in Lesotho) or resettlement (see Stage 6)*

**Who:** The Ministry of Social Development, including VOTs case worker, is central to this stage. However, other ministries, including Ministry of Foreign Affairs and the Ministry of Home Affairs, should also be closely involved. Entities in the country to which the VOT is returning should also be considered in actions relating to a VOT's return, with the informed consent of the concerned VOT.

**Legal reference:** Section 32 of the Lesotho Anti-Trafficking in Persons Act provides detailed guidance on return of foreign VOTs, as does Section 33 of the Anti-Trafficking in Persons Regulations (2015). Also refer to specific provisions mentioned above and to [Annex II](#), summary of relevant national legal provisions, as well as the full text of the specified legislation.

#### **For Basotho VOTs identified outside of Lesotho:**

**What:** Citizens of Lesotho who have been trafficked to a foreign country may need assistance (Sect. 30 of the A-TIP Regulations (2015) sets out measures for rescuing such a VOT). As with foreign VOTs identified in Lesotho, the particulars of the trafficking case should be carefully considered when planning their return. This includes ensuring safe passage of the returning VOT, addressing any concerns they have, identifying appropriate modes of transport, and ensuring that measures are in place for their arrival.

Points 1 to 7 in the above list also apply for Basotho VOTs returning to Lesotho. However, other considerations/ stages of assistance also include:

1. Engaging the Ministry of Foreign Affairs and consular authorities in country in which the VOT is located
2. Appointing a case worker in Lesotho to support VOT's case from the time that they arrive back in Lesotho
3. A designated social worker should be appointed for returning child VOTs (Sect. 34 of the A-TIP Act)

**Who:** The Ministry of Social Development, including VOTs case worker, is central to this stage. However, other ministries, including Ministry of Foreign Affairs and the Ministry of Home Affairs, should also be closely involved. United Nations actors can also provide support. Coordination with entities in country to which the VOT is returning should be carefully considered in all relevant actions relating to a VOT's return.

**Legal reference:** Section 34 of the Lesotho Anti-Trafficking in Persons Act (2011) provides detailed guidance on return of Basotho VOTs to Lesotho, as does Section 31 of the Anti-Trafficking in Persons Regulations (2015). Also refer to the specific provisions mentioned above and to [Annex II](#), summary of relevant national legal provisions, as well as the full text of the specified legislation.

### 5.3.4 Step 6: Reintegration



The ultimate aim of comprehensive protection assistance is to find a lasting solution for VOTs that addresses their vulnerabilities and possibility of re-trafficking, as well as their long-term protection needs. Such solutions should be sustainable but may require continued support from relevant actors. Again, though law enforcement role in this stage may be limited, continuity of care remains important. Therefore, support and assistance being provided by law enforcement entities in the earlier stages should continue, as appropriate, in this stage

#### Steps to consider include:

In addition to the steps set out in the NRM Guidelines, law enforcement may have a particular role in the following:

1. Access to justice and legal support, noting that witness protection, legal counselling and other support may be required to ensure that VOTs are adequately protected during any court or other legal proceedings (among others, Sects. 8 and 35 of the A-TIP Regs and Sect. 135 of the Children's Protection and Welfare Act (2011))
2. VOTs may be eligible for compensation. This can support their longer-term rehabilitation and prevent re-trafficking (Sects. 41 and 47 of the A-TIP Act, as well as Sect. 34 and Schedule II of the A-TIP Regs)
3. As referenced above, return and reintegration may not be safe or appropriate for all VOTs. In such cases, local integration or resettlement to a third country should be considered. Regardless of the process that is followed (i.e. reintegration, local integration or resettlement), protection assistance and support will largely follow the steps set out above.

**Who:** Reintegration support will likely be coordinated by the ministry responsible for social welfare in the country to which the VOT is returning; for returning Basotho VOTs, this will be the Ministry of Social Development in Lesotho. However, respective ministries of foreign and home affairs may also need to be engaged, as well as law enforcement entities where security concerns are present. The National Institute of Civil Registration, passport services and local government actors may need to be involved. Ministries responsible for labour, vocational training and education will be central to reintegration efforts, as well traditional or community leaders in communities of return. Other entities, such as for the provision of counselling, medical care and other needs, will also need to be engaged. Organizations such as IOM and other UN entities can also support reintegration efforts.

**Legal reference:** Section 33 of the Lesotho Anti-Trafficking in Persons Act (2011) provides guidance on reintegration, as does Section 32 of the Anti-Trafficking in Persons Regulations (2015). Also refer to the specific provisions mentioned above and to [Annex II](#), summary of relevant national legal provisions, as well as the full text of the specified legislation.

### 5.4 VOTs: Special considerations

While there are general protection considerations for all Victims of Human Trafficking, certain demographic groups have specific needs. Indeed, the title of the Trafficking Protocol specifies '*especially women and children*', in recognition of these particular needs. This is also relevant

to the SDG principle of Leaving No One Behind. Article 6 (4) of the Trafficking Protocol indicates that:

*Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.*

In addition to the international legal frameworks indicated above, it should be noted that the SADC TIP Policy Brief (2016) identifies a number of groups in the SADC region with particular vulnerabilities to trafficking. These include women and children (especially children who are orphaned), people living with disabilities (trafficked for the purpose of forced begging), people living with albinism (linked to ritual killings). Though it should be noted that the report emphasises that the vulnerabilities of these social groups require further investigation.

Specific population groups are provided for within international legislative instruments, as referenced below. Groups requiring particular consideration includes, though is not limited to:

#### **5.4.1 Children**

Children and adolescents are especially vulnerable when they are separated from their families and can be victims of trafficking and abuse. Child VOTs require special considerations and protections in international law. General child rights provisions are also applicable to VOT/migrant children and should be considered in all actions relating to the child. Among others, these include the following guiding principles of the Convention on the Rights of the Child (CRC) that need to be considered in all decisions concerning migrant children, including in the context of alternatives to detention<sup>10</sup>:

- [Right to non-discrimination \(Article 2\)](#)
- [Principle of Best Interest of the Child \(Article 3 of the CRC\)](#)
- [Right to life, survival and development \(Article 6 of the CRC\)](#)
- [Respect for the views of the child \(Article 12\)](#)

Note that according to the Lesotho Anti-Trafficking in Persons Act, a child is defined as: *A person who is under the age of 18 years.*

The Lesotho Anti-TIP Act: Part IV, 27 (1)-(3) includes provisions for child victims found in Lesotho; Part V 41. (3): The best interest of the child shall be paramount in any assistance given to rescue a child who is a victim

Refer also to the [Convention on the Rights of the Child](#) (1989)

#### **5.4.2 Gender considerations**

Women and girls encounter significant and particular risks to their personal and physical safety during the process of human trafficking and can be particularly susceptible to abuse and exploitation. Women can face particular dangers, including domestic violence, as well as physical, emotional or sexual aggression. There are also particular considerations relating to male VOTs, including often limited shelter options, among other things.

Refer to the [Convention on the Elimination of All Forms of Discrimination against Women](#) (1979) and the SADC Gender Protocol, which includes the following provisions:

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<sup>10</sup> *United Nations Convention on the Rights of the Child, G.A.Res 44/25 (1989)*

- Article 11 (d) laws, policies and programs should be implemented to develop and protect the girl child by 'protecting girls from economic exploitation, trafficking and all forms of violence including sexual abuse':

- Article 20 (5) outlines signatories' commitments to be met by 2015:

(a) enact and adopt specific legislative provisions to prevent human trafficking and provide holistic services to survivors, with the aim of re-integrating them into society;

(b) put in place mechanisms by which all relevant law enforcement authorities and institutions may eradicate national, regional and international human trafficking networks;

(c) put in place harmonized data collection mechanisms to improve data collection and reporting on the types and modes of trafficking to ensure effective programming and monitoring;

(d) establish bilateral and multilateral agreements to run joint actions against human trafficking among countries of origin, transit and destination countries; and

(e) ensure capacity building, awareness raising and sensitization campaigns on human trafficking are put in place for law enforcement officials all parties.

### **5.4.3 Persons living with disabilities**

Persons with disabilities can be vulnerable because they may have a reduced capacity to care for themselves. They may also have communication challenges and may require special protection or care. This can lead them to be more vulnerable to being trafficked, and more vulnerable once trafficked.

Types of disability may include:

- Chronic diseases, such as cancer, diabetes, epilepsy;
- Intellectual disability;
- Visual, speech or hearing impairments;
- Physical disability;
- Persons unable to care for themselves and without any assistance;
- Mental illness (depression, anxiety, etc.);
- Physical injuries or traumatism as the result of torture or violence (including sexual violence).

Refer to the [Convention on the Rights of Persons with Disabilities](#) (2006)

Special measures should be put into place to ensure that the needs of these groups are met. Above all, this emphasises the need for individualised responses to the protection of each VOT. As mentioned above, good case management is essential for in this regard.

## **SECTION 6 – COMPLEMENTARY MEASURES**

### **6.1 Data collection, management and use:**

Ensuring the appropriate collection, management and use of TIP data is an important element of any TIP response. As highlighted above, TIP data can provide a foundation for investigations,

as well as prevention efforts. Article 10 of the Trafficking Protocol also refers to this (also see [Section 4.3](#)).

Aside from ensuring that adequate data is available, States should also ensure that measures for data protection are in place. Among other things, this is part of ensuring the rights of VOTs are upheld and that their safety and security is provided for. All law enforcement entities should strictly adhere to data protection guidelines and principles.

*Lesotho Anti-TIP Regulations (2015): Part III, Sect. 7 (iv), The roles and responsibilities of the Ministry of Law and Constitutional Affairs, and Human Rights in combatting trafficking in persons is to (iv) develop tools for an maintain a database for the effective monitoring, documentation and prosecution of cases of trafficking in persons*

This is also in line with Article 6 of the Trafficking Protocol: *In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.*

## 6.2 Prevention of TIP

As referenced above, the Trafficking Protocol includes provisions relating to what are often referred to as the four Ps of trafficking: Prevention, Prosecution, Protection and Partnership.

Law Enforcement also has a role to play in the prevention of trafficking in persons.

The Lesotho Anti-TIP Act (2011) Part VI focuses on the prevention of trafficking, including: (Sect. 43) Public awareness campaigns.

This is also referenced in the Trafficking Protocol Part III, Article 9 as follows: *Article 9 (1) - States Parties shall establish comprehensive policies, programmes and other measures: (b) To prevent and combat trafficking in persons; Article 9 (2) - States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.*

Part III Lesotho Anti-TIP Regulations (2015) also specifies throughout, the roles and responsibilities of various ministries, indicating that they should contribute to the prevention of trafficking in persons through various educational and outreach programmes, as well as cooperative efforts with civil society, community leaders, and through programmes involving cross border collaboration. This includes the Ministry of Home Affairs and the Ministry of Public Safety and Peace.

Additionally, the Anti TIP Regulations stipulates that:

*Part III, Sect. 10 – The roles and responsibilities of the Ministry of Foreign Affairs and International Relations in combatting trafficking in persons is to (b) explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in Lesotho and abroad, particularly in the formulation of policies and implementation of relevant programmes (also see [Section 4.3](#), Cross-Broder, Regional and International Cooperation)*

## 6.3 Capacity Building

Capacity building of law enforcement officers, both pre-service and in-service training, is an important element of ensuring that the response to TIP is as comprehensive as possible, as

well as for ensuring that the Standard Operating Procedures are appropriately implemented. This importance of this is highlighted in the Trafficking Protocol as follows:

Capacity building of law enforcement is prioritized in the Lesotho Action Plan to Combat Trafficking in Persons, which references: *Training for criminal justice practitioners (e.g. policy, prosecutors etc) on identification of trafficking in persons and proactive and reactive investigative techniques and prosecutorial methods and the foreseen adopted referral mechanism*

Additionally, the Lesotho Anti-TIP Regulations, Part III specifies throughout that the referenced government entities should enhance the capacity of personnel involved in issues of trafficking in persons through appropriate training and staff support programmes. Additionally, Section 7 specifies that: *The roles and responsibilities of the Ministry of Law and Constitutional Affairs, and Human Rights in combatting trafficking in persons is to (i) conduct training and continuing education program on investigation and prosecution of cases of trafficking in persons and other related offenses for the prosecutors and law enforcement officers;*

While this SOP is primarily intended to be used as a reference tool for law enforcement officers when handling trafficking cases, it can also be used to support training and other forms of capacity building.

## CONCLUSION

This document, the Standard Operating Procedures for Law Enforcement in Lesotho for Responding to Trafficking in Persons, sets out guidance for law enforcement entities to understanding human trafficking, investigate cases and protect victims of the crime. It supports a coordinated approach, building on respective areas of responsibility, in line with national legal frameworks and international best practice.

The document provides detailed guidance on the steps to be taken at each stage of the law enforcement response to TIP, including which entities should be involved, and how this is provided for in relevant legal frameworks. Through consistent use of this document, it is anticipated that the overall response to human trafficking will be strengthened, including for prosecution, protection and prevention.

## REFERENCE LIST

### *Literature*

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#### **African Union**

- 📖 2016 Migration Policy Framework for Africa
- 📖 2006 Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children
- 📖 1981 African Charter on Human and Peoples' Rights
- 📖 1990 African Charter on the Rights and Welfare of the Child

#### **Government of Lesotho**

- 📖 2021 (forthcoming) National Referral Mechanism for the Protection of VOTs
- 📖 2021 Anti-Trafficking in Persons (Amendment) Act
- 📖 2021 Multi-Sectoral Committee on Trafficking on Persons Terms of Reference
- 📖 2021 National Strategic Framework and Action Plan to Combat Trafficking in Persons
- 📖 2016 Money Laundering and Proceeds of Crime Act (Amendment) Act
- 📖 2015 Anti-Trafficking in Persons Regulations
- 📖 2011 Anti-Trafficking in Persons Act
- 📖 2011 Children's Protection and Welfare Act
- 📖 2008 Money laundering and Proceeds of Crime Act
- 📖 2001 Cooperation Agreement of the Joint Bilateral Commission between Lesotho and South Africa
- 📖 1999 Prevention of Corruption and Economic Offences Act
- 📖 1998 National Security Services Act

#### **Government of the Republic of South Africa**

- 📖 2020 Standard Operating Procedure for Integrated Assistance to Victims of Trafficking

#### **International Organization for Migration**

- 📖 2020 Counter Trafficking Basics Training (IOM internal Institutional Training). Migrant Protection and Assistance Division, IOM Headquarters
- 📖 2019 IOM Guidance on Referral Mechanisms for the Protection and Assistance of Migrants Vulnerable to Violence, Exploitation and Abuse and Victims of Trafficking
- 📖 2017 National Referral Mechanisms for Victims of Human Trafficking: deficiencies and future development
- 📖 2012 National Referral Mechanism for the Protection of VOTs in Zambia
- 📖 2012 Minimum Standards Guidelines for the Protection of VOTs in Zambia

- 2011 Standard Operating Procedures (SOPs) for Law Enforcement in Handling Human Trafficking Cases in Zambia

### **Southern African Development Community**

- 2017 Preventing and Combatting Trafficking in Persons: Lessons from the SADC Region
- 2017 Trafficking in Persons in the SADC Region: a Statistical Report – 2014 to 2016
- 2016 Trafficking in Persons in the SADC Region: a baseline report
- 2016 Trafficking in Persons Policy Brief
- 2009 10 Year SADC Strategic Plan of Action on Combatting Trafficking in Persons, especially women and children (2009-2019)
- 2008 Protocol on Gender and Development
- 2002 Protocol on Mutual Legal Assistance in Criminal Matters
- 2002 Protocol on Extradition
- 2000 Code of Conduct on Child Labour
- 1997 The SARPCCO Multilateral Cooperation Agreement on Combating Crime within the Region

### **United States Department of State Office to Monitor and Combat Trafficking in Persons**

- 2020 Trafficking in Persons Report 20<sup>th</sup> Edition

### **United Nations**

- 2000 United Nations Convention against Transnational Organized Crime
- 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

### **United Nations Office on Drugs and Crime**

- 2009 Model Law Against Trafficking in Persons

### ***Web-based resources:***

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[www.un.org](http://www.un.org)<sup>11</sup>

[www.mapsoftheworld.com](http://www.mapsoftheworld.com)<sup>12</sup>

[UNODC - Human Trafficking and Migrant Smuggling](#)<sup>13</sup>

[www.interpol.int](http://www.interpol.int)<sup>14</sup>

[www.sadc.int](http://www.sadc.int)<sup>15</sup>

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<sup>11</sup> Referenced 8 March 2021

<sup>12</sup> Referenced 10 March 2021

<sup>13</sup> Referenced 18 March 2021

<sup>14</sup> Referenced 24<sup>th</sup> March 2021

<sup>15</sup> Referenced 24<sup>th</sup> March 2021

## ANNEXES

### Annex I - Summary of Lesotho's ratification of relevant international agreements<sup>17</sup>

Treaty, convention or protocol	Lesotho's position	Monitoring mechanism
<b>UN Treaties</b>		
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	✓	Committee on the Elimination of Racial Discrimination (CERD)
International Covenant on Civil and Political Rights (ICCPR)	✓	Human Rights Committee (HRC)
International Covenant on Economic, Social and Cultural Rights (ICESCR)	✓	Committee on Economic, Social and Cultural Rights (CESCR)
Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)	✓	Committee on Elimination of Racial Discrimination Against Women (CEDAW)
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	✓	Committee Against Torture (CAT)
Convention on the Rights of the Child (CRC)	✓	Committee on the Right of the Child
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW)	✓	Committee on Migrant Workers
C029 - Forced Labour Convention, 1930 (No. 29)	✓	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)
C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	✓	
C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	✓	
C100 - Equal Remuneration Convention, 1951 (No. 100)	✓	
C105 - Abolition of Forced Labour Convention, 1957 (No. 105)	✓	
C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	✓	
C138 - Minimum Age Convention, 1973 (No. 138)	✓	
C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)	✓	
C081 - Labour Inspection Convention, 1947 (No. 81)	✓	
C019 - Equality of Treatment (Accident Compensation) Convention, 1925	✓	
C097 - Migration for Employment Convention (Revised), 1949 (No. 97)	✗	
C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	✗	
C157 - Maintenance of Social Security Rights Convention, 1982 (No. 157)	✗	
C181 - Private Employment Agencies Convention, 1997 (No. 181)	✗	
C189 - Domestic Workers Convention, 2011 (No.189)	✗	

<sup>16</sup> Referenced 28<sup>th</sup> April 2021

<sup>17</sup> Info. as of 2017

UNODC Protocols		
United Nations Convention against Transnational Organized Crime	✓	Division for Treaty Affairs (DTA), Organized Crime and Illicit Trafficking Branch (OCB), Human Trafficking and Migrant Smuggling Section (HTMSS) of UNODC
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	✓	
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	✓	
SADC instruments		
Protocol on the Facilitation of Movement of Persons (2005)	×	SADC Organ on Politics, Defence and Security
Protocol on Employment and Labour (2014)	×	SADC Employment and Labour Sector

## Annex II - Summary of relevant national legal provisions (simplified)

<b>The Lesotho Anti-Trafficking in Persons Act No. 1 of 2011</b>	
<b>Part I - Preliminary</b>	
Sect. Interpretation	2. In this Act, unless specified otherwise: Child: a person under the age of 18 years Victim of Trafficking: a person who is a victim of the offence of trafficking
<b>Part II - Offences and penalties</b>	
Sect. 5	(Amendment Act – 2021): (1) A person who traffics another person commits an offence and is liable, on conviction, to imprisonment for a period not exceeding 25 years; (2) Where the victim in an offence of trafficking in persons is a child, the offender shall be liable to life imprisonment (5) The consent of an adult victim of trafficking, or in the case of a child, a person having control or authority over the child to an intended exploitation shall be irrelevant (6) A victim shall not be liable for crimes committed in connection with his own trafficking
Sect. 6	Acts that promote or facilitate trafficking: Including knowingly leasing or subletting, transporting, falsifying documentation, promotes trafficking, is liable to the same penalties as in Sect.5 ( <i>paraphrased from Sec. 6 (a) – (d)</i> ) The person is liable to the same penalties as Section 5
Sect. 7	Aggravated forms of trafficking: Where adoption is undertaken, or the offence involves a syndicate, a person who ‘exercises authority or control’ over the trafficked persons, is a public figure or member of the military or law enforcement ( <i>paraphrased from Sec. 7 (a) – (e)</i> ) The person is liable to life imprisonment
Sect. 8	Engages the services of a victim: Buying or engaging in services of a VOT ( <i>paraphrased from Sec. 8 (1) – (2)</i> ) Subsections (1) and (2) – refer to the (Amendment Act – 2021) - The person is liable to imprisonment for a period not exceeding 25 years
Sect. 9	Debt bondage:

	<p>A person who engages in a conduct that causes another to enter a situation of debt bondage (<i>paraphrased from Sec. 9</i>)</p> <p>The person is liable to imprisonment for a period of 15 years</p>
Sect. 10	<p>Destruction, confiscation, concealment of documents:</p> <p>A person who destroys, confiscates, or tamers with documentation of a VOT in furtherance of the offence of trafficking (<i>paraphrased from Sec. 10</i>)</p> <p>The person is liable to imprisonment for a period of 15 years</p>
Sect. 11	<p>Fraudulent travel or identity documents:</p> <p>A person who makes, sells or possesses travel documentation to be used in furtherance of the offence of trafficking (<i>paraphrased from Sec. 11</i>)</p> <p>The person is liable to imprisonment for a period not exceeding 25 years</p>
Sect. 12	<p>Smuggling of persons:</p> <p>(1) A person arranges or assists in an illegal entry or departure of a person for material benefit (<i>paraphrased from Sec. 12</i>)</p> <p>The person is liable to imprisonment for a period of 15 years</p> <p>(2) A person who engages in smuggling where the smuggled person is subjected to torture, cruel or degrading treatment, whose life or safety is endangered, is a child, or is intended to be the subject of exploitation (<i>paraphrased from Sec. 12</i>)</p> <p>The person is liable to imprisonment for a period of 20 years</p> <p>(3) it is not a defence that the smuggled persons consented, at any time, to the act of smuggling</p>
<b>Part III - Enforcement</b>	
Sect. 14-18	<p>Enforcement, including powers to stop and search:</p> <p>Police Officers, Immigration Officers, or officers of the National Security Service, Anti-Corruption Directorate, or Customs and Exercise may:</p> <ul style="list-style-type: none"> <li>- question a person (at port of entry)</li> <li>- stop a person or vehicle</li> <li>- search persons or aircraft</li> <li>- Examine goods</li> <li>- Detain property</li> </ul> <p>(in line with the provisions of the indicated sections)</p> <p>(<i>paraphrased from Sects. 14-18</i>)</p>
Sect. 20	<p>Powers or arrest:</p>

	<p>A police officer may arrest a person for an offence under this act, with or without a warrant, where they believe the person has, or is intending to commit an offence under the Act:</p> <p><i>(paraphrased from Secs. 20)</i></p>
<p><b>Part IV – Identification, Care and Protection of VOTs</b></p>	
<p><b>Sect. 22</b></p>	<p>Guiding principles for VOT identification</p> <p>Consider the following when deciding whether a person is a VOT:</p> <p>(a) If they are in an exploitative situation, including facing violence, fear, intimidation, threat or other means</p> <p>(b) If their movement is restricted, including through being kept under surveillance, not being allowed to leave the place where they are staying, destruction or holding of travel or identity documents, etc</p> <p>(c) If the person displays signs of (health) conditions such as rape or sexual exploitation, emotional distress, trauma, depression or anxiety, bruises, burns or other signs of physical abuse, forced abortion, untreated illness, malnutrition or poor personal hygiene</p> <p>(d) If there is evidence that the person has been forced to lie to their family about their whereabouts or what they are doing</p> <p>(e) If they are earning little or nothing, yet are forced to work</p> <p>(f) If the persons is required to engage in work that is different to what they were promised</p>
<p><b>Sect. 23</b></p>	<p>Reporting and referral of a VOT</p> <p>(1) In immigration office, labour officer, social worker, probation officer, social service professional, medical practitioner, nurse, teacher, traditional healer, or other person who believes that another person is a VOT should report such a case to the police</p> <p>(2) A police officer who has received a report of a potential VOT should (within 24 hours) undertake an initial assessment, and if substantiated, ensure that the VOT is safe, referred to a protective centre, and for children that a social worker is engaged</p> <p>(3) The identity of the VOT should be protected at all times</p>
<p>Sect. 27</p>	<p>Child VOT found in Lesotho:</p> <p>(1) Child should be placed in safe care</p> <p>The child should be authorised to remain in Lesotho for the duration of the child’s court order</p>
<p>Sect. 28</p>	<p>Deportation of VOT is prohibited</p>

Sect. 29	<p>Suspension of deportation:</p> <p>(1) A VOT should be authorised by the Director of Immigration to remain in Lesotho for an initial 60 days</p> <p>(2) This should not be dependent on their willingness to cooperate with law enforcement and/or prosecutors on any case of trafficking</p> <p>(3) Any VOT should be informed of this right by any official who has identified them as a VOT</p>
Sect. 30	<p>Temporary residence:</p> <p>(1) A Temporary Permit may be issued to a VOT who is present in Lesotho, based on prescribed conditions</p>
Sect. 31	<p>Permanent residence:</p> <p>A VOT may apply for permanent residence after five years of continuous residence in Lesotho, if there is reason to believe they may be harmed, trafficked or otherwise in danger if returned to their country of origin or to the place from which they were trafficked</p>
Sect. 32	<p>Repatriation of VOT from Lesotho:</p> <p>(1) Before considering return / repatriation of a child VOT, due consideration should be given to:</p> <ul style="list-style-type: none"> <li>(a) The safety of the child during the repatriation process</li> <li>(b) Availability and sustainability of care arrangements in country to which they will be returned</li> <li>(c) The safety of the child in the country to which they are to be returned</li> <li>(d) The possibility that the child might be harmed, killed or re-trafficked</li> </ul> <p>(2) Before considering return / repatriation of an adult VOT, due consideration should be given to:</p> <ul style="list-style-type: none"> <li>(a) The safety of the person during the repatriation process</li> <li>(b) The safety of the VOT in the country to which they are to be returned</li> <li>(c) The possibility that the VOT might be harmed, killed or re-trafficked</li> </ul> <p>(3) An adult is not prohibited from returning to country of origin, or to where they were trafficked from, if they freely choose to do so</p>
Sect. 33	<p>Assistance to foreign victim:</p> <p>The ministry responsible for social welfare shall take reasonable steps to find an organization that provides assistance to VOTs, and is willing to</p>

	assist the returning VOT, in the country to which the VOT is being returned
Sect. 34	<p>Repatriation of VOT to Lesotho</p> <p>(1) (a) With due regard to the safety of the person (Basotho VOT), the Ministry of Foreign Affairs shall (in cooperation with the ministry responsible for social welfare), facilitate the return of the VOT to Lesotho and shall advise the Minister on measures to be taken for the safe reception of the person at a Lesotho port of entry</p> <p>(b) the minister shall facilitate such a return, including through issuance of travel documents etc. The minister shall facilitate the referral of a returning child VOT to a designated social worker and of an adult VOT to a centre of adult VOTs</p>
Sect. 35	<p>Escorting a child VOT:</p> <p>(1) If it is considered to be in the best interests of a child who has been trafficked, the minister responsible for social welfare shall (at State expense) escort the child to the child's place of residence</p>
<b>Part V – Centres for VOTs</b>	
Sect. 36	The Minister responsible for Social Welfare shall establish and operate centres for victims of trafficking and ensure that they are appropriately spread throughout Lesotho
Sect. 37	<p>Minimum norms and standards:</p> <p>(a) Comply with minimum norms and standards</p> <p>(b) Centres for VOTs shall secure the physical safety of VOTs</p> <p>(c) Provide adequate access to healthcare</p> <p>(d) Provide separate facilities for males and females</p>
Sect. 38	<p>Programmes offered by centres:</p> <p>(a) Should provide basic material support, accommodation, counselling and rehabilitation services</p> <p>(b) In cooperation with ministries responsible for education and labour, offer education and/ or skills development programmes</p>
Sect. 39	<p>Once admitted to the centre, an assessment shall be made by a social worker to determine:</p> <p>(a) risks to the safety and life of the VOT</p> <p>(b) immediate needs of the VOT</p> <p>(c) longer-term needs of the VOT</p>

Sect. 40	Family tracing (1) Social welfare (and police) shall attempt to trace the VOT's family
Sect. 41	Rehabilitation of VOT: (1) The ministry responsible for social welfare shall provide mechanisms and programmes for rehabilitation of trafficked persons (2) VOTs may receive financial assistance from the Fund under this Act (3) The best interest of the child shall be paramount at all times
Sect. 42	Provision of health services VOTs are entitled to the same public healthcare as those to which citizens of Lesotho have
<b>Part VII – Victims of Trafficking Fund</b>	
Sect. 45 and 46	A 'Fund' should be established for VOTs, with proceeds coming from voluntary contributions, parliamentary allocation, confiscation of proceeds of trafficking, other sources
Sect. 47	The objective of the Fund is to support the material needs of VOTs, as well as skills training, family tracing, and other aspects of protection assistance. It can also support construction of shelters and training for persons engaged in VOT protection
<b>Part VIII - Miscellaneous</b>	
Sect. 55	Extradition: The Fugitive Offenders Act or 1967 shall apply in relation to the extradition of a person under this Act  Also refer to the SADC Protocol on Extradition (2002) and the terms of the Joint Bilateral Commission of Cooperation (between the Kingdom of Lesotho and the Republic of South Africa) (2001)
<b>Anti-Trafficking in Persons (Amendment) Act (2021)</b>	
<b>Interpretation</b>	
Sect. 2	(c) Subsection (2) is to be inserted as follows: "the consent of a victim of the commission of the offence of trafficking in persons to be exploited under paragraph (a) shall be no defence; and, (3) the recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if the act does not involve any of the means set out in paragraph (a)
<b>Anti-Trafficking in Persons Regulations (2015)</b>	

<b>Part II – Multi-Sectoral Committee on Anti-Trafficking in Persons</b>	
	<p>Functions of the Committee:</p> <p>(a) Promote the implementation of regional and international agreements and the protocol on combatting trafficking in persons, especially women and children</p> <p>(b) Combat internal and transnational trafficking, especially of women and children, including through prevention, prosecution and protection interventions</p> <p>(k) Ensure adequate protection, return and reintegration of VOTs, focusing on respect for their rights and individual needs</p>
<b>Part V – Rights of Victims of Trafficking</b>	
Sect. 25	<p>Upon receipt of a report, the police shall conduct a rescue operation of trafficked persons in coordination with the Ministry of Social Development and the local authorities in the area concerned</p> <p>The rescue team shall follow the following minimum guidelines and the guidelines set out in Schedule 1:</p> <p>(a) ensure full protection of the rights of the VOT(s) and traffickers during rescue, custody and/or control</p> <p>(b) after the rescue, the investigation of the case shall be referred to the police and the referral procedures will be followed after the completion of the necessary documents for the filing of cases</p>
Sect. 26	<p>Prohibition of summary deportation:</p> <p>Foreign victims of trafficking who are found in Lesotho shall not be summarily deported from Lesotho but referred to the Police to follow up a referral procedure</p>
Sects. 27-29	Various: temporary permits, temporary residence, residence permits
Sect. 30	Rescue of citizen of Lesotho in a foreign country: also reference roles and responsibilities ( <a href="#">Annex IV</a> )
Sect. 31	Repatriation of VOTs to Lesotho, including considerations such as need for escort, issuance of documentation for travel, referral of VOT upon arrival in Lesotho
Sect. 32	<p>Recovery, rehabilitation and reintegration of victims, including that programmes should be gender specific and individualised.</p> <p>(a) Among assistance reflected is for family unification, residential care, child placement, educational assistance, livelihood and skills training, community-based service, and ensuring that services are responsive to the needs of the VOT</p>

	<p>(b) Emphasis is also placed on VOT being actively involved and participating in the rehabilitation and reintegration process. This supports empowerment and prevents re-victimization</p> <p>(c) This provision encourages cooperation with civil society, including NGOs and the private sector, to support rehabilitation and reintegration</p>
Sect. 33	Repatriation of foreign VOTs from Lesotho, including considerations for safety and security of VOT prior to return, as well as support for issuance of travel documents through the Ministry of Foreign Affairs.
Sect. 34	Court ordered compensation will be considered. The amount will depend on the type of trafficking and the gravity and impact of the offence on the VOT
Sect. 35	Special protection for vulnerable victims or witnesses, including use of child friendly courts or proceedings to be held in camera
Schedule 1	Victim assistance and protection: Guiding principles for screening interviews – <a href="#">see Annex VI</a>
Schedule 2	Use of anti-trafficking fund
Schedule 3	Trafficked Persons Screening and Identification Form (including corroborative evidence) – <a href="#">see Annex VII</a>
<b>Children’s Protection and Welfare Act No. 7 of 2011</b>	
Part II – Principles	
Sects. 4-6	Principles: (4) best interest of a child; (5) evolving capacity; (6) non-discrimination
Part IX – Trafficking and Abduction of Children	
Sects. 66 and 67	(66) Unlawful transfer or position, custody or control of a child (67) Trafficking of a child by false pretences
Part X – Children in Need of Rehabilitation and Urgent Protection	
Sects. 76(1) and (77)	Children in need of rehabilitation and urgent protection: (76) Child in need of urgent protection, including: (a) children being threatened or intimidated; (d) subject to hazardous conditions of labour; (g) the child is confined or detained by another person  (77) Offences: a person who sells, procures, brings into Lesotho a child for purposes including sexual exploitation or hazardous labour, commits offence and is liable on conviction to a fine not exceeding thirty

	thousand Maloti or imprisonment for a period not exceeding two years and six months, or both
Part XVI – Children’s Court	
Sect. 135	Children’s Court (135) Assistance to children appearing in court
Part XXIV – Employment of Children	
Sects. 226 and 228	Employment of children: (226) Exploitative child labour (228) Minimum age for child labour



**KINGDOM OF LESOTHO**

**THE MULTISECTORAL COMMITTEE ON ANTI-TRAFFICKING IN PERSONS**

**TERMS OF REFERENCE (ToR)**

**1. INTRODUCTION**

Due to its economic situation, Lesotho is presented with complex and volatile population mobility patterns which continue to exacerbate already existing levels of human vulnerability and heightened national security concerns. Trafficking in Persons (TiP) is a serious crime and a grave violation of human rights and dignity. Lesotho continues to be a country of origin, transit and destination for human trafficking. Smuggling of migrants is another serious crime against the state and victims of smuggling could easily become victims of trafficking (VoT). Moreover, the country struggles to address the issue of irregular migration and is lacking the relevant information on the organized crime networks that continue to perpetuate these crimes. Lesotho also continues to require increased capacities to manage its porous borders and strengthen its border control. Despite the GoL's ongoing efforts towards counter trafficking and smuggling, with the support of international organizations and Non-Governmental Organisation, there is growing need to enhance synergies and ensure these efforts are better coordinated.

In order to effectively address trafficking in persons and its related challenges, a comprehensive and coordinated effort to systematically address the emerging issues and partners' efforts is of paramount importance. This task will require collective effort and experts' technical advice, and it is for this reason that the Anti-Trafficking in Persons Act 2011, has mandated the establishment of a Multisectoral Committee on Anti-Trafficking in Persons.

The functions of the committee are in line with the Anti-Trafficking in Persons Act, 2011 and its regulations and all other key policy and legal instruments. The Multisectoral Committee will assist the Government of Lesotho to address challenges and coordinate efforts in as far as TIP is concerned.

**2. PURPOSE /OBJECTIVES**

The Multisectoral Committee on Anti-TIP in Lesotho is being reinforced in response to issues related to Trafficking in Persons. The Multisectoral Committee under the leadership of the Ministry of Home Affairs (MoHA) will provide technical leadership and guidance to

coordinate and guide policy and programming in the National response to TIP. The Multisectoral Committee will also support the Ministry of Home Affairs to oversee and coordinate all TIP Project Implementers at national level to channel resources where they are needed.

### **3. ROLES AND RESPONSIBILITIES OF THE TWG**

The Multisectoral Committee's role and responsibilities are to coordinate the activities of all relevant Government, Inter-Governmental and Non-Governmental. Specifically, the committee will address the following:

- Make recommendations for a National Plan of Action;
- Advise the Ministry on policy matters connected with TIP;
- Provide guidance on the investigation and prosecution of TIP cases;
- Propose and promote strategies to prevent and combat TIP;
- Liaise with government agencies, intergovernmental, and non-governmental organisations to promote the protection, rehabilitation and re-integration of victims;
- Keep abreast with international and regional and regional developments and standards on TIP; and
- Deal with any matter relating to human trafficking including National and International Level Reporting
- Strengthen coordination and collaboration on data sharing, management and reporting
- Ensure proper implementation of the referral mechanism, including requesting reports or inputs from the members, calling regular coordination meetings, presenting information on the referral mechanism to external stakeholders, and reporting.
- Strengthen and implement Standard Operating Procedures, National Referral Mechanism, the referral directory, forms, flow diagrams and other tools aimed at standardizing processes.

### **4. COMPOSITION AND MEMBERSHIP**

The group shall have membership of maximum of 15 members representing the key relevant partners, and a secretariat of maximum of 3. members. The group may invite other members on ad hoc basis subject to requirements and as required by particular agenda items. Membership to the Multisectoral Committee is granted to an organization, which selects an individual to represent it at the multisectoral committee meetings.

### **5. GROUP LEADERSHIP AND ADMINISTRATION**

The Multisectoral Committee will work under the direct supervision of the Ministry of Home Affairs. The Principal Secretary of Home Affairs will bring all related issues to the attention of the committee. The Multisectoral Committee will be chaired by the Ministry of Home Affairs, Principal Secretary and co-chaired by the Judiciary, Chief Magistrate as agreed by the team. The Chair will be supported by a Secretariat / core team of 3 members who shall be selected by the multisectoral committee.

The Multisectoral Committee will be composed of:

- a) Social Development
- b) Police/LMPS (2)
- c) Labour and Employment
- d) Home Affairs (3)
- e) Gender
- f) Health
- g) Foreign Affairs
- h) IOM (2)

## **6. THE SECRETARIAT / CORE TEAM**

The Secretariat will be set by the Ministry of Home Affairs in collaboration with the committee members, and it will perform the following functions:

- To facilitate running and coordination of the committee
- Prepare draft agendas in collaboration with the Chair
- Facilitate the recording of meeting proceedings
- Follow up on action points and decisions from approved minutes
- Facilitate development and implementation of the Annual Work Plan
- Distribute guidelines and best practices documents

The Secretariat will circulate the meeting agenda at least 1 weeks before all meetings; and minutes will be sent to the members of the committee no longer than five (5) days after the committee meeting. Any updates should be sent to the secretariat not less than a week before the committee monthly meeting.

The Secretariat will support the Chair of the committee who will then report to Principal Secretary (PS) / Minister(?) of Ministry of Home Affairs.

## **7. SUBCOMMITTEES OF THE MULTISECTORAL COMMITTEE**

In order to ensure active participation from wider stakeholders, from Government, United Nations, Civil Society Organizations (CSOs), Private sector and Academic/Research Institutions, sub-committee will be established under the Multisectoral Committee on TIP. The sub-committee will include (a) Prevention sub-committee, (b) Protection sub-committee, (c) Prosecution sub-committee. The lead agency/Ministry will be agreed by Multisectoral Committee.

Sub-committee will meet on monthly basis in prior to the Multisectoral Committee. The lead agency/Ministry will present the monthly data on TIP investigation, protection, prosecution and conviction, key achievement, challenges and issues to be addressed at the strategic level.

## **8. PROHIBITION OF PUBLICATION AND DISCLOSURE OF INFORMATION**

A member of the Committee shall not, without the consent in writing given by or on behalf of the Committee, publish or disclose to any other person, otherwise than in the course of the person's duties any document, communication or whatsoever, which relates to, and which has come to the person's knowledge in the course of, that person's duties.

#### **9. EVALUATION OF THE WORK OF THE MULTISECTORAL COMMITTEE**

The Multisectoral Committee will develop a results-based Annual Work Plan with clear targets and deliverables. The committee will carry out periodic self-assessment of its performance.

**END**

## Annex IV - Government and partner roles in TIP investigation and VOT protection

Ministry/ Department/ Partner	Legal Reference <sup>18</sup>	Role	Focal person <sup>19</sup> (position)	Contact details
Ministry of Law and Constitutional Affairs, and Human Rights	Part III, 7	<ul style="list-style-type: none"> <li>- Conduct training on investigation and prosecution on TIP</li> <li>- Recommend negotiation on mutual legal assistance and extradition <i>(in coordination with the Ministry of Justice and the Ministry of Foreign Affairs and International Relations)</i> <ul style="list-style-type: none"> <li>- Coordinate with and /or assist the Financial Intelligence Unit on cases of TIP with possible money laundering underpinnings</li> <li>- Develop and maintain database for monitoring prosecution of TIP cases</li> </ul> </li> </ul>		
Ministry of Justice and the Correctional Service	Part III, 8	<ul style="list-style-type: none"> <li>- Ensure speedy completion of TIP cases</li> <li>- Establish mechanism for free legal assistance for trafficked persons, in coordination with Legal Aid Services</li> </ul>		
	Part V, Sect. 35	<p>Special protection for vulnerable victim-witness</p> <ul style="list-style-type: none"> <li>- The court may consider, with the assistance of a social worker, whether the victim needs special protection, victim friendly courts or proceedings are to be held in camera</li> </ul>		
Ministry of Social Development	Part III, 9	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> <li>- Conduct in-depth assessment (by a social worker) as to whether a person is a VOT and whether there is need for safe care</li> <li>- Counsel the VOT on reporting of the case (60 days)</li> </ul>		

<sup>18</sup> Refers to Anti-Trafficking in Persons Regulations (2015) unless otherwise specified

<sup>19</sup> Person designated to be a focal person in trafficking matters, ref. Part I, Sect. 2 of the Anti-Trafficking Regulations (2015)

		<ul style="list-style-type: none"> <li>- Place the VOT in place of safe care, or refer to Police for safe care if the life of the VOT is in danger</li> <li>- Compile report of an interview (to be used as court evidence)</li> <li>- Consider VOT claims for compensation</li> <li>- Provide counselling, shelter and other services to VOTs and their families</li> <li>- Support VOTs with livelihood skills training</li> <li>- Facilitate recovery and reintegration of trafficked victims</li> <li>- Accredite civil society organizations for the provision of programmes and services (to VOTs) that meet appropriate standards</li> </ul>		
	Part V, Sect. 32	<p>Rehabilitation and reintegration of VOT</p> <ul style="list-style-type: none"> <li>- Provide comprehensive specific program for the recovery, rehabilitation and reintegration of victims, such as but not limited to the following: <ul style="list-style-type: none"> <li>(a) Family reunification, residential care, educational assistance, livelihood and skills training, community-based services</li> <li>(b) Encourage active involvement of VOT in processes, to empower and prevent re-victimization</li> </ul> </li> </ul>		
<b>Ministry of Foreign Affairs and International Relations</b>	Part III, 10	<ul style="list-style-type: none"> <li>- Make available resources and facilities abroad and provide services for VOTs</li> <li>- Assist in the elimination of TIP through networking with government agencies in Lesotho and abroad</li> <li>- Actively participate in bilateral, regional and international initiatives and arrangements addressing TIP and protecting VOTs</li> </ul>		
	Part V, 30	<p>Rescue of a victim who is a citizen of Lesotho in a foreign country</p> <ul style="list-style-type: none"> <li>- Embassy or consulate to verify the report of TIP and the state and condition of the VOT</li> </ul>		

		<ul style="list-style-type: none"> <li>- Liaise with law enforcement in the foreign country re. rescue operations (this may involve INTERPOL)</li> <li>- Provide VOT with shelter and any other form of assistance</li> </ul>		
	Part V, 31	<p>Repatriation of VOTs to Lesotho</p> <ul style="list-style-type: none"> <li>- Where the repatriation to Lesotho exposes VOT to greater risk that remaining in host country, the Ministry (in consultation with the Ministry of Social Development) shall make a representation to the host government for the extension of appropriate permits and protection</li> <li>- Support issuance of travel documents for VOTs, as needed</li> <li>- Arrange for escorts as needed (with Ministry of Police and Ministry of Social Development)</li> </ul>		
<b>Ministry of Labour and Employment</b>	Part III, 11	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> <li>- Sensitize migrant working on TIP, prior to departure</li> <li>- Ensure compliance with employment rules and guidelines locally and abroad</li> <li>- Monitor, document and report TIP cases involving employers and labour recruiters</li> <li>- Support livelihood programmes for VOTs</li> </ul>		
<b>Ministry of Home Affairs</b>	Part III, 12	<ul style="list-style-type: none"> <li>- Administer and enforce immigration laws</li> <li>- Adopt measures for apprehension of traffickers</li> <li>- Take measures to prevent document fraud</li> <li>- Enhance networking with law enforcement agencies and immigration counterparts in source, transit and destination countries, including for information exchange</li> <li>- Strengthen border security and management</li> </ul>		
<b>Ministry of Police and Public Safety</b>	Part III, 13	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> </ul>		

		<ul style="list-style-type: none"> <li>- Ensure that VOT is in a place of safe care if their life is in danger, or if social worker is not available (otherwise MoSD will provide ensure place of safety)</li> <li>- Provide witness protection to VOTs and witnesses (in consultation with Ministry of Social Development)</li> <li>- Undertake surveillance, investigation and arrest of persons suspected to be engaged in TIP</li> <li>- Coordinate closely with various law enforcement agencies for effective investigation and apprehension of traffickers</li> <li>- Enhance response to calls to assist trafficked persons and conduct rescue operations</li> <li>- Integrate into the programme gender sensitive and child friendly investigations and handling of TIP cases</li> <li>- Maintain a database for the effective monitoring, documentation and prosecution of TP cases</li> <li>- The Police shall perform a first encounter assessment and refer the victim to a social worker for counselling</li> </ul>		
<b>Interpol</b>	Part V, 30	<p>Rescue of a victim who is a citizen of Lesotho in a foreign country</p> <ul style="list-style-type: none"> <li>- May be involved in liaison with law enforcement in the foreign country re. rescue operations (this may involve INTERPOL)</li> </ul>		
<b>Financial Intelligence Unit</b>	TBD	Support investigations with money laundering or other components with financial intelligence dimensions		
<b>Legal Aid Services</b>	Part V, 30 and Sect. 135 of the Children's Protection	<ul style="list-style-type: none"> <li>- Support free legal assistance for VOTs</li> </ul>		

	and Welfare Act (2011)			
Ministry of Education and Training	Part III, 16	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> <li>- Provide educational opportunities for trafficked persons, including as part of rehabilitation</li> </ul>		
Ministry of Health	Part III, 17	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> <li>- Provide healthcare services to VOTs</li> </ul>		
Ministry of Gender, Youth, Sports and Recreation	Part III, 19	<ul style="list-style-type: none"> <li>- Provide protection facilities to VOTs in shelters under its control, in collaboration with the Ministry of Social Development</li> <li>- Support rehabilitation activities for VOTs</li> </ul>		
Civil society organizations	Part III, 20	<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> <li>- Assist in protection and reintegration programmes for VOTs, in consultation with the Ministry of Social Development</li> <li>- Establish centres and implement programs for VOTs, with the approval of the Ministry of Social Development</li> </ul>		
Community leaders, community members, any individual		<ul style="list-style-type: none"> <li>- Assist in the identification of potential VOTs</li> </ul>		

## Annex V - NRM for the Protection of Victims of Trafficking Chart



## Annex VI - Guidelines for Interviewing VOTs<sup>20</sup>

### Guiding principles in conducting screening interviews for the identification of victims of trafficking (per Schedule 1 of the Anti-Trafficking in Persons Regulations (2015):

Identified potential victims shall be referred to the police and upon arrival at police station, the victim shall be interviewed at the first instance by a police officer at most within an hour's time in a private and conducive room, so that the victim is not retraumatized. The police officer will then refer the victim to a social worker.

### Minimum standards to be followed in conducting the interview of trafficked persons:

1. Information: The presumed trafficked person should be informed about the procedure of the police interview and its consequences
2. Language: The language to be used should be clear, accurate and may be in the native language of the presumed trafficked person
3. Interpretation: Interpreter should be present during the interview, where the victim does not understand Sesotho nor English
4. Privacy: Questions touching upon the person's privacy, for instance regarding intimate relations and experiences in prostitution, should be avoided
5. Identification: A trafficked person can only be conclusively identified as such if the distinct elements of the crime have been detected
6. Evidence: Besides the statement of the presumed trafficked persons, other evidence should be collected to identify all the facts and relevant information to determine if the case is one of trafficking

**General principles:** Interviews should endeavour to do the following in all interviews, regardless of the immigration status of the person being interviewed:

1. **Do no harm** – Treat each presumed trafficked person and the situation as if the potential for harm is extreme unless there is evidence to the contrary. Do not undertake any interview that will make the presumed trafficked person's situation worse in the short or longer term.
2. **Case familiarization and risk assessment** – learn the risks associated with trafficking and carry out a risk assessment for each presumed trafficked person's case before undertaking an interview
3. **Preparation of referral information** – be prepared to provide referral information in victim's native language or, where necessary, the official language (if different) about appropriate legal, health, shelter, social support and security services and to help with referral, if requested
4. **Ensuring anonymity** – Protect the identity of the victim and perpetrator and treat it with confidentiality throughout the entire interview process – from the moment a presumed trafficked person is contacted to the time that details of the case are made public
5. **Getting informed consent** – Make certain that each presumed trafficked person gives consent to the interview before commencing. Consent should be based on the presumed

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<sup>20</sup> Also refer to full text of Schedules 1 and 3 of the Anti-Trafficking in Persons Regulations (2015)

trafficked persons clearly understanding the content and purpose of the interview, the intended use of information, the right not to answer questions, the right to terminate the interview at any time and the right to put restrictions on how the information is used

**6. Listening to and respecting the assessment of each presumed trafficked person's situation and safety** - Recognise that each presumed trafficked person will have different concerns and that the way they view these concerns may be different from how others assess them. This should be taken into consideration during the interview

**7. Re-traumatization** – Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a presumed trafficked person's distress

**8. Emergency intervention** – Be prepared to respond if a presumed trafficked person says they are in imminent danger

**9. Use of information collected** – Use information collected in a way that benefits an individual presumed trafficked person or that advances the development of good policies and interventions for persons suspected of being trafficked, always respecting agreed confidentiality guidelines. The principles of 'do no harm' and 'best interest of the child' should be followed at all times

## Children

The following principles should be followed in all cases concerning children (and are often relevant for adult presumed trafficked persons too):

**1. Time is of the essence:** Interviews should take place as soon as possible after the allegation of suspicion of abuse emerges

**2. Safety and support** – The child should feel safe and supported during the interview (and in all actions that follow)

**3. Sex and age appropriate** – For all interviews enquire as to whether the presumed trafficked child (or adult) has a preference to be interviewed by a female or a male and endeavour to follow this preference. Girls and younger boys should usually be interviewed by female interviewers.

**4. Informal setting:** Interviews should take place in an informal setting and be conducted by interviewers trained to talk with children

**5. Language of interview:** Interviews should be in child's own language. If this is not possible, considerable care should be taken in arranging interpretation

**6. Length of the interview:** If possible, interviews should not be too long to avoid tiring the child

**7. Child's developmental stage:** The child's developmental stage and needs should be considered in planning the interview

**8. Child's characteristics:** The characteristics of the child and the child's family background should be considered in planning the interview

**9. Opportunity to narrate:** The children should be given an opportunity to narrate their story in their own way, before they are asked explicit questions

**10. Interviews plan:** The questions should begin with open questions; direct or leading questions, if needed, should be reserved for the latter part of the interview

**Schedule 3**

**(Regulations 27(2)(d) and 38(3))**

**Trafficking in Persons Regulations  
Trafficked Persons Screening and Identification Form**

**PART I - REGISTRATION FORM**

First name(s): .....  
Family names: .....  
Sex: .....  
Country of birth: .....  
Place of birth: .....  
Last place of residence in country of origin: .....  
Date of birth: .....  
Is date of birth an estimate? (Yes/No): .....  
Age: (in number of years) .....  
Citizenship: .....  
Ethnicity: .....  
Identity document (type, country, number and expiry date): .....  
Next of kin: .....

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<sup>21</sup> From Schedule 3 of the Anti-Trafficking in Persons Regulations (2015)

PART II – CASE AND INTERVIEW DATA

(Where the trafficked person is referred:)

Type of referring organization/individual: (NGO/international organization/law enforcement/immigration/government/Embassy/hotline/self-referral walk-in/family/friend/client/other)\*If other specify

.....  
.....  
.....

Name/location of referring organization/individual: .....

.....

Address and telephone number of referring organization: .....

.....  
.....

Screening date: .....

.....

Screening location: .....

.....

Name/Designation/Rank of interviewer:

.....  
.....

Name of organization/institution: .....

.....  
.....

Interviewee's language(s): .....

.....

Interpreter? (Yes/No) .....

.....

Name of interpreter: .....

.....

If minor: Name(s), address(es) and telephone number of parent(s) or guardian(s):.....

.....

PART III – ENTRY INTO TRAFFICKING

1. How did the individual enter the process (indicate multiple options and continue on separate sheet if necessary)?

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2. Did entry into the process involve recruitment? (Yes/No) \* If Yes, how was the contact initiated between the individual and her/his recruiter? (personal contact/employment agency/travel/Internet advertisement/newspaper advertisement/radio advertisement/television advertisement/other)

If other (specify).....  
.....  
.....

3. If labour migration, what activity did the individual believe he or she was going to be engaged in following arrival at the final destination (indication multiple options if necessary)? (Agricultural work/begging/child care/construction/domestic work/factory work/fishing/low-level criminal activities/military service/mining/trade/transport/other)\* If other, please specify

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.....

4. What was the individual told would be their benefits following arrival at final destination?

Salary(equivalent in US\$ per month)  
.....  
.....

Other benefits

.....  
.....  
.....  
.....  
.....

5. In which month/year did the individual enter into the process?

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.....  
6. Was the individual a minor at the time of entry into the process (Yes/No)\*

7. From which place/country did the individual enter into the process?  
.....  
.....

8. What place/country is the last (or intended) destination?  
.....  
.....

9. Did the individual travel alone? (Yes/No)\* if No, who did the individual travel with (indicate multiple options if necessary)? Husband/wife/partner/relatively/friend/recruiter/transporter/unknown persons/other)\* if other, specify  
.....  
.....

10. Did the individual travel alone? (Yes/No)\* If No, who did the individual travel with (indicate multiple options if necessary)\* If other, specify  
.....  
.....

11. Did he or she engage in any activity in this place(s)/country(ies) (Yes/No)\* If Yes, which activity in first/only transit place/country? (agricultural work/begging/child care/construction/domestic work/factor work/fishing/ criminal activities/marriage/military service/mining/prostitution/restaurants and hotel work/study/small street commerce/trade/transport sector/other)\* if other, specify  
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.....  
.....

12. If more places/countries, add respective places and activities engaged in.  
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.....  
.....  
13. Were any of the following means used to control the individual?

(a) Physical abuse? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* If other, specify

.....  
.....  
(b) Psychological abuse? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* If other, specify

.....  
.....  
(c) Sexual abuse? (Yes/No)\* If yes, by who? (Receiver/transporter/Harboured/Receiver/Other)\* If other, specify

.....  
.....  
(d) Threats to individual? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* If other, specify

.....  
.....  
(e) Threat of action by law enforcement? (Yes/No)\* If yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* if other, specify

.....  
.....  
(f) Threats to family? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* if other, specify

.....  
.....  
(g) False promises/deception? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* if other, specify

.....  
.....  
(h) Denial of freedom of movement? (Yes/No)\* if Yes, by who? (Recruiter/Transporter/Harboured/Receiver/Other)\* If other, Specify

.....  
.....  
(i) Giving of drugs? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* if other, specify  
.....

.....  
.....  
(j) Giving of alcohol? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Receiver/Habourer/Receiver/Other)\* If other, specify  
.....

.....  
.....  
(k) Denial of medical treatment? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* If other, specify  
.....

.....  
.....  
(l) Denial of food/drink? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* If other, specify  
.....

.....  
.....  
(m) Withholding of identity documents? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* If other, specify  
.....

.....  
.....  
(n) Withholding of travel documents? (Yes/No)\* If yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* If other, specify  
.....

.....  
.....  
(o) Debt bondage? (Yes/No)\* If Yes, by who? (Recruiter/Transporter/Habourer/Receiver/Other)\* If other, specify  
.....  
.....

• *Circle as appropriate*

#### PART V – EXPLOITATION PHASE

1. What activity has the individual undertaken since her/his arrival in the last destination? (Agricultural work/begging/childcare/construction/domestic

work/criminal activities/marriage/mining/prostitution/ restaurants and hotel work/study/trade/transport sector/unemployed/other)\* If other, specify

.....

(a) How old was the individual when the activity began?

.....

(b) How long did the only/most significant activity last?

.....

2. Were any of the following means used to control the individual during the activity? Physical abuse? (Yes/No)\* If yes, by who? (Receiver/exploiter/Clients/Other)\* If other, specify

.....

(a) Psychological abuse (Yes/No)\* If Yes, by who? (Receiver/Exploiter/clients/Other)\* If other, specify

.....

(b) Sexual abuse? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....

(c) Threats to individual? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....

(d) Threat of action by law enforcement? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....

(e) Other Threats to family? If yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....

(f) False promise/deception? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/clients/Other)\* If other, specify

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.....  
(g) Denial of freedom of movement? (Yes/No)\* If Yes, by who?  
(Receiver/Exploiter/Clients/Other)\* If other, specify  
.....

.....  
(h) Administering of drugs? (Yes/No)\* If Yes, by who?  
(Receiver/Exploiter/Clients/Other)\* If Yes, specify  
.....

.....  
(i) Supply of alcohol? (Yes/No)\* If Yes, by who? (Receiver/Exp-  
loiter/Clients/Other)\* If other, specify  
.....

.....  
(j) Denied medical treatment? (Yes/No)\* If Yes, by who? (Re-  
ceiver/Exploiter/Clients/Other)\* If other, specify  
.....

.....  
(k) (Denied food/drink? (Yes/No)\* If Yes, by who? (Receiver/Ex-  
ploiter/Clients/Other)\* If other, specify  
.....

.....  
(l) Withholding of wages? (Yes/No)\* If Yes, by who? (Receiver/Ex-  
ploiter/clients/Others)\* If other, specify  
.....

.....  
(m) Withholding of identity documents? (Yes/No)\* If Yes, by who?  
(Receiver/Exploiter/Clients/other)\* if other, specify  
.....

.....  
(n) Withholding of travel documents? (Yes/No)\* If Yes, by who?  
(Receiver/Exploiter/clients/Other)\* If other, specify  
.....

.....  
(o) Debt bondage? (Yes/No)\* If Yes, by who? (Receiver/Ex-  
ploiter/Clients/Other)\* If other, specify  
.....

.....  
(p) Excessive working hours? (Yes/No)\* If Yes, by who? (Re-  
ceiver/Exploiter/Clients/Other)\* If other, specify  
.....

.....  
3. If exploited for prostitution (sexual exploitation) were any of the following means used to control the individual during the exploitation?

(a) Denied freedom to refuse client? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....  
.....

(b) Denied freedom to refuse certain act? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

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.....

(c) Denied freedom to use condom? (Yes/No)\* If Yes, by who? (Receiver/Exploiter/Clients/Other)\* If other, specify

.....  
.....

(d) Denied freedom to use Other means of control, specify:

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.....

4. Did the individual experience exploitation? (Yes/No)\* If no exploitation took place

(a) Was there any indication of a real and substantial threat of exploitation?

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.....

(b) If Yes, what were the reasons that exploitation never took place? (Rescue/Escape/Other)\* If other, specify

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.....  
.....

\*circle as appropriate

PART VI – ADDITIONAL CORROBORATIVE EVIDENCE

*(To be answered as appropriate)*

1. Are any of the following additional corroborative materials available

- (a) Police or other official reports (Yes/No)\*
- (b) Identity documents (Yes/No)\*
- (c) Travel documents (Yes/No)\*
- (d) Medical reports (Yes/No)\*
- (e) Copies of employment contract (Yes/No)\*
- (f) Recruitment offer (Yes/No)\*
- (g) Personal writings by the individual (Yes/No)\*
- (h) Hotline reports (Yes/No)\*
- (i) If other, specify (Yes/No)\*

.....  
.....

2. Is the individual a trafficked person? Justify this decision with reference to responses given above. (Continue on separate sheet if necessary):

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3. Certification that the individual is a trafficked person made by: (specify names, designation and rank):

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.....  
.....

4. If the individual is a trafficked person, was the type of trafficking in-country or transnational? (in-country/transnational/both)\*:

5. If the individual is not a trafficked person, is he or she in need of assistance? (Yes/No)\* If yes, what is the individual's destination? (Please specify all that applies):

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6. Additional remarks

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Note: informed consent is necessary for all services, such as medical examination and procedure, health assessments, assisted voluntary returns and reintegration assistance.

Signature of interviewer: ..... Date: .....  
Signature of trafficked person: ..... Date: .....

**NOTE**

1. Act No. 5 of 2011