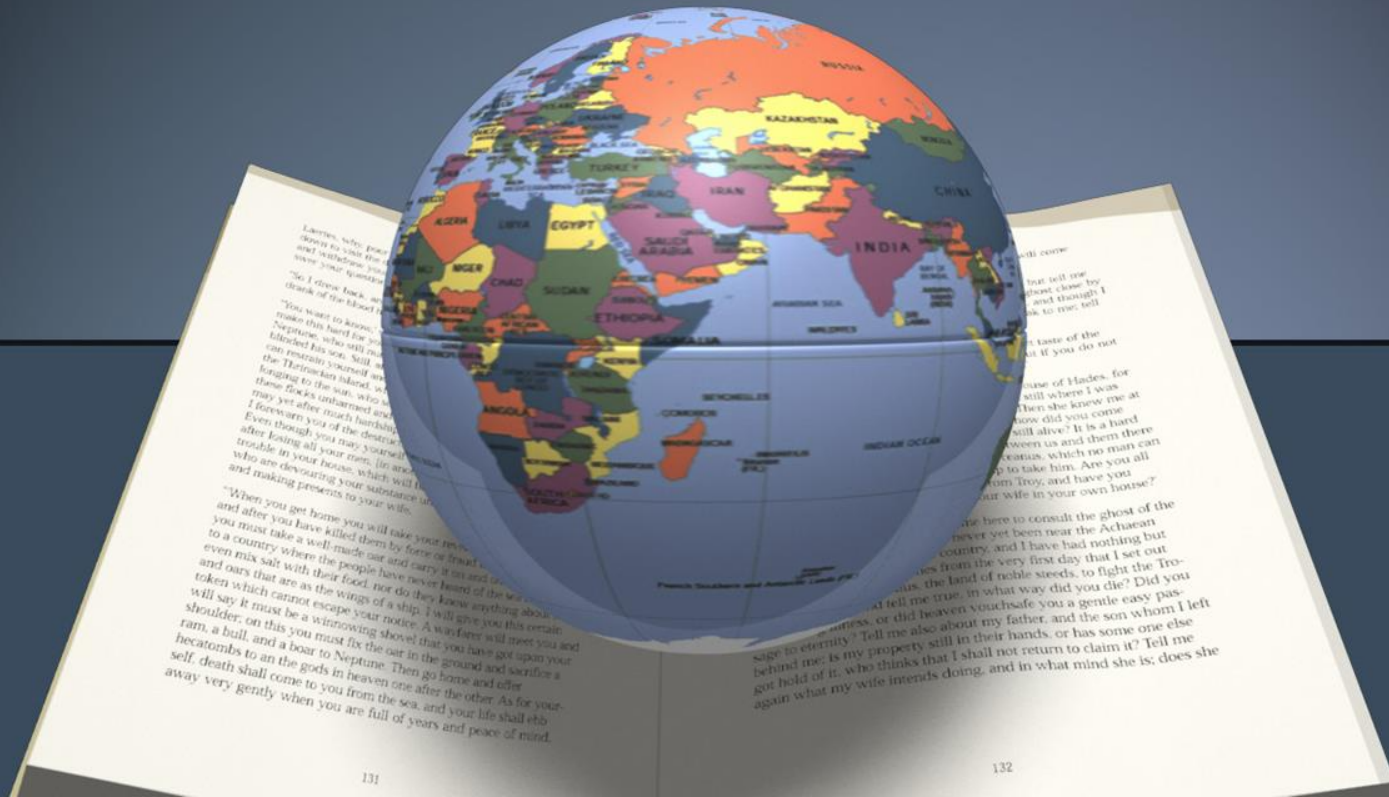




PROTECTION

Assistance to Victims of Trafficking in Persons





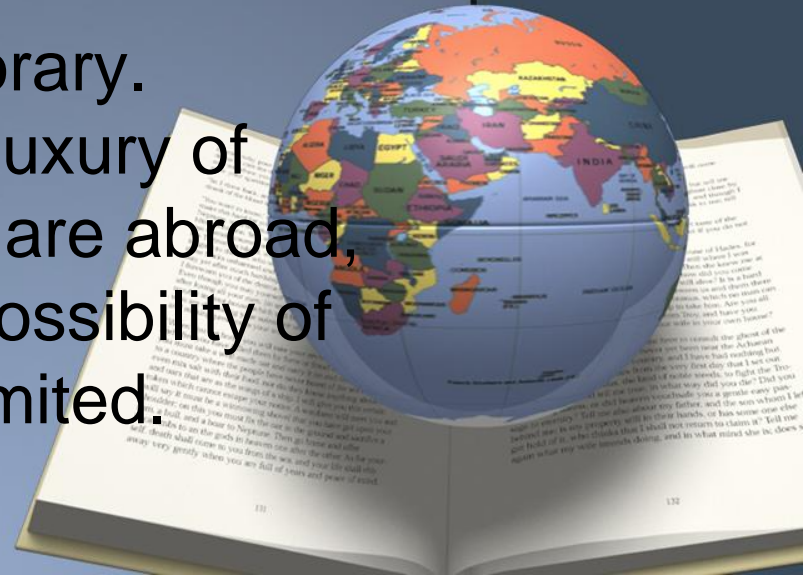
Assessment / Main Challenges

- Pervasive victim blaming
 - Ultimately impacts cooperation, investigation, prosecution of law enforcement, protection and prevention of trafficking in persons (TIP)
- Non-identification of victims
 - Impacts community response through non-reporting
 - Leads to failure of support service provision not only from the governments but from civil societies



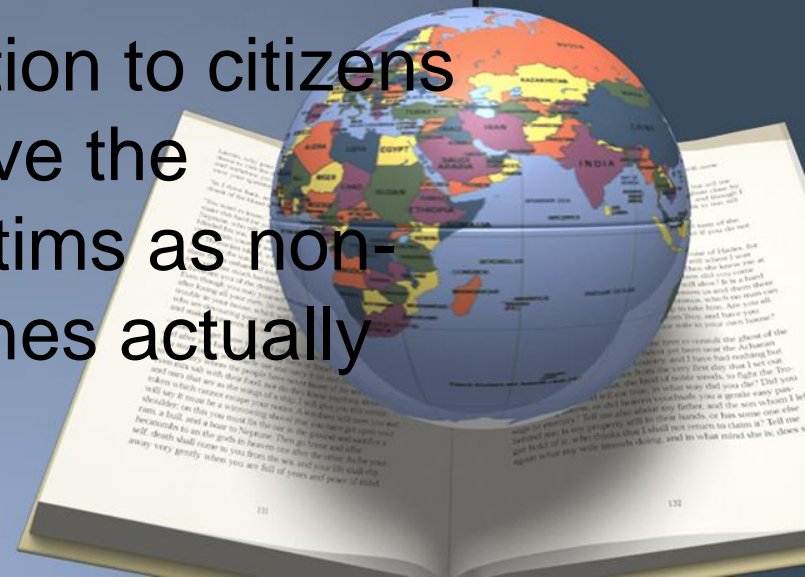
Assessment/ Main Challenges

- TIP victims, who are compelled to stay in shelter, do not have the freedom of movement.
- Migration Policy
 - Policies may be too restrictive or too demanding, at least in the eyes of the victim, thus making migrants willing victims because they have no alternatives.
 - Migration system is temporary. Migrants do not have the luxury of finding redress while they are abroad, particularly because the possibility of staying in the country is limited.



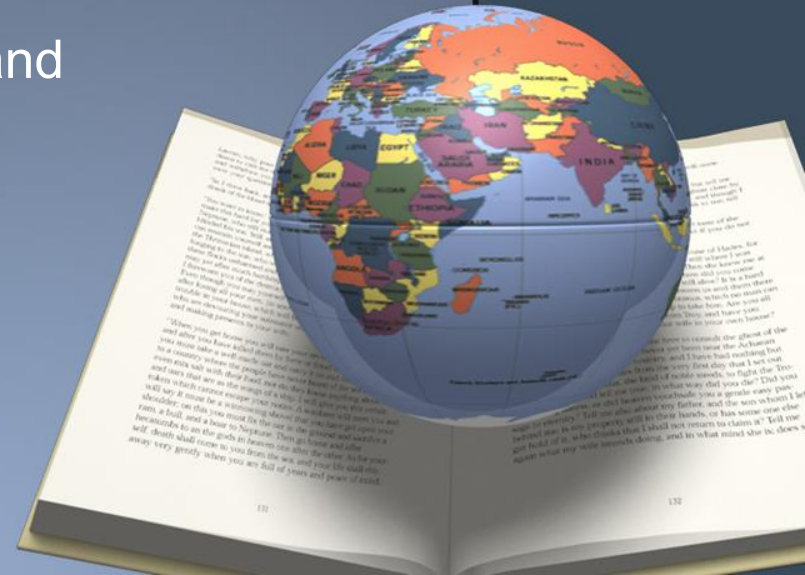
Assessment/ Main Challenges

- Further, while they might have access to judicial process, the same might take too long.
- Detention
 - Risk of detention of TIP victims, especially in irregular migration, due to lack of documentation.
 - In providing legal protection to citizens abroad, not all states have the provision to treat TIP victims as non-criminals, who are the ones actually detained in said states.



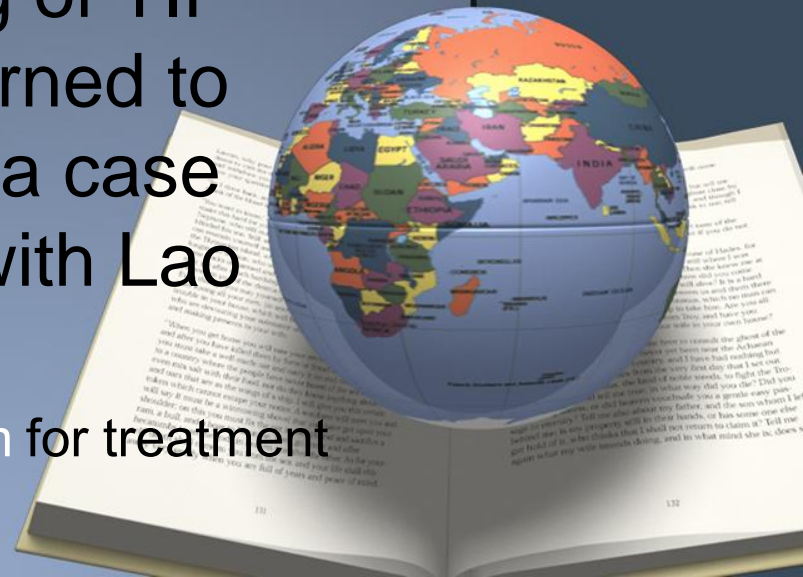
Assessment/ Main Challenges

- Identification of Special Needs
 - *Nonrefoulement* (prohibition on forced return of refugees) of TIP victims who are also refugees.
- Lack of information regarding TIP and support services of migrants and TIP victims.
- Developing local economy is a root cause for migration and consequently, TIP.
- Protection should include both pre- and post-crimes.



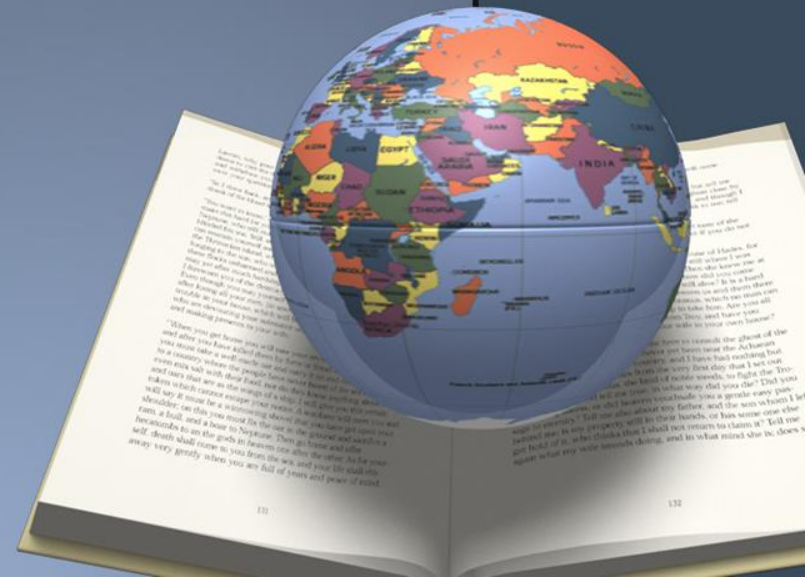
Assessment/ Main Challenges

- More consideration should be given to other forms of trafficking. For instance, online sex trafficking is on the rise.
- Protection should be extended to TIP victims' families.
 - Philippines: No definite program except for that provided in the witness protection program.
 - Thailand: Family tracing of TIP victim before being returned to origin country. There is a case management meeting with Lao PDR and Myanmar.
- Need for an ASEAN training program for treatment and reintegration.



Assessment/ Main Challenges

- There should be an integrated ASEAN model for protection which includes short-term, medium-term (prosecution) and long-term (reintegration) protection for victims.

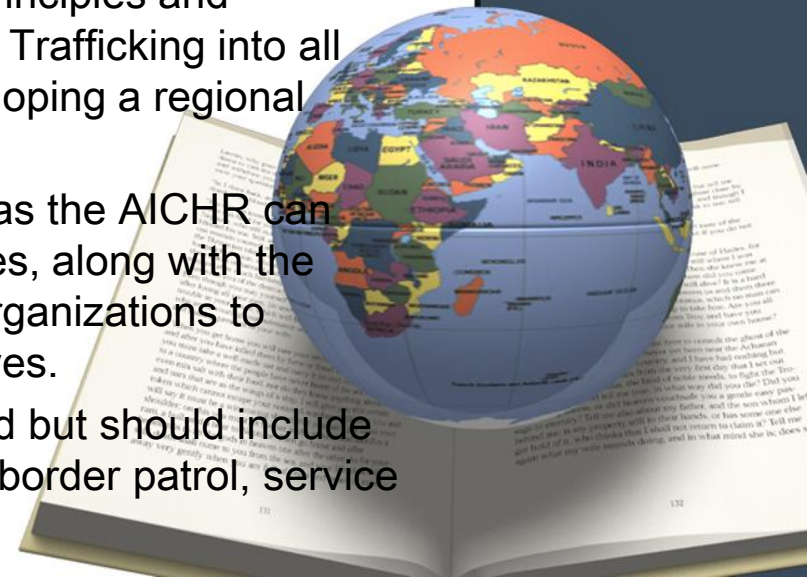




How can the Human Rights-based Approach be mainstreamed

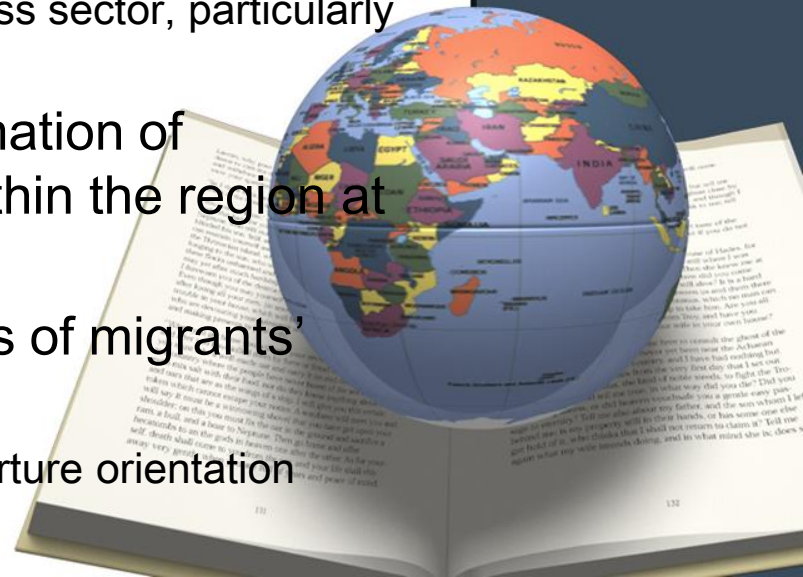
- Capacity Building

- Training of law enforcers in origin and destination countries to be able to identify the special needs of TIP victims, especially women and children
- Training of service providers to equip them with the proper background and knowledge to help victims abroad.
- Training, including training of trainers, is suggested to be conducted at the regional level.
- Translation of OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking into all languages of ASEAN as a basis for developing a regional training program.
- ASEAN human rights mechanisms such as the AICHR can take the lead and organize these initiatives, along with the ACWC and the support of international organizations to ensure regional ownership of said initiatives.
- Training should not be compartmentalized but should include all stakeholders (immigration authorities, border patrol, service providers and NGOs).



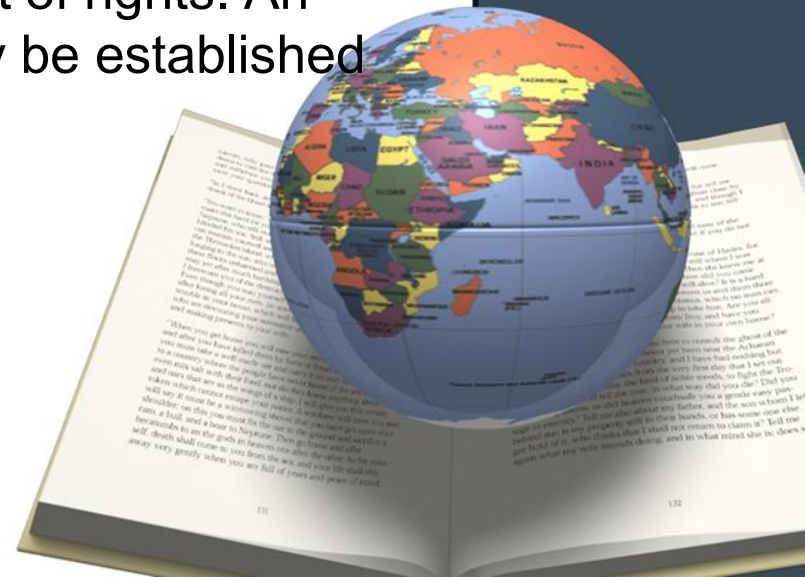
How can the Human Rights-based Approach be mainstreamed

- Available regional processes should provide an opportunity to reinforce what are being done at the national level in terms of protection.
 - Bali Process and Jakarta Declaration can be used as forums to discuss issues and hopefully lead to mainstreaming.
- Engage the business sector to widen the forum further than governments and NGOs
 - Zero trafficking campaign with the business sector, particularly the supply side
- Uniformity of legal framework or formation of minimum standards to coordinate within the region at all levels.
- Education of migrants and employers of migrants' rights
 - Emphasize rights component in pre-departure orientation seminars



How can the Human Rights-based Approach be mainstreamed

- Coordination with destination countries regarding information to be disseminated regarding migrant workers' rights
- Post-arrival Seminars should be strengthened to include both migrants and employers
- Use of media for information dissemination
- Information dissemination should go hand in hand with actual protection or enforcement of rights. An individual complaint mechanism may be established at the regional level.





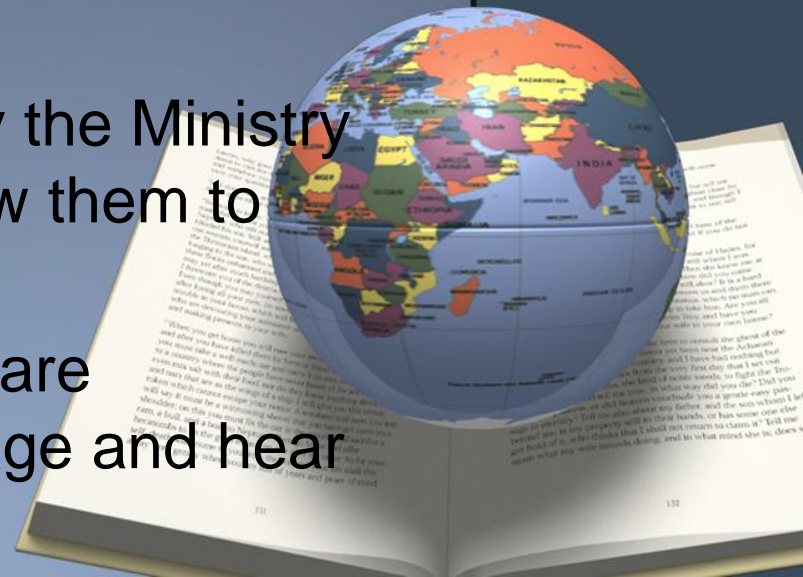
BEST PRACTICES

- In Italy, TIP victims who identify their perpetrators are given resident status.
- Training and awareness program for the police, military and other service providers regarding TIP.
- Reflection period (at least 30 days in accordance with Article 13 of the Council of Europe Convention Against Trafficking) given to TIP victims to recover and make informed decisions. During this period, no expulsion order can be enforced against the TIP victim.
- Funding is provided by the Malaysian government to NGOs to run shelters.



BEST PRACTICES

- The Philippines has a Victim Processing Center project to address the protection of TIP victims.
- Thailand has an SOP for those who have been returned from Thailand as TIP victims. Case management meetings are conducted with Lao PDR and Myanmar.
- Temporary IDs are provided by the Ministry of Interior to TIP victims to allow them to work even outside the shelters.
- Victim consultation workshops are conducted in Myanmar to engage and hear from TIP victims directly.

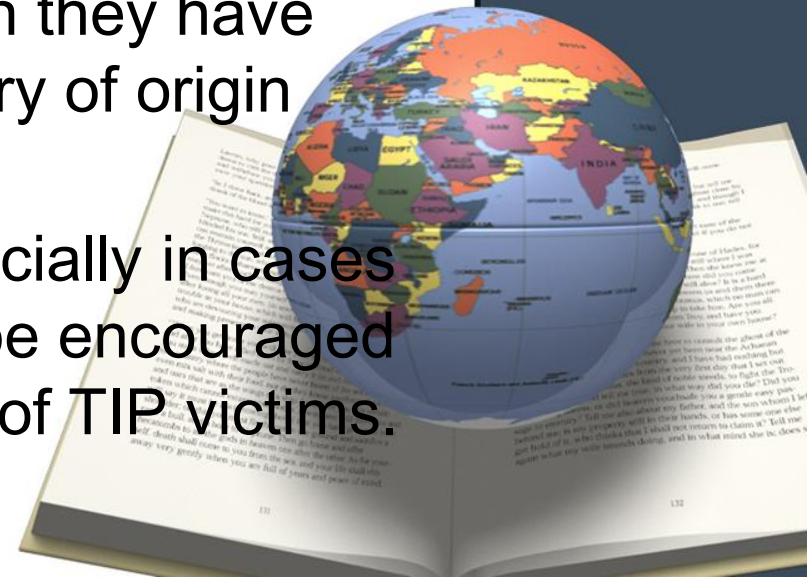




Recommendations

A. FOR ASEAN MEMBER STATES

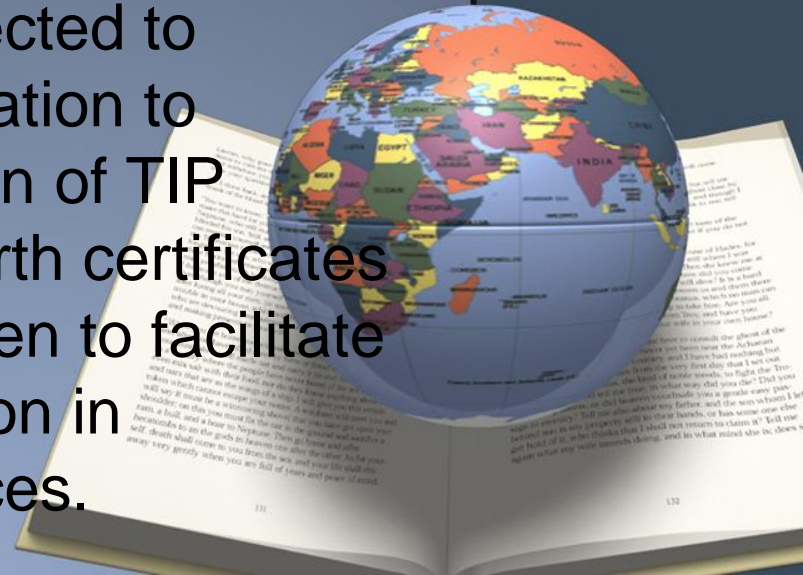
- Measures should be taken to shorten TIP victims' stay in shelters.
- Measures should also be taken to complete investigations as early as possible.
- Procedures in which TIP victims' testimonies can be perpetuated even when they have already returned to their country of origin should be adopted.
- Alternatives to detention, especially in cases of irregular migration, should be encouraged to prevent indefinite detention of TIP victims.



Recommendations

A. FOR ASEAN MEMBER STATES

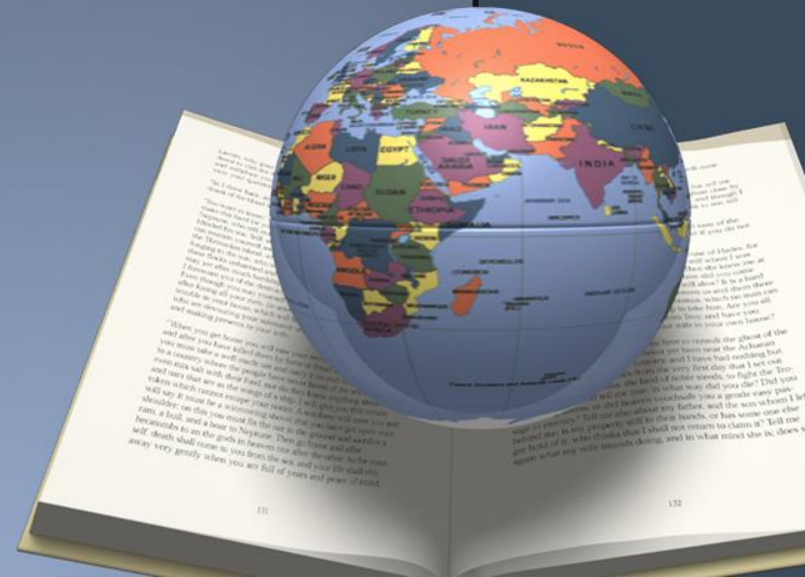
- Victim identification
 - Coordination with origin and destination countries to continue services to TIP victims when they return or vice versa.
 - Measures should be effected to provide some documentation to establish the identification of TIP victims and to provide birth certificates for undocumented children to facilitate those without identification in accessing support services.



Recommendations

A. FOR ASEAN MEMBER STATES

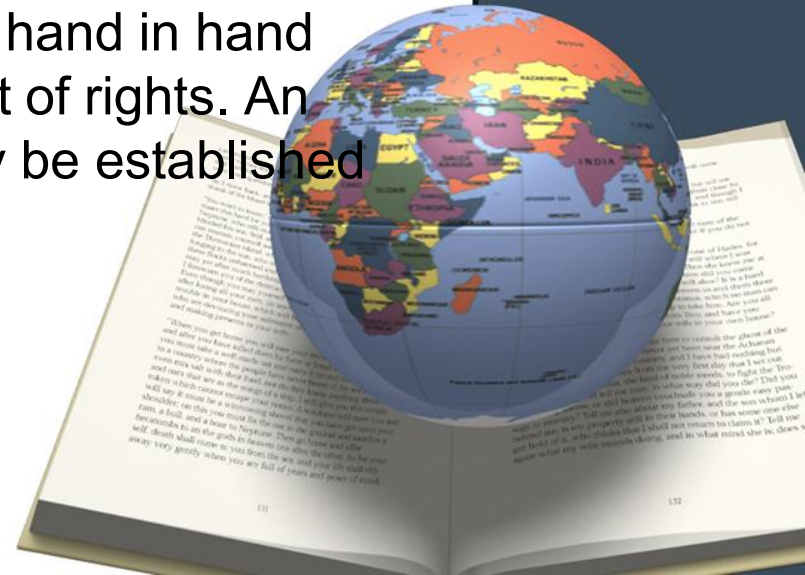
- Waiver of fees, immigration penalties, exit visas and other documentary requirements for TIP victims to facilitate their return home.



Recommendations

A. FOR ASEAN MEMBER STATES

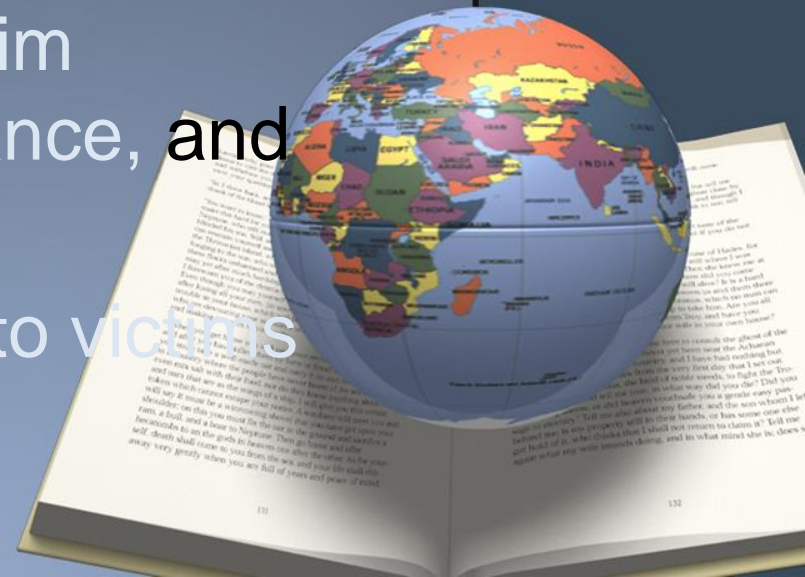
- Set up procedures to identify refugees and other people with special needs to find out the proper measures to put in place for them.
- Immediate consular access to TIP victims to inform them of their rights and options.
- Information dissemination should go hand in hand with actual protection or enforcement of rights. An individual complaint mechanism may be established at the regional level.



Recommendations

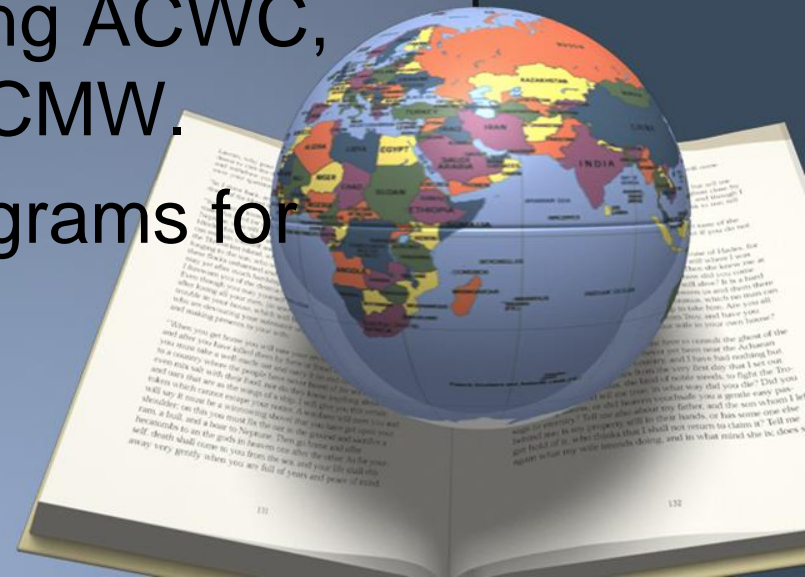
B. FOR ASEAN BODIES AND INSTRUMENTS (i.e. AICHR, ACWC, ACTIP, RPA)

- ACTIP and RPA
 - Full respect for the human rights and dignity of victims
 - Non-criminalization of victims of trafficking
 - Inclusion in ACTIP and RPA of a regional program for victim identification and assistance, and repatriation
 - Ensure nonrefoulement to victims as may be applicable



Recommendations

- AICHR
 - Possibility of establishing an individual complaint mechanism
 - Conduct regional training program in collaboration with other ASEAN sectoral bodies, including ACWC, ASEAN SOMTC and ACMW.
 - Need to coordinate programs for traffcking





Recommendations

C. FOR OTHER STAKEHOLDERS (National Human Rights Institutions, International Organizations, civil society)

- UN Agencies
 - Support regional capacity building and training programs.
 - Facilitate learning from other regions.
 - Facilitate in referring people with special needs to the appropriate actors who can assist and support them, when needed.
 - Provide funding and/or technical support and expertise, as appropriate.
- National Human Rights Institutions
 - Facilitate access to TIP victims to monitor and ensure that their human rights are protected.
 - To strengthen interaction between AICHR and national human rights institutions.



Recommendations

- Civil Society
 - Work with state structures and systems to protect the rights of TIP victims.

