

INSIGHT - Building Capacity to Deal with Human Trafficking and Transit Routes in Nigeria, Italy, Sweden

Action funded by the European Union, contracted by ICMPD through the Mobility Partnership Facility



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Human Trafficking Training for Law Enforcement Officers, Prosecutors and Judges

Guidelines for Stakeholders

January 19-20, 2021
Protea Hotel
Edo State, Nigeria

Prepared by:



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Overview of INSigHT Action: Building capacity to deal with human trafficking and transit routes in Nigeria, Italy, Sweden

The Action aims to increase the capacity of key local stakeholders in the Veneto region (Italy), Edo and Lagos states (Nigeria) and in Stockholm (Sweden) to tackle human trafficking and to deal with evolving dynamics, trends, forms and modus operandi. With a specific focus on women and girls, the Action further seeks to promote knowledge-based policymaking in the respective countries and to reinforce transnational cooperation. It is implemented within the framework of the Common Agenda on Migration and Mobility between the European Union and Nigeria.

Objectives of the Training

Pathfinders Justice Initiative (PJI)'s Human Trafficking Training for Law Enforcement Officers, Prosecutors and Judges in Nigeria was designed to build the capacity of these stakeholders to increase and generate more effective prosecutions against traffickers within and outside Nigeria. PJI organized, moderated and facilitated the workshop, while multiple speakers shared their expertise across a range of subjects. Via tailored group sessions, participants were able to engage with their counterparts in other agencies and share good practices.

The themes and topics were designed based on discussions generated from Nigeria's first ever Gap Analysis on the country's response to human trafficking which was conducted by PJI in June 2019. In an effort to increase stakeholder engagement in framing the design of the training, interviews and surveys completed by stakeholders and survivors were utilised in the months leading up to the training. As a result, the training focused on the following three thematic areas: (i) proper identification and generating quality investigations; (ii) increasing successful prosecutions; and (iii) improving transnational cooperation.

The training agenda paralleled the journey of survivor engagement with law enforcement and served to generate partner insight/input for these national guidelines. More specifically, the topics included updates on the current trends and efforts to combat trafficking in Nigeria; an overview of Nigeria's legal framework and its Edo State specialized trafficking courts; insight into Nigeria's National Referral Mechanism and National Plan of Action Against Trafficking; collaborative opportunities (national and international); practical approaches and tactics to improving identification and investigations; and working in collaboration with survivors and other stakeholders outside the law enforcement framework.

Guidelines for Stakeholders:

The following topics were presented at the Law Enforcement Training, with notes and guidelines summarized below.

I. Identification and Investigations

Presented by Yusulf Abdul, Joint Border Task Force (JBTF)

Gathering and Securing High Impact Evidence

Evidence gathering should take a panoramic approach which seeks to adequately gather and label every piece of evidence, as each piece may, at some point in time, become admissible in court. As such, it is imperative that extreme care is taken so as to avoid cross-contamination.

- Search warrant
- Photo/Video recording and note booking
- Evidence bag
- Chain of custody
- Evidence storage

Investigative Interviewing

- The JBTF proposed utilizing the PEACE model as investigators proceed through the process of interviewing:
 - P- Plan and prepare
 - E- Engage & Explain
 - A- Account (clarify and challenge)
 - C- Close (closure)
 - E- Evaluate
- P- Plan and prepare
 - This most important step in the interview process warrants that the interviewer adequately plan and prepare for the interview by ascertaining what interview objectives prior to commencement of the interview. Consideration should be made to the following:

- The interviewee
 - The interviewer
 - The location/room
 - The questions
 - The recording device(AVET)
- E- Engage and explain
 - Introduce yourself/colleagues
 - Engage in conversation
 - Create/ build rapport
 - Address anxieties
 - Set out any applicable ground rules
 - Provide background information
 - Explain the relevance of note taking, as well as using expressions such as “tell me if you do not understand”, “if you cannot remember say so”, “do not guess”, “take your time”
- A- Account
 - Prepare an open question so that you can be sure to cover all aspects of the interviewee’s account in sequential and chronological order
- C- Closure
 - Be sure to go over the interviewee’s account of events, asking if there is anything else that needs to be added; explain the criminal justice process as well as any protection that may be available to witnesses.
- E- Evaluate/review
 - It is imperative that both the lead interviewer and any co-interviewers evaluate and review the evidence gathered during the interview process, as it may be useful to the next steps in the investigation and will help you access your own efforts. This way, you can avoid mistakes and be better prepared for future interviews. The review process should also be conducted by any senior and legal officers involved in the case.
- Audio Visual Recording Benefits (during interviews)
 - Recording, whether via audio or visual (or both) ensures the integrity of the interview process in criminal proceedings. It also saves time and allows the interviewer to focus on the interview itself and not on note-taking. Finally, such recording can be used in the future as part of any training materials.
- Overlooked Sources of Evidence- in addition to computers, mobile devices and internet history, it is important that other forms of digital evidence are analysed. These may include cameras, fingerprints and DNA evidence.

II. The Significance of Inter-Agency/ Multi-Disciplinary and Cross-Border Collaboration Panel

Panelists from NAPTIP, UNODC, International Justice Mission (IJM) and IOM, along with a moderator from the JBTF, discussed increasing inter-agency/multi-disciplinary and cross-border/transnational collaboration.

Ways to collaborate:

- Understand your available networks and partners and be intentional about designing partnerships across segments (via MOUs or state-level structures)
- Begin collaboration prior to a crisis by seeking out networking opportunities (such as trainings) to build a foundational level of trust
- Be intentional about information/data sharing to increase technical assistance portfolio.
- Include the voices of survivors as key stakeholders in light of their lived experience in both design and implementation
- Conduct direct mentorship of partner NGOs to build their internal mechanisms
- Synergize to create a uniform manual for law enforcement
- Take advantage of technology.

In 2011, NAPTIP inaugurated an Intelligence and Cooperation Unit to promote international cooperation and mutual assistance.

III. National Referral Mechanism

Presented by Stephen Selowo, NAPTIP, Benin Zonal Command

1. Introduction

The National Referral Mechanism (NRM) is a collaborative framework through which governments fulfill their obligations to protect and promote the human rights of Trafficked Persons (TP) by coordinating their efforts in a strategic partnership with other stakeholders. When TPs are adequately identified and properly referred within the NRM, they are more likely to collaborate with law enforcement, thus increasing the chances of a successful prosecution. As such, it is imperative that the following guidelines are adhered to.

1.1 Basic Principles of the NRM

1. Do no harm – the rights of the TP shall be respected and protected at all times;
2. All services are to be provided within a victim-centered approach based on discussions with the TP and other relevant stakeholders;
3. Care plans shall be developed jointly with the TP;

4. Assistance to TP shall be based on informed consent and client self determination;
5. Where children are involved, the best interests of the child shall be paramount.
6. The principles of confidentiality and non-discrimination shall apply at all times;
7. Cooperation with law enforcement shall not constitute a condition for providing assistance;
8. Gender responsiveness should be integrated into all programming;
9. Data should be disaggregated in terms of age, social status, geographical location, etc.

1.2 Key Elements of NRM

- ❖ Identification of the TPs
- ❖ Support and Protection Services
- ❖ Safe Return and Social Inclusion, and
- ❖ Basic Principles of Co-operation Agreements

2. Multi-Sectoral Service Delivery

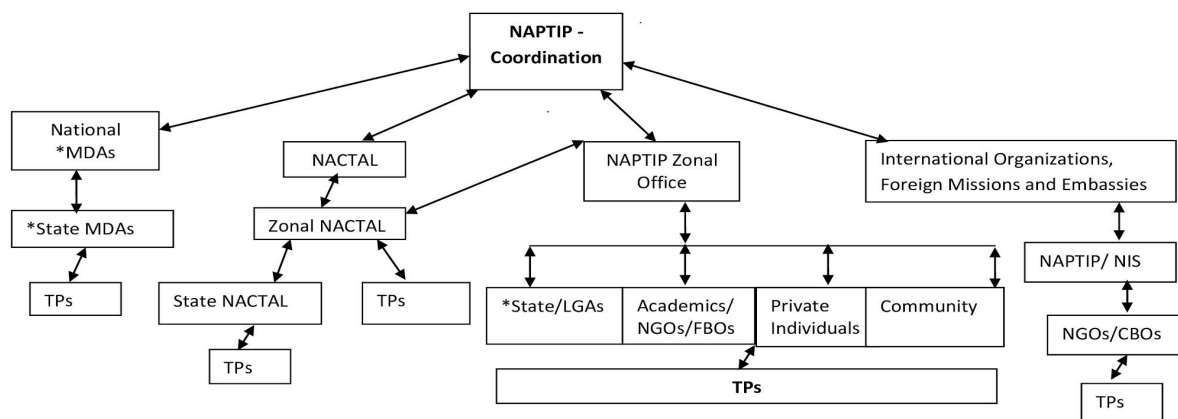
The various services to be provided by Government partners (MDAs) & Non-Government partners (NGOs, FBOs, CBOs etc) to TPs should be based on their specific individual needs:

- Protection
- Prevention
- Rehabilitation
- Reintegration

Referral Modalities

It shall be the responsibility of all stakeholders who come in contact with TPs to identify and refer them to service providers in the best position to provide effective specialized services.

2.2 The National Referral Mechanism



**Ministries, Departments and Agencies (MDAs) including Law Enforcement Agencies at national and state levels*

3. Minimum Requirements for Service Delivery

The minimum requirement is to ensure quality, accessible service delivery by service providers and also provide checks and balances in the referral process.

- Prevention
- Reception
- Sheltering
- Counselling
- Healthcare
- Family Tracing/Social Enquiry
- Return & Repatriation
- Follow-up & After-care
- Disengagement

Referral Tools:

- Directory of available services
- TP Referral Tracking form
- Referral form
- Referral Log-book
- Referral Register
- TP's Consent Form
- Inventory Form

4. Ethical & Legal Considerations

4.1 Guiding Principle:- The need and obligation of all service providers to protect and promote the rights of TPs

4.2 Rights of trafficked persons:

- 1) Services should prevent TIP, protect, assist, rehabilitate and provide access to justice for TPs.
- 2) Personalized care plans should be designed with the consent and participation of the TP.
- 3) Service providers should be sensitive to the peculiarities of age, gender and special needs of the individual TP.
- 4) No discrimination on the basis of age, religion, sex, ethnicity, nationality, language, disability or other factors.
- 5) Service Providers shall take reasonable steps to protect the lives of TPs in their custody, and work with relevant law enforcement agencies to secure the safety of TPs who are attending court proceedings.
- 6) Personal information gathered from TPs shall be kept in confidence and revealed only with the consent of the TP or in exceptional cases
- 7) Service Providers, care-givers and the mass media shall abide with the Code of Conduct contained in The Guidelines for Protection of Children in formal care.

5. Coordination of the NRM

5.1. Coordination & Management - NAPTIP which is mandated by the TIPPLE Act, is the focal agency

5.2. National Coordination Team

- a) Overall Coordination – NAPTIP
- b) National Coordinator - NAPTIP Director of Counselling & Rehabilitation
- c) Team of 7 persons from MDAs, NACTAL & LEAs
- d) Team members must be focal persons in their various organisations
- e) Coordinating team shall be replicated at zonal and state levels

IV. Increasing Successful Prosecutions

Presented by Victoria Oburoh, Joint Border Task Force (JBTF)

A. Legal Instruments for Combatting Human Trafficking

- United Nations Convention Against Transnational Organized Crime.

- Trafficking in Persons Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
 - Trans-National Organized Crime Convention
 - United Nations Universal Declaration of Human Rights
 - Africa Charter on Human and Peoples Rights
 - International Labour Organization Conventions
 - African Charter on the Rights and Welfare of the Child
 - United Nation Convention on the Rights of the Child
 - United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
 - Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
 - The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
1. Nigeria's Anti-Trafficking Law is the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 (TIPPEA). The law was amended in 2005 and again in 2015.

2. Definition of Trafficking in Persons under the anti-trafficking law

The recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for exploitative purposes.

3. It is important that all practitioners familiarise themselves with the elements of TIP under the anti-trafficking law.
 - *Action*: include the act of recruitment, transportation, transfer, harbouring or receipt of persons.
 - *Means*: include threat, force, coercion, abduction, fraud, deception, abuse of power, or debt bondage.
 - *Purpose*: exploitation, which includes the exploitation of the prostitution of others, sexual exploitation, labour, slavery, involuntary servitude (domestic, sexual or reproductive) or similar practices.
4. In order to ascertain which charges to file, practitioners must also understand the offences outlined in the law as well as the punishment. The TIP law can be reviewed on the NAPTIP website: www.naptip.gov.ng.

Enforcement of TIP ACT Since Inception¹

- Investigated over 3863 cases of TIP

¹ This information was provided by the JBTF. Additional statistics can be viewed on NAPTIP's website (www.naptip.gov.ng).

- Secured over 325 convictions in Court.
- Over 150 cases are at various stages of trial at the various State and Federal High Courts as well as National Industrial Courts in the country
- Rescued, Rehabilitated and Counseled over 14,270 victims of trafficking.

B. Increasing Successful Prosecutions - Best Practices in Prosecuting Trafficking Cases

Investigators, prosecutors and counsellors play a pivotal role in curating a successful prosecution.

- Each case should include an assigned team which consists of at least one investigator, the prosecutor and a counsellor. The prosecutor serves to guide the team so that evidence is obtained and adequately preserved. Counsellors serve to ensure the welfare of the survivor witness and also assist in the investigation process.
- Meetings between the team members should occur weekly, if possible, to ensure optimal coordination, collaboration and stratetization. Interim reports and progress reports should also accompany the process.

The Role of a Prosecutor

The JBTF recommended the following functions for prosecutors in trafficking cases:

- Review the entire case file carefully and critically alongside the provisions of the trafficking law in order to ascertain the relevant sections which may be applicable to the case.
- Should witness or other statements have been obtained in a language other than English, the originals, as well as any translated versions, must be contained within the case file.
- Investigators should be instructed to, where possible, consider and secure other forms of relevant evidence, including medical reports, particulars of properties of suspects etc. which may ultimately serve to strengthen the prosecution's case.
- Proffer objective opinions concisely and in simple language.
- Legal opinions should be reverted within a week.

The Process of Prosecution (as recommended by the JBTF)

1. Drafting of Charges

- Ensure that there is a prima facie case based on available evidence before preparing a charge
- In drafting a charge, the prosecutor should consider the following:
 - Jurisdiction
 - Elements of the offence(s)
 - Offender(s)
 - Statutory provision, case law and practice direction
 - Proof of evidence
 - Appropriate heading, officer's name, designation, signature and date.
 - Ensure that an affidavit of compliance is deposed to for cases filed at the federal high court and state high court.
- The charge should be filed expeditiously.

- d. After filing and assignment, keep in touch with the court registrar in order to obtain the arraignment date.
- e. Ensure that a copy of the charge bearing the court and date of arraignment is forwarded to the investigation and monitoring department for personal service on the Defendant within a reasonable time (i.e., at least 7 days prior to the date of arraignment).
- f. Ensure that the investigating officer and counsellor are informed through separate internal memos of any relevant court dates to ensure that the defendant, witnesses and/or victims appear in court.
- g. For a victim who has been reunited with his/her family and is required to appear in Court as a witness, adequate notice of at least 2 weeks should be given by the Legal and Prosecution Department to enable the Counselling and Rehabilitation Department to make any and all necessary arrangements to produce the witness in Court.
- h. Open a separate court file (different from the case file) which should include the necessary particulars such as the Charge, Proof of Evidence, etc. This is where all Court processes and notes of proceedings will be filed during the course of the trial.
- i. Ensure that the Court file is properly endorsed after each adjournment, regardless of whether or not the court sits.
- j. Observe the rules against misjoinder of offences, offenders, duplicity and ambiguity.
- k. Observe the front loading procedure as contained in the Evidence Act.

2. Pre-Trial

- a. Pre trial conference for a child witness. Particular care should be taken when child survivors are presented in court as witnesses.
 - i. Ensure that the environment is child friendly.
 - ii. Maintain a friendly disposition towards the child.
 - iii. If there is anyone the child feels comfortable with, have the person present.
 - iv. Do not make the interview unnecessarily long and stressful for the child.
- b. During Pre-trial, the Prosecutor is to ensure the following:
 - i. That both the assigned counsellor and the Investigator of a particular case are present.
 - ii. Observe all witnesses to ascertain their strengths and weaknesses.
 - iii. Familiarize witnesses with the court environment and proceedings.
 - iv. Conduct a thorough rehearsal of the examination in chief as well as likely questions from the defense during cross examination.
 - v. Refresh witness(s) memory with documents and exhibits.

3. Trial - During trial, the Prosecutor should ensure the following:

- a. Take along to court all necessary books/files needed for the trial.
- b. Call the Investigator and counsellor to ensure that the witnesses/defendant are available
- c. Understand the peculiarities of your assigned Judge.
- d. Arrive at Court no later than 8.30am.
- e. Where necessary, refresh the memory of the witness(s) briefly before the court sits.
- f. To avoid stigmatization or further stigmatization of survivors, effort should be made to prevent disclosure of the survivor's identity to the public via camera

- and/or video coverage in the course of prosecution of their traffickers or other legal procedures.
- g. Take appropriate actions to ensure that no prosecution witness is intimidated by anyone in Court.
 - h. When possible, at least 2 lawyers should conduct each case to ensure effective prosecution.
 - i. Promptly apply for a Bench Warrant when a Defendant who is on bail fails to appear on a date of adjournment.
 - j. Ensure that all interlocutory applications are replied to and filed accordingly within the stipulated time.
 - k. Apply for a Certified True Copy (CTC) of the Judgment immediately following the conclusion of trial.

C. Common Bottlenecks to a Successful Prosecution.

It is imperative that stakeholders are mindful of the following common bottlenecks, some of which can be overcome with adequate preparation.

- lack of funds
- threat, undue interference/intimidation
- safety of the victims
- lack of quick evidence
- poor investigation
- defendant absconding trial
- defendant changing counsel
- delay in legal process
- non-remuneration of witness
- lack of facility to take evidence
- more specialized courts
- compensation for victim

V. Edo State Task Force Against Human Trafficking

Presented by Prof. Yinka Omorogbe, Chair, Edo State Task Force Against Human Trafficking and Justice Geraldine Imadegbelo, Edo State Specialized Trafficking Court

Edo State, led by its Task Force Against Human Trafficking (ETAHT), was highlighted during the training to showcase an example of how one state successfully structured and is implementing its anti-trafficking efforts.

- ETAHT was inaugurated in August 2017 (21 committee members) and codified in Edo by its 2018 anti-trafficking law to investigate and prosecute trafficking cases.
- Scope of mandate includes: Rehabilitation & Reintegration of Returnees, Advocacy, Investigation & Prosecution, Research and Data Analysis.
- As of September 2020, it has investigated 107 cases and initiated prosecutions in 16 cases (total of 26 suspects).
- The State maintains specialized trafficking courts that are intended to expedite cases.

- ETAHT maintains a 13 member investigation/security team (comprised of federal police officers, immigration officers and Department of State Service officers) and an 8 member prosecution team, assisted by lawyers from the Edo State Ministry of Justice.
- The following statistics may be useful for law enforcement officers seeking additional details on unsafe migration from Edo:
 - 80% of migrants migrated independently, while 18% were recruited by a sponsor and 2% migrated for other reasons (June 2019).
 - The average male migrant is between 26-40 years, educated and skilled, while the average woman migrant is between 18-30, uneducated and unskilled (June 2019).
 - As of September 2020, ETAHT has received about 5,163 returnees since inception, with the State allocating N242m to the Task Force in 2018.

The foregoing guidelines are provided as a starting tool and are not intended to, by any means, serve as a substitute for adequate preparation for the prosecution of trafficking cases in Nigeria. Additional training materials and recordings of said trainings are available on Pathfinders Justice Initiative's website (www.pathfindersji.org) and on our YouTube page (Pathfinders Justice Initiative). Should you require additional information, please email info@pathfindersji.org or call our office on +234 817-612-3228. Thank you!

We are grateful to all stakeholders who joined us at the training and provided their expertise to ensure that these guidelines were generated. Thank you!