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**AN ANALYSIS OF THE POST-COVID-19 EFFORTS  
IN COMBATING HUMAN TRAFFICKING AND THE SMUGGLING  
OF MIGRANTS IN MALAYSIA**

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**ABSTRACT**

Malaysia has retained its Tier 3 status in the 2022 Trafficking in Persons (TIP) Report released by the United States Department of State, underscoring the persistence of human trafficking issues despite ongoing governmental efforts. This marks the fourth instance of the country being relegated to the lowest tier, reflecting the limited efficacy of measures to address human trafficking, particularly during the COVID-19 pandemic. In response, the Malaysian government introduced the National Action Plan on Trafficking in Persons (NAPTIP 3.0) in March 2021, aimed at bolstering mechanisms to combat human trafficking and migrant smuggling. However, these initiatives failed to yield improvements in the 2022 TIP ranking, which coincided with the reopening of international borders. Therefore, this study is aimed at examining the Malaysian government's efforts to address the pervasive challenges of human trafficking and migrant smuggling, with a specific focus on the development and implementation of NAPTIP 3.0. By analysing the mechanisms underpinning these initiatives, the paper evaluates their functional role in combating human trafficking and migrant smuggling, particularly in the post-COVID-19 context. The research is based on a comprehensive analysis of policy documents, media reports, academic literature, official statements and interviews. The findings highlight that while the Malaysian government's efforts have been constrained, they represent meaningful progress towards addressing these issues. These endeavours were recognised in June 2023, when Malaysia was upgraded to the Tier 2 Watch List in the US TIP Report, and in 2024 when the country advanced to Tier 2.

**Keywords:** Malaysia, human trafficking, smuggling of migrants, NAPTIP 3.0, post-COVID-19.

## INTRODUCTION

Malaysia has grappled with various forms of human trafficking and migrant smuggling for over three decades, highlighting the long-standing nature of these challenges. In response to this deep-rooted quandary, the government has enacted the Anti-Trafficking in Persons Act (ATIP) in 2007 and established the Malaysian Anti-Trafficking in Persons Secretariat or *Majlis Anti Perdagangan Orang* (MAPO). By 2010, the scope of the law was expanded to include migrant smuggling, leading to the creation of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Secretariat (ATIPSOM) and an amendment to the ATIP statute. This revision signalled the government's serious commitment in addressing the pressing issues. The enforcement of the ATIP Act was catalysed when Malaysia was initially placed in Tier 3 of the United States Department's (USD) Trafficking Victims Protection Act (TVPA) Report. Subsequently, due to strong government efforts, Malaysia was elevated to the Tier 2 Watch List. The country's upgrade to Tier 2 in 2017 was attributed to significant progress, though some critics, including activists and civil society organisations, contended that the promotion was politically motivated, especially after the visit of US President, Barack Obama (Santiago, 2015).

In June 2021, during the COVID-19 pandemic, the USD relegated Malaysia to Tier 3 of the TVPA from its previous standing on the Tier 2 Watch List in June 2020. Tier 3 is the bottommost assessment and is considered the worst position to be in for Malaysia, signifying an apparent lack of effort to combat human trafficking in the country. According to the USD, which had stated clearly in its annual TIP reports, countries in Tier 3 of the TVPA were governments that did not make significant efforts to combat human trafficking and did not fully comply with the minimum standards of the accord. Malaysia was ranked in Tier 3 in 2014 prior to June 2021 (US TIP, 2014).

In response to this setback, Malaysia's Ministry of Foreign Affairs intensified its efforts to combat human trafficking and migrant smuggling, notably revising the ATIP in February 2021. The enactment of Act A1644 in the Official Gazette on January 25, 2021, was seen as a crucial step towards addressing these persistent issues. The enhancement of the Act's 19 provisions, in close collaboration with non-governmental organisations (NGOs) and international agencies within the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM), represents a strategic approach to improving the effectiveness of anti-trafficking measures. The inclusion of the Palermo Protocol and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) further aligns Malaysia with international standards.

The global COVID-19 pandemic led to the closure of borders in many countries, including Malaysia, in an attempt to curb the virus's spread (Coronavirus: Travel restrictions, border shutdowns by country, 2020; Malaysia closes borders to all foreigners over COVID-19 concerns, March 18, 2020). While the movement of goods and capital was halted, such measures were less effective in curbing illegal activities such as drug trafficking (Fawwaz, 2023), including human trafficking and migrant smuggling. Despite the temporary suspension of these illicit operations, international agencies warned countries, particularly those known for being destination points for traffickers and smugglers, to tighten security measures. The economic downturn during the pandemic, coupled with the partial effectiveness of border closures, emboldened traffickers and smugglers, leading to an increase in criminal activities.

Moreover, the porous nature of borders and the lack of adequate security measures continue to contribute to irregular migration and clandestine activities, including trafficking and smuggling (Hoffstaedter & Missbach, 2021; Zainol et al., 2019). A notable example is the 2015 Wang Kelian case,

where hundreds of bodies of trafficked migrants and smuggling victims were discovered in mass graves on the Malaysia-Thailand border (Shankar & Arulldas, 2015). Such incidents underscore the critical security challenges posed by human trafficking and migrant smuggling, particularly in the context of inadequate border security. With the reopening of borders post-pandemic, these issues have highlighted the pressing need for enhanced border controls.

To address these persistent challenges, the Malaysian government initiated the National Action Plan Against Trafficking in Persons (NAPTIP) in 2010, followed by its second phase in 2015. The NAPTIP has been developed in collaboration with various stakeholders to combat human trafficking and migrant smuggling both nationally and internationally. In response to the Tier 3 downgrade in 2021, the government launched NAPTIP 3.0 in March 2021. This updated action plan aims to strengthen strategies developed in previous phases.

In light of the foregoing discussion of the background to the challenges and the country's response, this study seeks to critically examine the Malaysian government's efforts to combat the enduring challenges of human trafficking and migrant smuggling, with particular emphasis on the development and implementation of NAPTIP 3.0. By analysing the mechanisms underpinning these initiatives, this paper evaluates the effectiveness of the proposed measures, particularly in the post-COVID-19 context. A qualitative research approach has been employed, systematically analysing data from a range of sources, including policy documents, media reports, scholarly publications, official statements, and interviews, to assess the significant efforts undertaken by the Malaysian government to combat the pervasive issues of human trafficking and migrant smuggling.

## **UNDERSTANDING THE PROBLEMS OF HUMAN TRAFFICKING AND SMUGGLING OF MIGRANTS**

Human trafficking represents a severe transnational crime, with the United Nations (UN) unequivocally identifying it as one of the most egregious human rights abuses, motivated solely by financial gain (UN, 2000). It systematically strips individuals of their fundamental rights and freedoms through ruthless exploitation. According to the United Nations Office on Drugs and Crime (UNODC, 2018), human trafficking is a global issue that transcends distinctions of gender, age, race, or religion, affecting nearly every nation. In 2021, over 90,000 victims were documented worldwide (Statista, 2022). Although this figure marked a decrease of nearly 20,000 compared to the previous year, the long-term trend indicates a significant and alarming rise in human trafficking cases over the past few decades.

Scholarly discourse has historically employed various terms to describe this phenomenon, including human trade, slave trade, and modern slavery (Bales, 2004b, 2005, 2007, 2009; Feingold, 2005; Aronowitz, 2009; Kara, 2011; Lee, 2013). However, the various different nomenclature does not diminish the gravity of the challenges faced by vulnerable victims ensnared by traffickers or the obstacles encountered by stakeholders in combating this global crime. The Global Slavery Index (GSI, 2022) estimates that approximately 50 million individuals worldwide are trapped in diverse forms of modern slavery, a category that encompasses human trafficking. Over the past decades, human trafficking has evolved into a complex and organised global crime network.

Recognising its global scale and severe impact, the UN, in 2000, designated human trafficking as a crime against humanity, enacting the Protocol to Prevent, Suppress and Punish Trafficking in Persons,

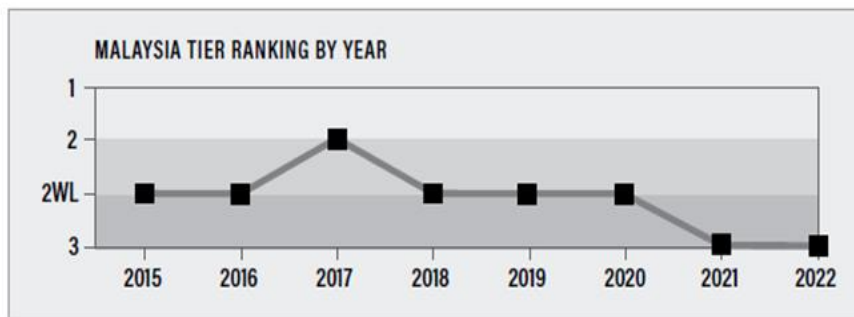
Especially Women and Children. This protocol, supplementing the United Nations Convention against Transnational Organised Crime, was adopted in Palermo, Italy, to provide a comprehensive international framework (UN, 2000) to address the problem at hand. Since its inception, numerous governments have ratified and signed the protocol, committing to combat human trafficking and migrant smuggling.

Malaysia ratified the protocol in 2009, obliging the government to intensify its efforts to address and mitigate human trafficking and migrant smuggling activities (UN Treaty Collection, 2000). Since then, Malaysia has adopted a proactive stance, implementing various measures to counteract human trafficking within the country and region. These efforts have been documented in the United States Trafficking in Persons (US TIP) reports since 2007, where Malaysia's tier placement has fluctuated. Initially ranked in Tier 3 in 2007, the country had advanced to the Tier 2 Watch List, maintaining this position until 2014.

However, despite these initiatives, Malaysia has faced significant setbacks. By June 2022, it was relegated to Tier 3 in the US TIP report, signifying inadequate progress in addressing human trafficking within its borders ("Malaysia remains at lowest tier of US human trafficking report," 2022). This marks the fourth instance of Malaysia being classified in Tier 3, with previous occurrences in 2007, 2014, 2021, and 2022 (Michael, 2022). These placements underscore persistent deficiencies in the country's strategies and implementation mechanisms, despite the country's formal commitments under the Palermo Protocol. Figure 1 shows Malaysia's spot in the annual US TIP report from 2015 to 2022.

**Figure 1**

*Tier Ranking of Malaysia from 2015 to 2022*



*Notes.* Sourced from the US Trafficking in Persons report, US States Department (2022).

When a government is ranked in Tier 3 of the Trafficking in Persons (TIP) report, it signifies the government's failure to make substantial efforts to combat human trafficking within its borders, as well as its non-compliance with the minimum standards set forth by the Trafficking Victims Protection Act of 2000 (TVPA). For Malaysia, its consecutive placement in Tier 3 from 2021 to 2022 highlights the urgent need for the government and its agencies to intensify their efforts through targeted strategies and adhere to the recommendations outlined in the TIP report. This persistent low ranking underscores systemic deficiencies in combating human trafficking and implementing effective countermeasures.

Additionally, the TIP report addresses the issue of migrant smuggling alongside human trafficking, despite frequent criticisms that these two phenomena are often conflated. Human trafficking, as defined by the Protocol to the United Nations Convention against Transnational Organised Crime (Palermo Protocol), involves the "recruitment, transportation, transfer, harbouring, or receipt of persons, 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 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, for the purpose of exploitation.” This definition, precise and comprehensive, establishes the legal and ethical framework for addressing human trafficking globally.

As of September 2021, 178 countries have ratified the Palermo Protocol, obligating them to enact and enforce anti-trafficking laws that conform to its provisions (UNODC, 2021; UN Palermo Protocol, 2000). By contrast, the smuggling of migrants is defined under the same Protocol as “the procurement, in order to obtain, directly or indirectly, financial or other material benefits, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” Unlike trafficking, migrant smuggling is a consensual act, as individuals willingly seek illegal entry into another country, often driven by economic opportunities. Consequently, while human trafficking constitutes a crime against individuals due to its exploitative and coercive nature, migrant smuggling is classified as a crime against the state because it violates immigration laws (US TIP, 2017).

This distinction is pivotal, as conflating human trafficking with migrant smuggling obscures the unique legal, social, and ethical challenges posed by the respective issues of the twin matters of concern. It is imperative for governments, including Malaysia, to adopt nuanced approaches that separately address the complexities of both the phenomena of human trafficking and migrant smuggling to ensure effective policy responses and compliance with international standards.

## **METHODOLOGY**

This study adopts a qualitative methodology to explore the complexities of human trafficking and migrant smuggling, with a focus on the periods before and after the global COVID-19 pandemic. Malaysia’s consecutive downgrading to Tier 3 in the US Trafficking in Persons (US TIP) reports for 2021 and 2022 served as a critical indicator of the need for the government to demonstrate and enhance its commitment to combating these issues and the efforts initiated by the country with the ratification of the Palermo Protocol in the early 2000s. The data collection process incorporated both primary and secondary sources. Primary data was obtained through interviews with key stakeholders who, due to the sensitivity of the subject, requested anonymity. These individuals were actively engaged in addressing human trafficking and migrant smuggling within Malaysian government institutions and international organisations. Secondary data was sourced from a range of authoritative organisations, including the United Nations Office on Drugs and Crime (UNODC), the International Labour Organisation (ILO), the US TIP, and the International Organisation for Migration (IOM). National reports, policy documents, publications, media reports, and the Malaysian government’s National Action Plan on Anti-Trafficking in Persons (NAPTIP 1.0 to 3.0) were also rigorously examined. The data analysis, particularly statistical insights, added depth and robustness to the study’s findings. A comprehensive comparison and interpretation of the primary and secondary materials allowed for a nuanced understanding of the challenges and initiatives in addressing human trafficking and migrant smuggling in Malaysia. By critically evaluating the interplay of these factors, the study offers an in-depth assessment of Malaysia’s progress and persistent problems in this critical area.

## FINDINGS AND ANALYSIS

### **The Persistent Problems of Human Trafficking and the Smuggling of Migrants**

According to the UN's 2021 Global Report on Trafficking in Persons, human trafficking, second only to drug trafficking, has become one of the most profitable illegal industries globally, with an estimated annual value of \$150 billion. This immense profitability stems largely from the global demand for cheap and exploitable labour, which underpins the economic mechanisms of human trafficking. The International Labour Organisation (ILO) reported that in 2021, over 49.6 million individuals were victims of modern slavery. This figure included 27.6 million people engaged in forced labour and 22 million in forced marriages.

Further disaggregation of these statistics reveals the complexity of the issue. The ILO highlighted that 17.3 million individuals were coerced into private-sector labour, 6.3 million were exploited in forced commercial sexual activities, and 3.9 million were subjected to state-imposed forced labour. Women and girls constitute the majority of human trafficking victims, with 4.9 million forced into commercial sexual exploitation and 6 million subjected to forced labour across other economic sectors. Alarming, children make up 12 per cent of those in forced labour, with over half exploited for commercial sex. These figures underscore the pervasive and exploitative nature of human trafficking, affecting some of the most vulnerable populations.

The traditional narrative frames trafficking as predominantly flowing from poorer nations to wealthier ones, a dynamic that traffickers exploit using increasingly sophisticated strategies. However, human trafficking transcends geographical and economic boundaries, occurring even in developed nations. The clandestine nature of trafficking operations, coupled with victims' inability to self-identify or seek help, facilitates its persistence. Traffickers leverage legal channels of transportation land, sea, and air using falsified or manipulated documents to avoid detection. Victims often carry legitimate travel papers, which reduces suspicion at immigration checkpoints and further complicates identification efforts (US TIP, 2016).

Immigration officers frequently fail to recognise trafficking victims, a reality highlighted by Michael (2019). This is compounded by victims' lack of awareness that they are being trafficked until their circumstances irreversibly change. Promised employment opportunities often prove to be fraudulent. Upon arrival, traffickers typically confiscate victims' passports and documents, redirecting them to exploitative labour far removed from the original promises. This constitutes a clear violation of human rights, involving both deception and coercion to maximise illicit profits.

Bales (2004a) argued that human trafficking fundamentally violates victims' beliefs, religious practices, and cultural rights, subjecting them to violence and domination, which results in the loss of their autonomy and freedom. Traffickers view victims as highly valuable commodities and exploit them relentlessly to maximise financial gain. This modern form of slavery is deeply intertwined with social and economic structures, wherein victims are subjected to violent control while receiving no compensation for their labour, which generates substantial profits for their exploiters (Chuang, 2006; Michael, 2014).

Kara (2009) highlighted that human trafficking is among the most lucrative illegal industries, second only to drug trafficking. Unlike drugs, which are consumed and depleted, trafficked individuals—

particularly women and girls in forced sexual exploitation generate recurring profits as they are coerced into serving multiple clients daily. The ILO (2021) reported that 6.3 million people are trapped in various forms of commercial sex trade, with nearly a quarter of this figure, approximately 1.7 million being children. Women and girls constitute the majority of these victims, representing four out of every five individuals in coerced commercial exploitation. This disproportionate targeting reflects structural vulnerabilities, particularly for women and girls in precarious socioeconomic circumstances.

The Association of Southeast Asian Nations (ASEAN), encompassing countries such as Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Vietnam, and Timor-Leste, face significant challenges related to human trafficking on a regional scale. Some of these countries also grapple with the conflation of migrant smuggling and refugee smuggling (Human Rights Watch, 2020). According to the US TIP reports, traffickers frequently exploit individuals from neighbouring countries, including Indonesia, Myanmar, Cambodia, Thailand, the Philippines, Vietnam, Bangladesh, and as far afield as China, India, Nepal, and Pakistan. Malaysia, in particular, is a favoured destination for traffickers, partly due to its large population of migrant workers. The 2017 TIP Report estimated that Malaysia hosts two million registered migrant workers alongside a significant number of undocumented migrants, many of whom fall victim to trafficking.

A key characteristic of human trafficking in the region is the economic motivation to exploit victims for cheap labour. However, the transition from voluntary migration to trafficking is also common. Many migrants initially agreed to be smuggled into Malaysia for promised employment. Upon arrival, they are handed over to traffickers and forced into exploitative labour or sexual exploitation (Michael, 2019). The US State Department (2017) noted that smuggled individuals are particularly vulnerable to abuse, trafficking, and other crimes due to their undocumented status and the debts owed to their smugglers. Failure to repay these debts often leads to their sale to traffickers. Furthermore, some migrants are subjected to exploitation during transit, illustrating the fluid transition from smuggling to trafficking. It is essential, however, to distinguish between the two: not all cases of migrant smuggling involve human trafficking, nor do all instances of human trafficking stem from migrant smuggling.

Many smuggled migrants are fleeing domestic internal violence, seeking better economic opportunities, or reuniting with family members. Malaysia, with its comparatively stable economy, attracts migrants from less developed or politically unstable neighbouring countries. While many migrants enter Malaysia lawfully and are promised fair contracts, housing, and wages, the reality is often starkly different. Instead, they find themselves in “3D” jobs; dirty, dangerous, and demanding in sectors such as construction, agriculture, electronics, fisheries, and hospitality (Kaur, 2006; Michael, 2019; Wahab, 2020). For those who become trafficking victims, exploitation is entrenched through the confiscation of passports and legal documents by agents or employers, making escape virtually impossible.

**Figure 2**

*Malaysia's Strategic Location in the Southeast Asia Region*



*Notes.* Source is the International Organisation for Migration (2023).

According to Kaur (2006), Malaysia has attracted significant migration flows since the 1970s due to its strategic location in Southeast Asia and its economic development. The country's demand for foreign workers created an environment ripe for employment agencies to recruit migrants from neighbouring countries, including Indonesia, Bangladesh, and the Philippines. While many of these migration processes were legal, recruitment agents frequently exploited the system, smuggling illegal migrants to capitalise on the growing demand for labour. During this period, human trafficking was not formally recognised, partly due to the clandestine nature of these movements (Michael, 2019).

Malaysia's borders have been characterised as porous, allowing traffickers and smugglers to enter the country undetected via covert routes known as "Rat Routes" or *jalan tikus* in the Malay language. These pathways are hidden, often weaving through jungles to cross international borders and evading enforcement authorities. In addition, the lax border controls have facilitated the movement of trafficking victims by air, sea, and land. Several entry points, particularly along the northern Thai-Malaysian border, have been exploited by traffickers. In 2015, Malaysian police uncovered 139 unmarked mass graves containing the remains of trafficking victims in 28 abandoned "prison camps" near the Bukit Wang Burma and Wang Kelian areas (Shankar & Aruldas, 2015). Post-mortem investigations revealed that these victims had been tortured, abused, and ultimately murdered. Despite the establishment of a Royal Commission of Inquiry (RCI) to investigate the findings, the results have been unsatisfactory. The public has not been given a comprehensive report, and no significant prosecutions have occurred. Although 12 local police officers were detained, none were charged (Morden, 2022; Santiago, 2017).

Conversely, the Thai government took a more decisive approach, prosecuting four citizens under Section 26A of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (ATIPSOM) 2007, with maximum sentences of 15 years imprisonment (Shah, 2023). Malaysian authorities, however, maintained that local involvement was limited to serving as middlemen, who helped in transporting victims within the country.

The dynamics of human trafficking and migrant smuggling are shaped by push and pull factors. Push factors originate in the victims' countries of origin and include poverty, illiteracy, unemployment, unstable political environments, and low economic opportunities. In contrast, pull factors are the perceived benefits of migration, such as better-paying jobs, improved living standards, and shared cultural or religious ties in destination countries like Malaysia (Othman, 2004; Shelley, 2010; Hamid, 2020). Malaysia, in particular, is an attractive destination due to its socio-economic stability and demand for cheap labour across industries, including construction, manufacturing, plantations, and fishing.

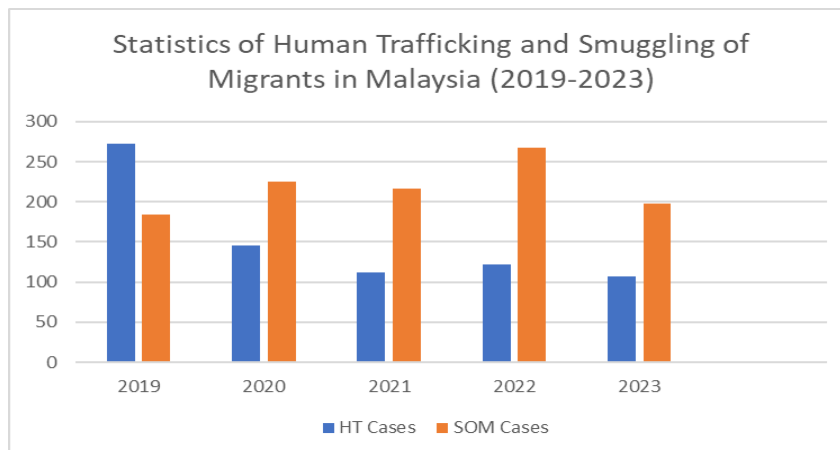
Victims, desperate for better lives, often pay exorbitant fees for transportation, visas, and other associated costs, which leaves them vulnerable to exploitation. Upon arrival, they are transported to unknown locations and handed over to traffickers. Many are forced into labour, while women and children are frequently coerced into sex work, including prostitution, domestic servitude, and work in nightclubs (US TIP, 2022). Raids on hotels, massage parlours, and bars often reveal the extent of this exploitation.

The persistence of human trafficking during the COVID-19 pandemic underscores the entrenched nature of its driving factors. Despite border closures and restricted movement, trafficking networks continued to operate, leveraging socio-economic instability in source countries and using technology and sophisticated logistics to target vulnerable populations. Shelley (2010) argued that trafficking is no longer confined to developing nations; it is increasingly prevalent in wealthy countries like the US and Europe, and is driven by globalisation and technological advances.

In many cases, economic desperation compels families to trade their children, particularly daughters, for financial gain. This practice is exacerbated by overpopulation and underdevelopment in impoverished regions, which act as significant push factors. Correspondingly, pull factors such as tourism, globalisation, and the promise of education and employment opportunities attract migrants to destination countries. Shared cultural and religious ties also play a role, as seen in the large influx of Indonesian migrants to Malaysia. Even during the COVID-19 pandemic, small-scale smuggling of migrants persisted despite border closures, reflecting the adaptability of traffickers in the face of restrictions (Interview with an international agency officer, 2023).

### **Figure 3**

*Statistics of Human Trafficking and Smuggling of Migrants Pre- and Post-COVID-19*



*Notes.* Source is the Royal Malaysia Police (2023). \*HT = Human Trafficking; SOM = Smuggling of Migrants.

As previously discussed, Malaysia has been a prime destination for human traffickers and a point of entry for migrants seeking illegal access for various reasons. Figure 3 illustrates the prevalence of human trafficking and migrant smuggling cases from 2019 prior to the border closures which were enforced to curb the COVID-19 pandemic through to 2023, a year after the borders were reopened. Human traffickers are primarily motivated by the profits generated from exploiting their victims (Wheaton, 2010), while migrants are often driven by the pursuit of better opportunities or the need to escape political unrest and persecution (Ajis et al., 2014).

To mitigate the spread of COVID-19, the Malaysian government imposed strict border closures and Movement Control Orders (MCOs) in March 2020 (Sipalan, 2020). These measures temporarily disrupted human trafficking activities, resulting in a slight annual decline in reported cases during the pandemic. However, the total number of cases remained a concern, with 380 recorded in 2020 compared to 272 in 2019. Similarly, while the illegal entry of migrants initially decreased in 2020 (225 cases) and 2021 (217 cases), it rose again to 268 cases in 2022, surpassing the pre-pandemic figure of 184 cases in 2019. Notably, despite stringent border security measures, cases of migrant smuggling continued to increase post-2019, highlighting the adaptability of trafficking networks and the persistent demand for migration.

These statistics raise critical questions about the Malaysian government's strategies to combat human trafficking and migrant smuggling during the COVID-19 pandemic and after the reopening of borders. Malaysia's relegation to Tier 3 of the US TIP Report in both 2021 and 2022 (see Figure 1) underscores significant shortcomings in its anti-trafficking efforts ("Malaysia remains at lowest tier of US human trafficking report," 2022). The Tier 3 ranking is the lowest possible and signals inadequate government actions to address these crimes effectively.

Given this context, it is crucial to critically evaluate the Malaysian government's policies and enforcement measures during the border closures and in the post COVID-19 pandemic period. This study aims to analyse the country's efforts, assessing their efficacy and identifying areas for improvement to address the persistent challenges of human trafficking and migrant smuggling within the country.

### **EFFORTS OF THE MALAYSIAN GOVERNMENT**

The Malaysian government responded to its downgrade to Tier 3 in the US TIP Report by taking measures to enhance and fortify the four pillars that define the effectiveness of governmental efforts in addressing human trafficking and migrant smuggling. These efforts were assessed using the four pillars outlined in the US TVPA framework, and these were as follows: Prosecution, Protection, Prevention, and Partnership, collectively referred to as the 4Ps, and is as illustrated in Figure 4.

**Figure 4**

*Malaysia's NAP TIP 3.0 Four Pillars*



*Notes.* Source is the Author's compilation of NAP TIP 3.0 (2023).

The Malaysian government has embedded the four pillars of Prosecution, Protection, Prevention, and Partnership into its comprehensive National Action Plan for Trafficking in Persons (NAPTIP) since its inception in 2010. This plan, the first formal document articulating Malaysia's commitment to eradicating human trafficking, complements the existing Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIP Act), and serves as a strategic roadmap for addressing these crimes. By aligning its efforts with the National Action Plan, the MAPO council (The Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants) actively supports the implementation of the ATIP Act, reinforcing Malaysia's vision of becoming a country free from human trafficking and migrant smuggling.

Additionally, the Malaysian government's recognition of human trafficking as a transnational crime comparable to drug and arms trafficking was a pivotal moment. This crime, which generates billions of dollars annually for criminal enterprises, deprives victims of their freedom, dignity, and fundamental human rights. Against a backdrop of increasing global migration, with an estimated 240 million people on the move, a significant portion remains vulnerable to exploitation by criminal networks, including human trafficking syndicates (NAPTIP 3.0, 2021).

In response, the government prioritised the adoption of the National Action Plan and the ATIP Act [Act 670] as key instruments in combating human trafficking and the smuggling of migrants, particularly through enhanced prevention, prosecution, and victim protection measures. One of the plan's significant initiatives was the establishment of mini MAPOs in each of Malaysia's 14 states to handle cases of human trafficking and migrant smuggling at the local level. These state-level MAPOs, led by the state's chief police officer, brought together representatives from enforcement agencies, including the police, immigration, customs, maritime departments and NGOs. To further enhance their effectiveness, court directors, chief prosecutors, and shelter home operators were incorporated into the MAPOs, fostering a multilevel approach to combating these crimes.

This structured, collaborative framework reflects a strategic shift from reactive to proactive measures, highlighting the government's resolve to address the complex challenges of human trafficking and migrant smuggling effectively.

### **The Four Pillars (4Ps) of NAPTIP 3.0**

#### ***Prosecution***

The Prosecution pillar in NAPTIP 3.0 emphasises the need for progressive enhancements, particularly from the government, to align with international obligations and the regulatory frameworks of the Trafficking in Persons (TIP) Protocol. It also aims to ensure coherence with Malaysia's broader national agenda, including addressing forced labour through the enactment of the National Action Plan on Forced Labour in 2021 ("Malaysia takes major step towards ending forced labour," 2021). However, Malaysia has faced persistent criticism on the limited number of human trafficking prosecutions (TIP, 2022).

In response, the Parliament passed a third amendment to the ATIPSOM Act (Anti-Trafficking in Persons and Anti-Smuggling of Migrants), which includes the 2022 amendment, is a significant piece of legislation in Malaysia, as it is specifically aimed at combating human trafficking and smuggling. The Act has undergone several amendments in December 2021, increasing penalties for trafficking

offences and broadening the definition of trafficking. Between 2020 and 2023, the government recorded a rise in prosecutions, with 86 traffickers charged under ATIPSOM and 41 others prosecuted under non-trafficking laws, such as the Immigration Act (23 cases), the Penal Code (12 cases), the Passport Act (4 cases), and the Private Employment Agencies Act (1 case). Notably, the number of prosecutions in 2023 increased by 20 cases compared to the previous year, although the data lacked a clear distinction between human trafficking and migrant smuggling.

According to a member of one of the international agencies based in Malaysia in 2023, identifying victims of trafficking and smuggling has been a constant challenge for the enforcement officers who patrol the borders, guard the immigration points and carry out their routine checks on the streets. To strengthen the enforcement and prosecution efforts, the National Guidelines on Human Trafficking Indicators (NGHTI) was initiated in 2019 as a significant mechanism in the victim identification process (NAPTIP 3.0, 2021). These indicators are to assist all the stakeholders, including the public in identifying and reporting trafficking activities.

Simultaneously, the government intensified efforts to combat forced labour by criminalising such offences through revisions to the Employment Act 1955. Employers found guilty of exploiting workers through intimidation, movement restrictions, or fraud now face penalties of up to two years' imprisonment, fines of RM 100,000 (£17,650), or both. These revisions, coupled with targeted enforcement, led to 32 traffickers being convicted in 2023, 14 for forced labour and 18 for sex trafficking compared to 20 convictions in the previous year. Punishments for sex trafficking include three to 20 years imprisonment and fines, reflecting a strong stance against these crimes.

The amendments to the Anti-Trafficking in Persons Act (ATIP Act) in 2010, which incorporated provisions on migrant smuggling, were grounded in the following two international agreements: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (TIP Protocol), and the Protocol Against the Smuggling of Migrants by Land, Sea and Air. Both protocols, underpinned by the United Nations Convention against Transnational Organised Crime (UNTOC), have been ratified by Malaysia to strengthen its anti-trafficking and anti-smuggling frameworks (NAPTIP 3.0, 2021). This led to the rebranding of the secretariat as the Council for Anti-Trafficking in Persons and Smuggling of Migrants (ATIPSOM), with the Ministry of Home Affairs (MOHA) overseeing its operations. To reinforce enforcement, ATIP units were established in all 14 states, ensuring better coordination of human trafficking and smuggling cases. These efforts were further supported by the launch of NAPTIP, a five-year framework (2021–2025) designed to enhance the implementation of the 4Ps; Prosecution, Protection, Prevention, and Partnership. This marks the continuation of Malaysia's commitment to strengthening its anti-trafficking response following two earlier national action plans (2010–2020).

The Immigration Act 1959/63 [Act 155], the Malaysian Maritime Enforcement Agency Act 2004 [Act 633], the Customs Act, 1967 [Act 235], the Evidence Act 1950 [Act 56], the Court of Judiciary Act 1964 [Act 91], the Child Act 2001 [Act 611], the Penal Code [Act 574], the Restricted Residence Act 1933 [Act 377], and the Emergency Ordinance 5/69, are some of the other domestic laws that are in place in support of this Act. In addition, the ASEAN Declaration against Trafficking in Persons Particularly Women and Children, the United Nations Declaration on Human Rights [UDHR] 1949, the Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] 1979, and the Convention on the Rights of the Child [CRC] 1989 are all aligned with Malaysia's initiative to combat human trafficking and migrant smuggling in the country. Key enforcement agencies, including

the Malaysian Maritime Enforcement Agency and the Royal Malaysian Police, collaborate with government bodies like the Department of Labour, Royal Malaysian Customs, and the Immigration Department. In April 2020, the formation of the National Task Force, led by the Malaysian Armed Forces, elevated operational coordination to address unauthorised entries and trafficking activities.

Despite ongoing challenges, Malaysia's anti-trafficking efforts, particularly under NAPTIP 3.0, demonstrate a commitment to improving law enforcement, fostering interagency collaboration, and raising public awareness through targeted media campaigns ("Home Ministry launches national action plan on anti-trafficking in persons 2021-2025," 2021). However, sustained progress will require addressing structural issues, enhancing victim identification, and maintaining accountability in the prosecution process.

### ***Protection***

The Protection pillar in the TIP Protocol's 4Ps framework represents a victim-centric strategy developed by the US and the international community to strengthen efforts in combatting human trafficking. It encompasses the three R's: rescue, rehabilitation, and reintegration. A core component of protection involves the establishment and maintenance of a functional national TIP referral mechanism, enabling victims and potential victims to access justice systems and receive necessary support and protection (NAPTIP 3.0, 2021). This approach aligns with international standards, providing victims with shelter and services, while also involving NGOs in safeguarding rescued victims and preparing them psychologically for court proceedings.

Meanwhile, the Ministry of Women, Family, and Community Development oversees eight government-run shelter homes for trafficking victims. Two additional shelters, supported by NGOs, cater specifically to women and children. In total, Malaysia operates ten shelters: five for women, two for children, and one for men (US TIP, 2023). To ensure victims' safety, the government employs Protection Orders (POs) and Interim Protection Orders (IPOs). According to the US TIP report (2023), the Malaysian government identified 180 trafficking victims, including 36 rescued from sex trafficking and 144 from forced labour. The government has made significant advancements in victim protection since 2012, including increasing the number of shelters, assigning Protection Officers, and improving shelter facilities. Policies implemented in 2015 under sections 51A(1)(a) and 51A(1)(b) of the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act allow victims to work, live outside shelters, or move freely, providing them with a degree of independence and dignity. Victims are verified within a 14-day period before being placed under a PO. Local victims may stay in shelters for up to two years, while foreign victims can remain for a maximum of three years. Additionally, the government permits minor victims to reside with their mothers in the same shelters, addressing specific familial needs (NAPTIP 3.0, 2021).

Despite these efforts, some shelters have faced criticism. Overcrowding and the use of barbed wire have raised concerns about conditions that may inadvertently re-traumatise victims (Hamid, 2023). Post-COVID-19, the US TIP report (2023) highlights inconsistencies in the government's victim protection measures. While the introduction of a one-stop centre in December 2022, suggested by an NGO, was a step forward, challenges persist. This centre provides temporary protection, health checks, evidence collection, counselling, interpretation, and other services. Although it has supported 25 victims under its standard operating procedures, reports such as those from Global Shepherds (2023) indicate that services like counselling and legal aid remain insufficient.

Rehabilitation efforts aim to help victims recover from their traumatic experiences, but the process is often fraught with difficulty. Victims subjected to severe abuse face significant barriers to regaining normalcy, underscoring the need for experienced counsellors and healthcare providers. Reintegration into society presents further challenges, as many victims struggle to rebuild their lives. Effective placements and long-term assistance are critical to ensuring successful reintegration. While government initiatives enable some shelters to provide these services, sustaining and expanding such programmes requires increased investment and commitment.

Malaysia's progress in protecting trafficking victims demonstrates a growing commitment to addressing this complex issue. However, structural inadequacies in shelter conditions, support services, and rehabilitation highlight the need for further improvements. Greater focus on trauma-informed care, robust reintegration strategies, and consistent application of victim-centric policies will be essential to advancing the protection pillar effectively.

### ***Prevention***

The third pillar, Prevention, underscores the importance of proactive strategies to address human trafficking by enhancing institutional capacity and fostering inter-agency cooperation. This pillar prioritises the empowerment of law enforcement agencies, including immigration authorities, labour inspectors, police, and prosecutors, to efficiently address and manage trafficking in persons (TIP) cases. Strengthened border security and improved migrant screening processes are critical preventive measures designed to curtail opportunities for traffickers and smugglers to exploit individuals (NAPTIP 3.0, 2021). Collaborative efforts with international agencies and neighbouring countries, such as Thailand, Indonesia, and Bangladesh, reflect the necessity of transnational partnerships in combating human trafficking and migrant smuggling.

To equip legal practitioners, adjudicators, and prosecutors with the requisite expertise to address forced labour cases, the Ministry of Human Resources (MOHR) and the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO) have partnered with international organisations, including the International Labour Organization (ILO) and the International Organization for Migration (IOM), to develop specialised training manuals. Furthermore, regular MAPO council meetings are convened to oversee the implementation of NAPTIP 3.0, ensuring consistency in policy execution (US TIP, 2023). Non-governmental organisations (NGOs) have also been integrated into prevention initiatives, notably contributing to the development of the National Guidelines on Handling Trafficking in Persons Issues (NGHTI). However, as highlighted in the US TIP report (2024), the associated online application remained non-operational by the end of the reporting period, signalling gaps in implementation.

An integral aspect of Prevention involves raising public awareness and educating the population about the perils of human trafficking. Disseminating information broadly ensures both the general public and vulnerable groups, particularly migrants in precarious situations, are equipped to recognise and respond to trafficking risks (US TIP, 2023). Specific industries, such as construction, plantations, and fishing, where foreign workers are often employed, are particularly susceptible to exploitation. This underscores the need for targeted law enforcement measures and the adoption of ethical labour recruitment practices to combat the activities of dishonest agents and traffickers (International Agency Officer, 2023).

The MAPO council has undertaken a range of national awareness campaigns utilising diverse media platforms, including print, radio, television, and social media. These initiatives include interviews with traffickers aired on major networks, public service announcements, and the dissemination of multilingual educational materials via booklets, websites, and billboards. At the Kuala Lumpur International Airport (KLIA), multilingual signage informs international workers of their rights in Malaysia. Additionally, the MAPO council operates a nationwide trafficking hotline, while the MOHR manages a smartphone application enabling workers, including migrants, to report labour violations such as forced labour. By 2024, the programme had recorded 11,908 complaints, of which 11,676 were resolved, leaving 1,167 cases pending (US TIP, 2024).

In response to the rise in online scams and fraudulent job offers, the Malaysian government launched the National Anti-Scam Campaign in collaboration with corporate sectors. This initiative featured panel discussions attended by over 10,000 participants across Kuala Lumpur and six other states, focusing on scam recruitment tactics and strategies for self-protection. Notably, this campaign highlights the evolving methods employed by traffickers, necessitating adaptive and innovative prevention strategies. Moreover, the government has begun to engage academic researchers to evaluate the effectiveness of its anti-trafficking efforts, marking a significant step towards evidence-based policymaking. Previously, such academic collaboration was minimal. In 2023, experts were consulted to assess the efficacy of inter-agency coordination in addressing human trafficking.

Legislative measures further support prevention efforts. The government continues to enforce its ban on outsourcing firms based in Malaysia, which have historically employed practices coercing migrant workers into debt bondage. Under the Private Employment Agency Act (PEAA), private recruitment firms are required to obtain a licence from the MOHR to hire foreign workers, including domestic workers. Employers also have the option to renew temporary work permits for foreign employees through an online application system, eliminating the need for intermediaries. Furthermore, the government negotiated three new bilateral Memoranda of Understanding (MOUs) with foreign governments and finalised one additional MOU aiming to enhance the recruitment process for migrant workers.

While Malaysia has made commendable progress in preventive measures against trafficking, persistent challenges remain. Enhanced implementation of planned initiatives, expanded collaboration with NGOs and academics, and rigorous monitoring of high-risk sectors are essential to sustaining and advancing these efforts. By adopting a more holistic and multi-faceted approach, the government can address systemic vulnerabilities and more effectively mitigate trafficking risks.

### ***Partnership***

The government's efforts to combat human trafficking are substantially reinforced through collaboration with relevant institutions, civil society organisations (CSOs), and the private sector. This collaborative approach underpins the fourth pillar of anti-trafficking efforts, Partnership. To effectively counteract the sophisticated and adaptive networks of traffickers, it is imperative to develop and maintain an integrated, accessible information management system. Such a system would enable rapid and comprehensive data collection and analysis, facilitating informed decision-making and efficient operations. Additionally, effective victim care necessitates close collaboration between law enforcement agencies and service providers. However, challenges persist, including the repeated interrogation of detained victims by multiple authorities regarding their trafficking experiences, as well

as the lack of separation between victims and recruitment agents or traffickers during trials. This exposure has resulted in instances of threats and coercion directed at victims and their families, undermining efforts to secure cooperation with law enforcement and prosecutors.

The implementation of Malaysia's first National Action Plan against human trafficking marked a proactive step by the government and its agencies. Their efforts were characterised by increased transparency, improved communication, and the establishment of partnerships with selected NGOs and states (Michael, 2019). Initially, however, the government excluded several local NGOs, many of which had been actively addressing human trafficking before the Anti-Trafficking in Persons Act (ATIP) and the MAPO Council were established. This exclusion was justified by the perception that some NGOs were more critical of government efforts than supportive. The National Action Plan serves as a strategic framework for five years, aiming to prevent trafficking, enhance victim assistance programmes, and ensure the effective implementation of its objectives.

A turning point occurred in 2019 when MAPO collaborated with the Malaysian CSO network in a Joining Hands Against Modern Slavery (JHAMS) program to host the inaugural national conference on human trafficking. This collaboration was significant during the COVID-19 pandemic as the event in 2019 facilitated the launch of several initiatives, including the National Guidelines on Handling Trafficking in Persons Issues (NGHTI), amendments to the Anti-Trafficking in Persons and Anti-Smuggling of Migrants (ATIPSOM) Act, and the development of the third National Action Plan against Trafficking in Persons (NAPTIP 3.0). Such strategic partnerships have been instrumental in driving forward Malaysia's anti-trafficking agenda.

Furthermore, the Malaysian government collaborates with international partners to strengthen victim protection, enforcement, and prosecution. Key partnerships include those with neighbouring Western countries, such as Australia, the United States, and various European countries. These collaborations enhance cross-border efforts to combat trafficking and smuggling. Additionally, Malaysia works with international organisations such as the United Nations Office on Drugs and Crime (UNODC), the United Nations Children's Fund (UNICEF), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), and UN Women. These organisations contribute to various aspects of anti-trafficking initiatives, including victim identification, care and protection, and capacity-building programmes for law enforcement personnel, prosecutors, judges, and protection officers.

Therefore, partnerships are critical to the success of anti-trafficking strategies, enabling the pooling of resources, expertise, and innovative approaches. While progress has been made, addressing existing challenges such as ensuring the safety of victims during legal proceedings and expanding inclusivity in collaborations will be vital for advancing Malaysia's efforts against human trafficking. A strengthened focus on comprehensive partnerships and data-driven strategies will further enhance the effectiveness of these initiatives.

## **CONCLUSION**

This paper has critically examined the efforts of the Malaysian government in combating human trafficking and migrant smuggling in the aftermath of the COVID-19 global pandemic by analysing the implementation and development of NAPTIP 3.0. The government has encountered ongoing challenges

in addressing these issues, underscoring the complex and multifaceted nature of the problem. These challenges are exacerbated by the absence of improved socioeconomic conditions and political stability within the region. An analysis of the Malaysian government's initiatives, particularly the National Action Plan on Trafficking in Persons (NAPTIP 3.0), underscores a significant commitment to addressing these issues since the introduction of the initial National Action Plan in 2001. NAPTIP represents a commendable effort by the Malaysian government, reflecting notable advancements in its legislative frameworks, preventive strategies, victim protection measures, and the establishment of robust partnerships with key stakeholders. This study situates its analysis within the post-COVID-19 context, during which Malaysia's downgrading to Tier 3 in the US TIP Report underscored the inadequacies of its efforts to combat human trafficking and migrant smuggling. This decline was compounded by the widespread occurrence of forced labour during the COVID-19 pandemic, coupled with notable deficiencies in prosecution and victim protection efforts, which collectively made the Tier 3 designation an inevitable outcome.

Furthermore, the analysis of NAPTIP 3.0 was significant in demonstrating the government's renewed commitment, particularly in the context of post COVID-19 pandemic border reopening. Strengthening the plan's four pillars of prosecution, protection, prevention, and partnership resulted in notable progress, culminating in Malaysia's upgrade to Tier 2 in the US TIP Report by June 2024. This achievement is largely attributable to improved collaboration with various stakeholders, including international agencies and NGOs, which had previously been underutilised. Enhanced coordination and communication among government agencies also played a pivotal role in reducing redundancies and ensuring the effective implementation of measures.

A holistic approach that integrates prevention, prosecution, protection, and partnership is essential for effectively combating human trafficking and migrant smuggling. Each pillar forms an integral component of a comprehensive strategy aimed at targeting perpetrators, empowering victims, fostering cross-sectoral and cross-border cooperation, and reinforcing support systems. While the advancements achieved under NAPTIP 3.0 are commendable, the government must guard against complacency. To achieve Tier 1 status in the US TIP Report, both the government and the MAPO Secretariat must sustain and intensify their efforts to eradicate human trafficking and migrant smuggling nationally and regionally. As the government works towards NAPTIP 4.0, it must continue monitoring the efficacy of the measures and improving the four pillars to ensure the sustainability of its on-going efforts to eradicate human trafficking and migrant smuggling.

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