



COOPERATION AGREEMENT
BETWEEN
THE INDONESIAN INSTITUTION FOR WITNESS AND VICTIM PROTECTION
AND
THE INTERNATIONAL ORGANIZATION FOR MIGRATION
NUMBER : PERJ-2.014/1.2.2.1/LPSK/03/2017
NUMBER : IDN/LCOO/EE321/2017
CONCERNING
PROTECTION OF WITNESSES AND/OR VICTIMS OF
TRAFFICKING IN PERSONS

On this day, 29 November 2017 in Jakarta, Indonesia, the persons described below:

1. Abdul Haris Semendawai, Chairperson of the Indonesian Institution for Witness and Victim Protection (*Lembaga Perlindungan Saksi dan Korban Negara Republik Indonesia*), acting for and on behalf of said institution, domiciling at Jalan Raya Bogor KM 24 Nomor 47-49 Jakarta Timur 13750, hereinafter referred to as the FIRST PARTY.
2. Mark Getchell, Chief of Mission of the International Organization for Migration (IOM) Indonesia, acting for and on behalf of IOM, domiciling at Sampoerna Strategic Square North Tower 12A Floor, Jalan Jenderal Sudirman Kav. 45-46 Jakarta, hereinafter referred to as the SECOND PARTY.

FIRST PARTY and the SECOND PARTY to be collectively referred to as the Parties, shall first set forth as follows:

- a. Whereas, the Parties recognize the FIRST PARTY's authority and responsibility to provide protection and other rights to witnesses and victims of acts of crime, as mandated by the law;
- b. Whereas, the Parties recognize the SECOND PARTY is committed to combating trafficking in persons and protecting the rights of migrants who become victims of trafficking, and is mandated to work towards the effective respect of the human rights and well-being of migrants;
- c. Whereas, the purpose of this Cooperation Agreement is to contribute to the prevention, investigation and reduction of trafficking in persons and related offences, through effective cooperation between the FIRST PARTY and SECOND PARTY within their respective mandates; and
- d. Whereas, the concern for the safety, human rights and best interests of witnesses and victims of trafficking in persons will remain paramount for both Parties at all times.
- e. Whereas, both Parties agreed to renew the previous Cooperation Agreement No. INK-011/1.6/LPSK/IV/2012 & No. IND/LCOO/RM0093/2012 that has been expired.

Whereas, based on item a., b., c. and d. described above, Both Parties have come to an agreement to cooperate in protecting witnesses and victims of trafficking in persons, in the implementation of:

1. Law Number 13 of 2006 on the Protection of Witnesses and Victims (National Gazette of the Republic of Indonesia 2006 Number 64, adding to National Gazette of the Republic of Indonesia number 4635) as amended by Law of the Republic of Indonesia Number 31 Year 2014 on the amendments to Law Number 13 Year 2006 on Witness and Victim Protection (National Gazette of the Republic of Indonesia Year 2014 Number 293, in addition to National Gazette of the Republic of Indonesia Number 5602)
2. Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons
3. Law Number 5 of 2009 on the Ratification of the United Nations Convention Against Transnational Organized Crime
4. Law Number 14 of 2009 on the Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing The United Nations Convention Against Transnational Organized Crime
5. ASEAN Declaration Against Trafficking In Persons Particularly Women and Children (2004).

6. ASEAN Declaration on Transnational Crime (1997)
7. ASEAN Plan Of Action on Trafficking in Persons

AIM and OBJECTIVE

Article 1

- (1) This Cooperation Agreement is to serve as a framework agreement in establishing cooperation between the Parties in conducting activities relating to the protection of witnesses and victims of trafficking in persons.
- (2) This Cooperation Agreement aims to bind cooperation in activities related to:
 - a. Build a common awareness on the importance of cooperation between the Parties in providing protection to witnesses and/or victims of trafficking in persons within the framework of the prevailing and applicable laws and regulations;
 - b. Create effective communication towards the establishment of the cooperation between the Parties in providing protection and assistance to witnesses and/or victims of trafficking in persons; and
 - c. Build cooperation between the Parties to enhance human resources capacity in providing protection to witnesses and victims of trafficking in persons.

PRINCIPLES

Article 2

- (1) This Cooperation Agreement is built upon the following principles:
 - a. Respect for the human rights and dignity of victims of trafficking;
 - b. Self-determination and active participation of victims of trafficking, including their informed consent to participate in the witness protection process;
 - c. Equality;
 - d. Justice;
 - e. Non-Discrimination;
 - f. Legal Certainty;
 - g. Confidentiality and the right to privacy;
 - h. Security and personal safety of witnesses and victims of trafficking; and
 - i. Best interest of the child, where the witness or victims is less than 18 years of age.

- 2) The Cooperation Agreement between the Parties will reflect, and be in accordance with, the international standards and guidelines set out in the United Nations Office of the High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002) and the IOM Handbook on Direct Assistance for Victims of Trafficking (2007).

SCOPE

Article 3

The scope of this Cooperation Agreement covers for developing and strengthening communication and cooperation structure, building human resource capacity, provision of facilities and infrastructure, and financing in relation to the protection to witnesses and victims of trafficking in persons and building human resource capacity.

JOINT ACTION

Article 4

- (1) The Parties may, through special arrangements, decide to act jointly in the implementation of projects that are of common interest. Special arrangements shall define the modalities for the participation of each Party in such projects and shall determine the expenses payable by each of them.
- (2) The Parties may, whenever they consider it desirable, set up commissions, committees or other technical or advisory bodies, on terms and conditions to be mutually agreed upon in each case, to advise them on matters of common interest.

AREAS OF COOPERATION

Article 5

Without prejudice to cooperation in additional fields and subject to the availability of resources, the Parties agree to consider the following areas for cooperation:

(1) Protection of Witnesses and Victims

- a. Cooperation between the Parties in providing protection to witnesses and victims covers the following: Referral of victims of trafficking in persons for witness protection while recognizing their special vulnerability and their fear of reprisal from trafficker(s) against themselves and their family;
- b. Provision of information needed in providing protection to witnesses and victims of trafficking in persons under strict confidentiality, subject to the voluntary and active participation of witnesses and victims, and provided the explicit consent of the witnesses and victims and/or their legal guardians are obtained prior to the disclosure of such information;
- c. Facilitation of fulfillment of the rights of the witnesses and victims of trafficking in persons who are beneficiaries of the protection program of the respective Party, such as provision of safe accommodation, legal assistance and medical and psychological assistance; and
- d. Promote law enforcement efforts towards providing legal assistance and access to justice for the witnesses and victims of trafficking in persons. The SECOND PARTY shall be under no obligation to disclose information to the FIRST PARTY, and SECOND PARTY reserves the right to decline to disseminate information it may have in its possession, especially where either the sensitivity of the information or the potential risk posed by the trafficker(s), or both, would create a real and high level risk to the witnesses, victims of trafficking in persons, their family or IOM personnel, or for any other reason the SECOND PARTY may determine is contrary to its interests.

(2) Human Resources Capacity Building

Cooperation between the Parties with respect to the human resources capacity building covers the following:

- a. Education and training, conference, symposium and workshop, to be conducted jointly by the Parties or individually by each Party;
- b. Participation of delegates of each Party in education and training sessions conducted jointly by the Parties or individually by each Party;
- c. Participation of delegates of each Party in conferences, symposiums, and workshops conducted jointly by the Parties or individually by each Party;

- d. Provision of internship and education programs as well as field trainings; and
 - e. Research and observation towards enhancing human resources quality in accordance with the supplementary written agreement between the Parties.
- (3) Facilities, Infrastructure and Funding
- Cooperation between the Parties with respect to facilities, infrastructure and funding, covers the following:
- a. Utilization of facilities and infrastructure at the Parties or at each Party for the provision of recovery process and protection for the victims of trafficking;
 - b. The Parties or each Party recommend or decide which facility and infrastructure to be utilized for victim's recovery process and protection;
 - c. All costs arising from the prevention and response activities to trafficking in persons shall be defined in a written agreement between the Parties to determine the costs to be paid by either Party or charged proportionately to the Parties.

IMPLEMENTATION

Article 6

- (1) Exercise of the duties and responsibilities outlined hereunder shall be further provided under a written implementation agreement, which shall formed an inseparable part of this Cooperation Agreement.
- (2) To ensure effective implementation of this Cooperation Agreement, the Parties shall consult each other on matters relating to this Cooperation Agreement through regular communication and, if necessary, evaluation shall be performed jointly between the Parties.
- (3) For the purpose of implementing the activities described in this Cooperation Agreement, each Party shall be represented by:
 - a. Fulfillment of witnesses and victims' rights unit of the First Party; and
 - b. Counter-trafficking and labour migration unit of the Second Party in Indonesia.

FUNDING

Article 7

This Cooperation Agreement does not give rise to any financial obligations between the Parties and is subject to the availability of resources. All costs arising from the implementation of this Cooperation Agreement shall be defined in a written implementation agreement between the Parties to determine the costs to be paid by either Party or charged proportionately to the Parties.

SUPPLEMENTARY ARRANGEMENTS

Article 8

The Parties may enter into such supplementary arrangements for the purpose of cooperation and coordination as may be found desirable.

CONFIDENTIALITY

Article 9

All information including personal information which comes into the Parties' possession or knowledge in connection with this Cooperation Agreement is to be treated as strictly confidential and shall not be communicated to any third party without the consent of the other Party. No personal information shall be communicated to any third party without prior written approval of the Second Party, and the witnesses and victims, and/or their legal guardians. The Parties shall comply with IOM Data Protection Principles (Annex A) in the event that it collects, receives, uses, transfers or stores any personal data in the performance of this Cooperation Agreement. The obligations under this article shall survive the expiration or termination of this Cooperation Agreement.

INTELLECTUAL PROPERTY

Article 10

All intellectual property and other proprietary rights including, but not limited to, patents, copyrights, trademarks and ownership of data resulting from activities or projects under this Cooperation Agreement shall be vested in the SECOND PARTY, including, without any limitation, the rights to use, reproduce, adapt, publish and distribute any item or part thereof.

STATUS OF THE PARTIES

Article 11

- (1) Status of the FIRST PARTY in this Cooperation Agreement shall be in accordance with its roles and authority as mandated by the laws and regulations;
- (2) Any stipulation in this Cooperation Agreement shall not affect the privileges and immunities enjoyed by the SECOND PARTY as an intergovernmental organization.

MONITORING AND EVALUATION

Article 12

- (1) All Parties agreed to conduct Monitoring and Evaluation on the implementation of this Cooperation Agreement;
- (2) Monitoring and Evaluation will be conducted at the minimum of once a year.

FOCAL POINT

Article 13

- (1) To carry out the implementation of this Cooperation Agreement, All Parties shall have a focal point;
- (2) Focal point as described in verse (1) above, is as follows:
 - a. FIRST PARTY appointed the Vice Chairman of the Indonesian Institution for Witness and Victim Protection who is in charge of the legal, cooperation and internal monitoring division; and
 - b. SECOND PARTY appointed the Chief of Mission of the International Organization for Migration (IOM) Indonesia.

TERM

Article 14

- (1) This Cooperation Agreement shall be effective for a period of 5 (five) years from the signing hereof;
- (2) This Cooperation Agreement may be renewed in writing upon mutual agreement of the Parties. In the event this Cooperation is to be renewed,

- the Parties shall consult and coordinate the renewed provisions by no later than 3 (three) months prior to the expiry hereof;
- (3) Either of the Parties may terminate this Cooperation Agreement by giving 3 (three) months' written notice to the other Party.

DISPUTE RESOLUTION

Article 15

- (1) Any dispute, controversy or claim arising out of or in relation to this Cooperation Agreement, shall be settled amicably by negotiation between the Parties;
- (2) In the event that such negotiation described in (1) is unsuccessful, either Party may submit the dispute to arbitration in accordance with the UNCITRAL arbitration rules. The arbitral award will be final and binding.

ADDENDUM

Article 16

Matters not provided in this Cooperation Agreement shall be further agreed upon by the Parties in an addendum in writing, which shall formed an inseparable part of this Cooperation Agreement.

CONCLUDING PROVISION

Article 17

This Cooperation Agreement is prepared and signed by the Parties on the day and date specified below, in 2 (two) copies both in Bahasa and English, each of which having equal legal force.

FIRST PARTY


ABDUL HARIS SIMPENDAWAI

SECOND PARTY


MARK GETCHELL



