

# HRC Briefing

# Guidance on Responding to Victims in Forced Scam Labour

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The cover photo: satellite image of one compound in Tachileik, Myanmar. The compound enslaves many African trafficking victims.

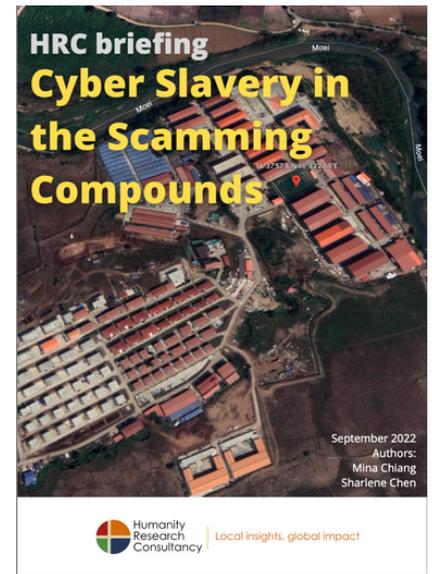
**Warning: graphic images included in the content of this briefing**



Local insights, global impact

# Introduction

In September 2022, HRC published a briefing addressing the emerging organised crime of victims systematically trafficked to scamming compounds in Southeast Asia. The briefing led to many inquiries from journalists and a subsequent growth in media coverage to raise awareness. We are pleased to see that **increased international attention places pressure on governments to take action to address the crime**, notably the Taiwanese government, the Cambodian government, and more.



Since September 2022, whilst HRC has continued supporting victims and survivors together with our partners, we have prioritised influencing key stakeholders for systemic change. This briefing shares our latest analysis and suggestions on addressing this form of modern slavery. A stronger global focus on this issue is needed to lead to more crucial actions from the UN bodies, national governments, non-governmental organisations, and human rights activists.

## Our prioritised efforts

- Support governments and private sector leaders to counter criminal activities in the scamming compounds and create systemic change.
- Persuade larger anti-trafficking organisations to prioritise resources for addressing this emerging form of modern slavery of unprecedented scale.

## Key messages from this briefing

- Victims are drawn from a wider set of countries than initially realised, from more than 20 countries. Victim nationalities also indicate trafficker nationalities - victims worldwide were sent to Cambodia and Myanmar as the local traffickers back home colluded with the compound criminals in destination countries.
- The embassies' role is crucial in successful rescues. Negligence from the embassies means their nationals are more likely to become a steady source of forced labour.
- Forced criminality is a type of modern slavery. Victims' criminal acts should be viewed and judged with the understanding that they are victims of modern slavery.

# Victim Profile

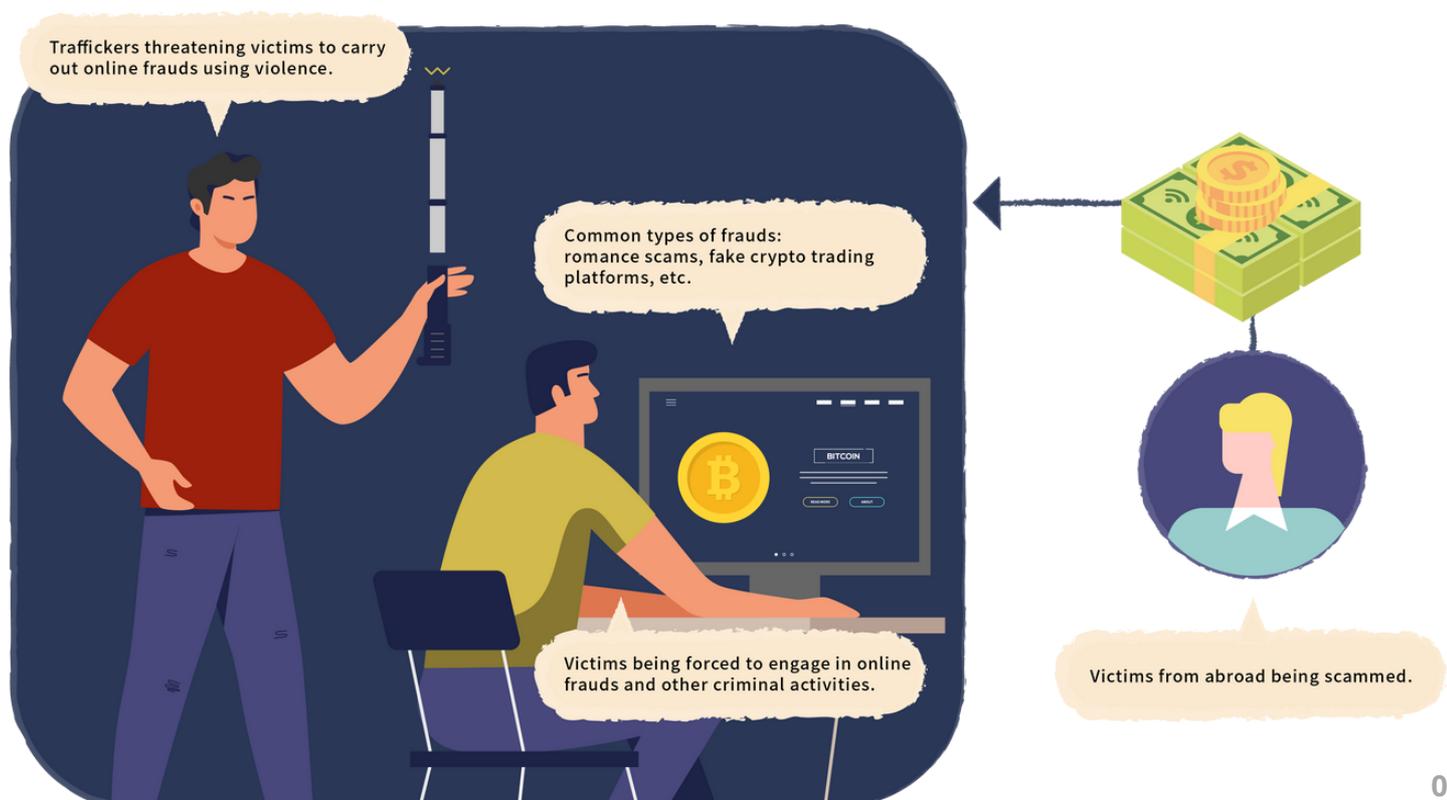
Victims in scamming compounds cannot be generalised into one stereotype. HRC has assisted victims from a **variety of different backgrounds**, including:

- Individuals whose financial struggles pushed them to pursue jobs abroad as well as individuals from affluent family backgrounds.
- Individuals from as young as 14 to those over 40.
- Individuals who have always been law-abiding citizens as well as individuals who carry criminal records in their home countries.
- Individuals from dysfunctional families or without family support as well as individuals from functional families.
- Individuals who have a disability as well as physically fit individuals.
- All genders of victims.

Despite the wide variation of the victim profile, they share one common trait:

- Victims are **educated, tech-savvy individuals**. They know at least how to use computers and social media fluently. Many may have university degrees and speak more than one language. Some victims are engineers and are forced to conduct computer programming to improve scamming system efficiency.\*

## Picture: victims being forced to engage in online scamming





Left: a screenshot of a video describing physical punishment in scamming compounds in Myanmar.



Right: a screenshot of a video documenting compound criminals burying victims alive.



Right: a victim was severely tortured and covered with bruises. Source: partner organisations.



Left: a victim's fingers being smashed and a victim being electrocuted.

Notably, while some victims are fraudulently recruited to the compounds, others go voluntarily to conduct scams. Many of the latter may choose to participate in cyber scamming as a result of being marginalised within their own societies.

However, in both scenarios, they may be subject to **violence, torture, starvation, sexual assault, and restrictions of movement** and become victims of forced labour. It is important for authorities to treat these victims as victims of forced labour - in line with international conventions - rather than as criminals. This briefing provides suggestions for more appropriate country responses to victims faced with forced criminality.

Victims are primarily forced to conduct online scams. However, there are also other types of work victims are forced to do:

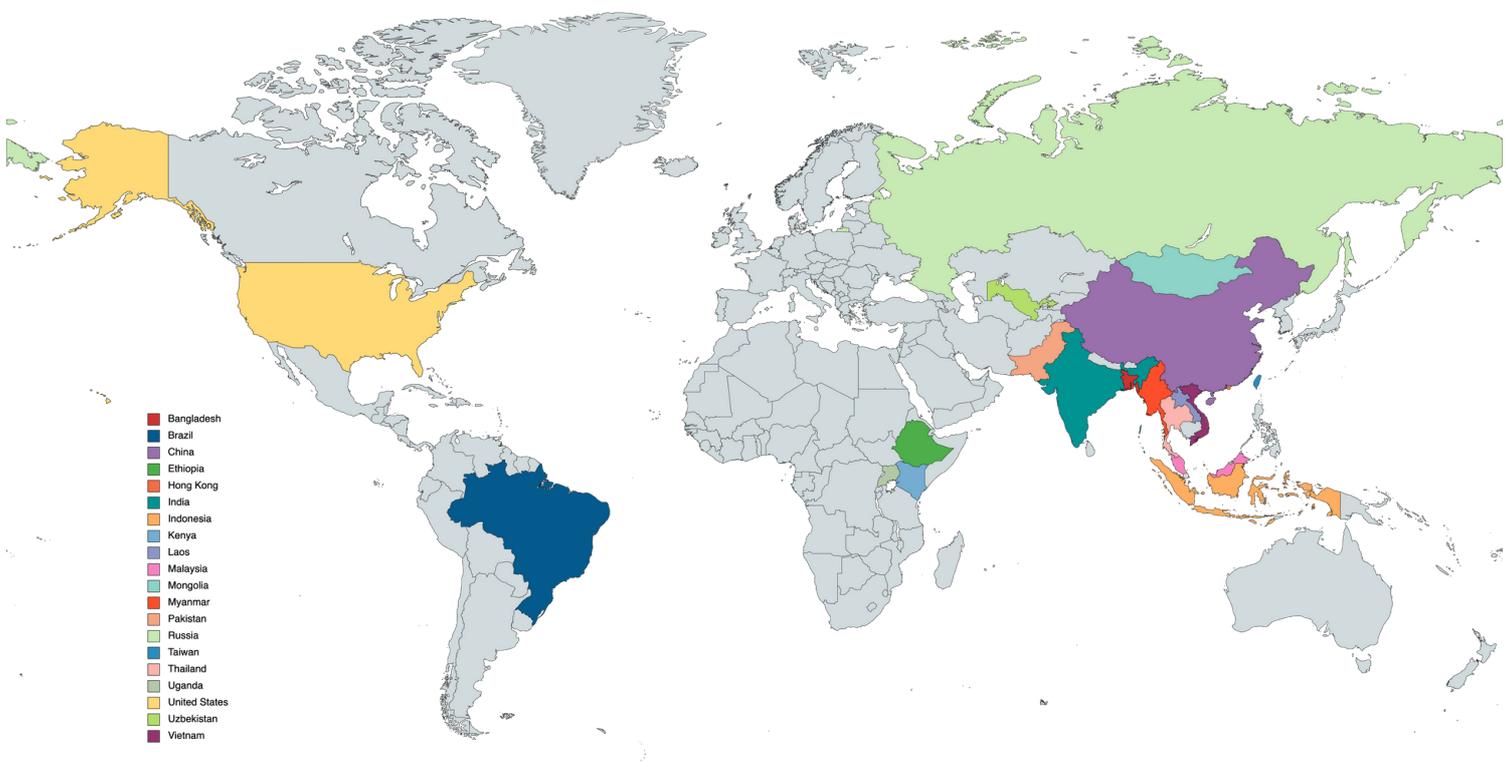
- act as models to video chat with prospective scamming victims
- provide sex work in brothels or karaoke bars in the scamming compounds
- act as security guards at the gate or on each floor of the compounds
- act as agents to source daily and luxury products for compound managers.

\*Conversation with a trafficking survivor who wrote coding and optimised the scamming systems for the enslaver.

# A Global Issue

Current media coverage of the crime predominantly describes victims from East, Southeast, and South Asia. However, the scale of human trafficking to the compounds is much greater than anyone first anticipated, with victims from **more than 20 countries identified.**

The nationalities of victims that HRC and our partners have assisted include but are not limited to: **Bangladesh, Brazil, China, Ethiopia, Hong Kong, India, Indonesia, Japan, Kenya, Laos, Malaysia, Mongolia, Myanmar, Pakistan, Russia, Taiwan, Thailand, Uganda, United States, Uzbekistan, Vietnam, and Zimbabwe.**



## Where there are victims, there are traffickers.

Victim nationalities also correspond to trafficker nationalities. It is almost impossible for criminals in Cambodia and Myanmar who only speak Chinese to recruit victims from South Asia or Africa without conspiring with the criminal networks in those places.

For example, by Oct 2022, Taiwanese police investigated and prosecuted more than 100 cases of Taiwanese human trafficking groups that were involved in luring and sending victims to scamming compounds in Myanmar and Cambodia, arresting more than 280 criminals.

# Victim rescue and the role of embassies

Leaving the compounds can be extremely difficult and dangerous; victims have tried to escape by jumping from windows, resulting in serious injury.

Currently, **one of the most successful means of exit is through intervention from embassies of the victims' countries of origin.** When victims, their families, or NGOs directly contact local police and authorities in Cambodia and Myanmar, it often results in no response. However, when embassies officially demand the Cambodian or Burmese authorities to release their citizens, with details of victim names, passport information, and location, victims can often exit the compounds in much safer ways. Officers would be sent into the compounds to read a list of victims' names and bring them out.

It may be counterintuitive, but the reality is that the compounds persist despite well-documented evidence of slavery, trafficking, murder, and money laundering. Embassies' demands are crucial for successfully getting citizens out of the compounds. All affected countries will need to make demands through their embassies rather than expecting all victims to be freed at once.

Therefore, rescuing victims can become difficult when the embassies act in the following ways:

- No response to their citizens' requests
- No recognition of the crime as human trafficking
- No representatives in the countries with compounds

For example, the Chinese and Malaysian embassies have been less responsive to their citizens in compounds. Ethiopia does not have an embassy in Myanmar. In these cases, removing victims of these nationalities from compounds is particularly difficult.



Photo: detention environment in Cambodia. Many victims of human trafficking from the scamming compounds were detained for a prolonged period of time, after being removed from the compounds, before being able to return home. (Source: anonymous survivor)

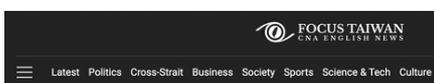
The struggle doesn't stop when victims successfully exit the compound. Many have expired visas after an extended time trapped in slavery, leaving them liable for a fine.

Many victims end up stranded or locked in detention centres after they escape from the compound because they do not have the means to pay the fine. According to international norms, the fines should be waived for victims of trafficking. However, to our knowledge, authorities in the destination countries do not recognize the victims as such. Without either money or a legal pathway, they are prevented from leaving the country to return home.

As with the task of getting victims out of compounds, victims' own embassies must play a central role here. **Diplomatic intervention is a powerful way to help resolve fines for overstaying a visa while in captivity or to repatriate citizens stranded abroad.**

## Prosecution of source-country traffickers

While it is almost impossible for authorities of other countries to bring justice to criminals hiding in the compound countries, victim-source country authorities have the opportunity and duty to prosecute traffickers within their own borders. For example, in April 2023, Taiwan sentenced a group of traffickers who sent 88 victims to Cambodia's scamming compounds. The group did not contribute to the scamming operations in Cambodia but had been actively luring and sending Taiwanese victims to Cambodia. Countries that have found their citizens amongst the victims in scamming compounds should root out the domestic actors responsible for trafficking them there.



### Society JOB SCAM/2 men indicted over involvement in alleged organ harvesting plot

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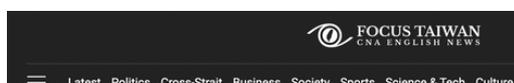
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Police officers hold signs to warn passengers planning to travel to Cambodia about job scams reportedly linked to the Southeast Asian country, at Taiwan Taoyuan International Airport in early August. CNA file photo

Taipei, Dec. 1 (CNA) Two people accused of luring a man to Cambodia as part of an organ harvesting plot were indicted on human trafficking charges Wednesday, according to the Taipei Chiayi District Prosecutors Office.

The two male suspects, surnamed Wang (王) and Lin (林), were part of a scheme to harvest and sell the organs of a man in his 20s fraudulently enticed to Cambodia by the promise of a high-paying job, head prosecutor Chiang Chin-hsing (江金星) told CNA



### Society JOB SCAM/Crime ring leader gets 18 years for trafficking 88 victims to Cambodia

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Victims of the job scam fraud return to Taiwan from Cambodia following their rescue and release last August. CNA file photo

Taipei, April 13 (CNA) The leader of a Taiwanese criminal gang that trafficked 88 victims into forced labor in Cambodia has been sentenced to 18 years in prison, according to the Taipei District Court.



### 台籍主管從「KK園區」返台全裁了 檢方起訴9人口販運成員

Like 110



在集團中擔任主管兼領導的男子林志家，為台籍在緬甸最高幹部，返台後被檢警逮捕。(記者鄭淑婷攝)

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# Forced Criminality

The complicity of victims whilst in the scamming compounds also presents itself as an issue for authorities when confronted with a victim who was forced to scam or recruit others into slavery in the scamming compounds. Such victims fall under the category of forced criminality, a form of exploitation that is not widely understood or addressed, especially in most of the affected Asian and African countries.

The lack of understanding and appropriate policies regarding forced criminality leads to many victims being imprisoned for the crimes they were forced to carry out, or victims' reluctance in being identified. In some cases, after a prolonged period of no rescue, **victims who were initially forced into the criminal compounds accepted the narratives of the criminals and voluntarily became part of the criminal group**, after they realised that there is little hope for them to be rightly identified as victims of human trafficking.

The non-punishment principle aims to prevent the prosecution of trafficking victims involved in forced criminality, asserting that “individuals should not bear criminal responsibility for acts they were forced to commit while under the control of others and subject to force, threats, deception or other compulsion”.

The principle is embedded into the **Recommended Principles and Guidelines on Human Rights and Human Trafficking** released by the UN High Commissioner for Human Rights in 2002.

Pushing for accountability on a global level, principle 7 and guideline 4(5) assert that states should ensure that legislation protects victims from prosecution regarding the illegality of their entry or residence, or for activities they were complicit in as a direct result of their trafficking situation.

Similarly, part 4, section 45 of the **UK Modern Slavery Act 2015** states:

“a person is not guilty of an offence if... (b) the person does that act because the person is compelled to do it, (c) the compulsion is attributable to slavery or to relevant exploitation, and (d) a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to doing that act.”

Within the more affected countries across East and Southeast Asia, the non-punishment principle can be identified in several key policies and conventions, summarized in Table 1.

The **ASEAN Convention Against Trafficking in Persons, Especially Women and Children 2015**, was signed by Member States of the Association of Southeast Asian Nations. The Convention works to protect victims of human trafficking, asserting that all Parties must have national guidelines in place that facilitate the proper identification of victims of trafficking and that such victims should not be prosecuted for acts related to their trafficking situation. In 2012, Bangladesh also enacted the **Prevention and Suppression of Human Trafficking Act**, which equally articulates the non-punishment principle in Chapter V, 37(1).

However, it has become apparent that local authorities dealing with victims from the scamming compounds do not always act in line with the protocols set out to protect victims of forced criminality in a situation of human trafficking.

This may be due to factors such as:

- authorities failing to properly identify victims because they are unfamiliar with forced scamming as a form of trafficking.
- authorities may not have recourse to effective laws or be unaware of laws that do exist to protect victims.

Table 1. Laws and Principles for victims of forced criminality

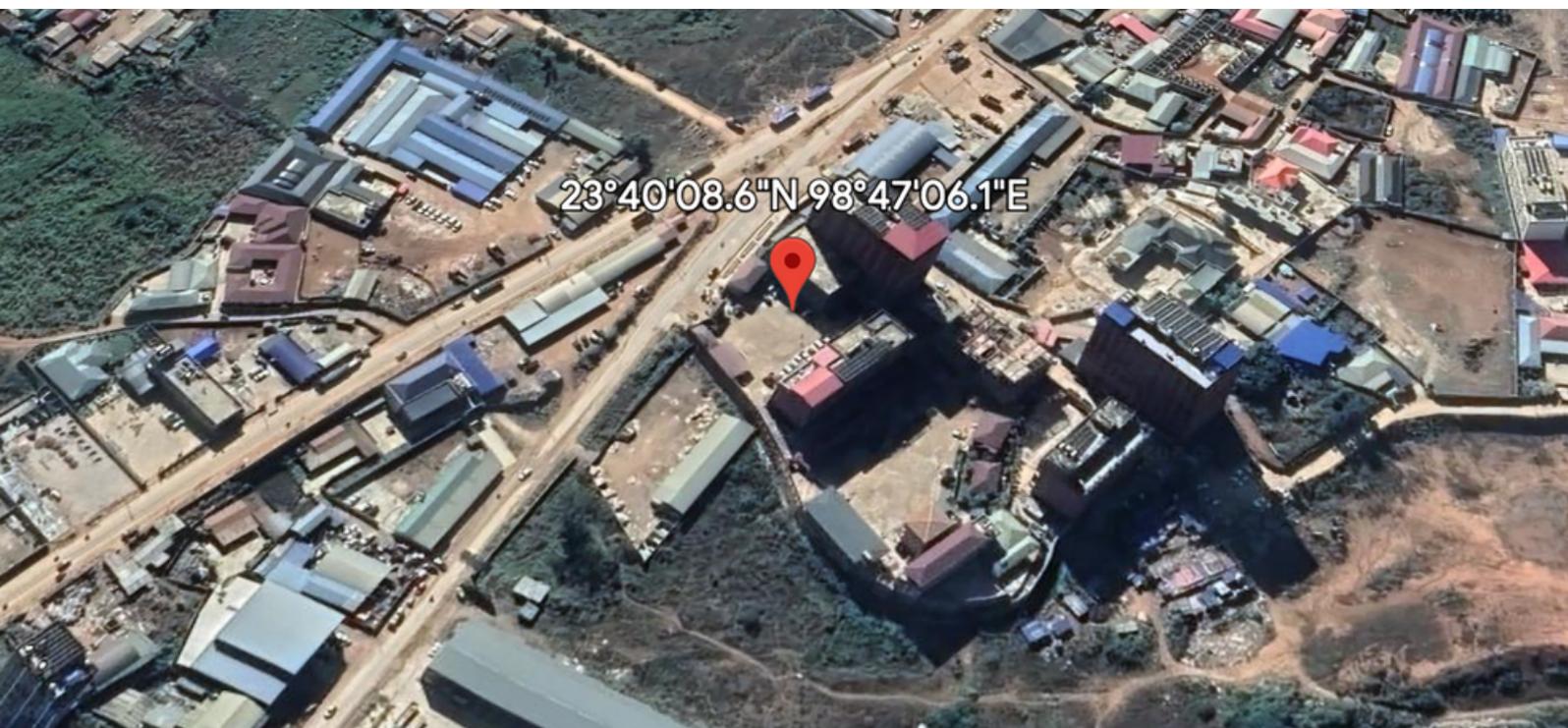
<b>Law/Principle</b>	<b>Content</b>
UN High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking 2002	<p>Principle 7: "Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons."</p> <p>Guideline 4(5): "States should consider... Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as trafficked persons."</p>
UK Modern Slavery Act 2015	<p>Part 4, Section 45: "A person is not guilty of an offence if... (b) the person does that act because the person is compelled to do it, (c) the compulsion is attributable to slavery or to relevant exploitation, and (d) a reasonable person in the same situation as the person and having the person's relevant characteristics would have no realistic alternative to doing that act."</p>
The ASEAN Convention Against Trafficking in Persons, Especially Women and Children 2015	<p>Chapter IV, Article 14 (1): "Each Party shall establish national guidelines or procedures for the proper identification of victims of trafficking in persons, and where appropriate, may collaborate with relevant non-governmental victim assistance organisations."</p> <p>(8): "Each Party shall not unreasonably hold persons who have been identified by its competent authorities as victims of trafficking in persons in detention or in prison, prior to, during, or after civil, criminal, or administrative proceedings for trafficking in persons."</p>
Bangladesh Prevention and Suppression of Human Trafficking Act 2012	<p>Chapter V, 37 (1): "Any person or agency dealing with the subject-matter of this Act shall endeavour to ensure that any victim of the offence of human trafficking is not subjected to conviction or punishment under this Act or any other existing law."</p>

One issue is initially the lack of identification of human trafficking victims. This presents itself when authorities are faced with victims involved in forced cyber scamming. Online scamming is different from other typical forms of forced labour in that the work happens in a "modern" office setting rather than manual labour in conditions that are "3D - dirty, dangerous, and demeaning". We have observed that authorities often misunderstand the forced aspects of cyber scamming in the compounds.

Therefore, when victims approach authorities, they are not viewed as victims, but rather as criminals. It is essential that victims be identified as such so that the non-punishment principles discussed above apply to them. Without acknowledging the fact that victims have been acting under conditions of trafficking, it is impossible to properly account for the crimes they may have been forced to commit.

New forms of human trafficking are constantly emerging. The rapid emergence of human trafficking in scamming compounds is a prime example of this. Authorities must adapt along with the ever-changing nature of human trafficking. Each case must be assessed individually so that victims of human trafficking are correctly identified and supported, rather than prosecuted for crimes they had no choice but to commit.

Picture: satellite image of the notorious "Tiger-resting Manor" or Wohu Manor (臥虎山庄) that tortures many victims in the most extreme forms. The criminal compound is located in Laukkaing, Myanmar.



## Case study of forced criminality court judgement

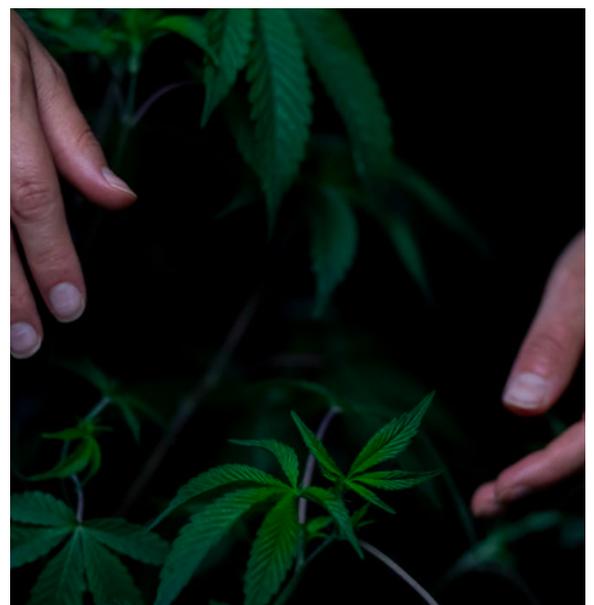
In 2016, a 17-year-old boy, Mr K, was trafficked from Vietnam, through Russia to the UK, where he worked on a cannabis farm. He was taken to Youth Court in 2017 to be trialled for the production of cannabis. Following advice from his lawyer, he pleaded guilty and was sentenced to a 12-month referral order.

This case signifies an apparent lack of competency concerning identifying victims of human trafficking, despite the fact that the trend of children being trafficked to the UK for labour has grown within the last decade to become the most prominent trend in Britain.

Even though the non-punishment principle was clearly set out in the Modern Slavery Act of 2015, the court still failed to successfully identify Mr K as a victim of human trafficking, which in turn meant that they did not recognise his complicity in the crime to be a direct consequence of his trafficking situation.

The Criminal Case Review Commission (CCRC) referred the case back to the court in May 2022 after further examination of new evidence made it clear that Mr K was a victim of modern slavery and that his involvement in the growing of cannabis was an example of forced criminality. All charges were dropped against him, and he was correctly identified as a child victim of modern slavery, with his crimes being viewed under the non-punishment provision.

This marked the first referral by the CCRC based on the guidelines set out in section 45 of the UK Modern Slavery Act 2015. This case highlights the importance of the correct identification of victims and acting in accordance with relevant policies and frameworks that work to protect victims of human trafficking and slavery.



# Recommendations

## For national governments

- Ensure embassies are mandated with not only diplomatic activities but also citizen emergency support. It is urgent and essential for countries to proactively support their citizens who are being trafficked abroad.
- Ensure the non-punishment principle is understood by law enforcement bodies. This could be done through training, case studies, awareness raising, etc. Provide effective training and capacity-building to relevant law enforcement bodies to increase their understanding of the realities faced by victims of human trafficking and how this relates to the non-punishment principle.
- Ensure survivors are provided with comprehensive support services including legal, mental health, employment, and financial support, following their exit from the compound and throughout their reintegration journey. This could be set up through collaboration with local anti-trafficking organisations.
- Treat survivors of the crime as informants in order to prosecute source country traffickers.

## For anti-trafficking organisations

- Prioritise persuading and communicating with governments who have yet to recognise their citizens as victims of human trafficking and modern slavery in the scamming compounds.
- Ensure the non-punishment principle is understood by all members so they can advise and take appropriate action with regard to survivors they come into contact with. This could be done through training, case studies, awareness raising, etc.
- Collaborate with governments to provide support services to victims on their exit journey from the scamming compounds as well as their reintegration journey.

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