

ACP-EU Migration Acton Peer-to-Peer Exchange Meeting Trafficking in Human Beings and Smuggling of Migrants

21-23 March 2017
Georgetown, Guyana

I. Executive Summary

The ACP-EU Migration Action brought together representatives from African, Caribbean, Pacific (ACP) and European Union (EU) States, Regional and International Organizations and civil society, as well as independent experts, for a three-day Peer-to-Peer (P2P) exchange meeting on combating human trafficking and migrants smuggling. Comprised of both plenary and small-group sessions, the P2P Meeting fostered active participation and in-depth exchanges on good practices in these fields. Encouraging dialogue among stakeholders, the P2P meeting provided an opportunity for frank discussions on the challenges they face in counter-trafficking and counter-smuggling efforts, and for brainstorming possible solutions to address those challenges. Participants further capitalized on the space for professional networking, exchanging contact information to pursue opportunities for informal cooperation, both between States and among other stakeholders.

This report highlights several of the key issues that emerged during the meeting, organized under the rubric of the recommendations issued in 2015 by the ACP-EU Dialogue on Migration and Development, namely:

- establishing effective legal, policy and national coordination frameworks;
- investigation and prosecution and cross-border cooperation;
- ensuring a victim-centred approach and addressing demand;
- data management: information sharing and awareness-raising.

The meeting ended with a series of practical conclusions that ranged from ensuring the basic elements of response for countries just beginning to tackle these crimes, to more nuanced and comprehensive approaches. These concluding recommendations are detailed below.

II. Background

Under the auspices of the ACP-EU Dialogue on Migration and Development, the ACP-EU Migration Action (hereafter referred to as the Action) supports five thematic areas (namely: visas, remittances, readmission, human trafficking and migrant smuggling) through the implementation of three forms of assistance: demand-driven technical assistance to support governments and regional organizations; direct financing for Non State Actors (NSAs); and, knowledge management to capture good practices, and lessons learned, in order to inform the ACP–EU Dialogue on Migration and Development.

The Action organised this Peer-to-Peer Exchange on Trafficking in Human Beings (THB) and Smuggling of Migrants (SoM), which brought together more than 60 stakeholders from participating States, as well as representatives from IOM and other UN agencies, Regional Organizations, NSAs and independent experts involved in delivering technical assistance. Participants were drawn from four distinct regions—Africa, the Caribbean, the Pacific and Europe—each characterized by diverse cultures and migration trends, as well as varying levels of experience working on human trafficking and migrant smuggling.

The P2P Meeting aimed to foster an exchange of information on good practices and lessons learned as identified through the implementation of activities and interventions supported by the Action, focusing on the ACP-EU Dialogue on Migration and Development's recommendations. It further aimed to showcase the implementation of the recommendations at the local level and provide a forum for exchange on actions needed to counter human trafficking and migrant smuggling, with a focus on cross-border cooperation. The outcomes of the meeting, through concrete examples, will be fed into the ACP-EU Dialogue on Migration and Development and inform the Action's forthcoming Thematic Report on THB and SoM.

III. Peer-to-Peer exchange

A. Establishing effective legal, policy and national coordination frameworks

There was significant debate among participants concerning whether it remains advisable to establish separate legislation for human trafficking and migrant smuggling. One national expert from Europe strongly recommended having separate legislation for each crime. Other discussions centred around the **lack of political will to both establish the necessary legislation** as well as to effectively implement it. Participants underscored the ongoing need to support law enforcement in conducting both investigations and prosecutions, and recognized that the laws and policies in some countries do not sufficiently respect consent and individual agency of survivors in the receipt of assistance and services and regarding their participation in legal proceedings.

It was observed that in many countries, there is a **lack of coherence between existing THB and SoM legislation** and other relevant legislation (i.e., law on child protection, labour, migration, criminal code, rules of evidence, etc.). Questions were also raised regarding whether **the legal response to related cultural issues** was adequate, such as: begging, gender-based violence, caste, bride price, sexuality taboos and customary law.

Mr. Fils-Lien Ely Thelot, President of the Haitian National Committee against Trafficking in Human Beings, recognized the significance of the adoption in 2014 of the law that saw the establishment of the Committee against Trafficking in Human Beings and the development of a National Plan of Action for Haiti. At the same time he acknowledged the existence of **challenges such as limited financial and human resources** and changing governments, which can negatively impact upon the effectiveness of the Committee. Mr. Thelot signaled opportunities in partnering with institutions to craft appropriate responses, and the need for donor and stakeholder assistance in supporting **law enforcement cooperation at the international level**, such as supporting cooperation between the authorities of the Dominican Republic and Haiti.

Participants advised that **national coordination bodies** must be under the leadership of national stakeholders (not UN or INGOs) in order to ensure sustainability/ownership. Migration experts also noted that **visa schemes** that reduce barriers to migration can be an effective means of combating migrant smuggling.

B. Investigation, prosecution and cross-border cooperation

One law enforcement panelist highlighted the **critical importance of international cooperation** within the EU framework, including the need for both **establishing and deepening bi-lateral agreements with third States**. In this regard, representatives from international organizations suggested that one of the greatest challenges was convincing States to strengthen both **formal and informal cooperation**, and to utilize the UNTOC framework for mutual assistance requests. Participants drew attention to the use of diverse communications technologies, such as Whatsapp, Skype, telephone and emails in fostering informal international cooperation in order to overcome the lengthy and bureaucratic formal processes.

While underscoring the importance of victim identification, discussions reflected the challenges in **working with trafficking victims for the purpose of prosecutions**, and the importance of basing prosecutions on evidence gathered from **proactive investigations**, not on victim testimony. Participants also emphasized that THB cases should not depend on the victim testimony because the victims can change their accounts. Rather, they should be based on proactive investigations that have involved techniques such as phone tapping and the use of undercover investigators. At the same time, providing adequate support to victims can foster their trust and cooperation with law enforcement. Participants expressed the need for specialized training for law enforcement actors on proactive investigation techniques and on the sensitivities required in working with victims of serious human rights violations, including sexual violence, as critical step toward conducting effective prosecutions.

Mr Jonathan Baró Gutierrez, Attorney General, Dominican Republic Appeals Court underscored the change in his country in the rate of prosecution from 4 cases in 2013 to 31 cases in 2016, and suggested that this increase was due to the following initiatives: a) annual **trainings** for judges and prosecutors; b) the creation of a **specialized investigation body**; c) the creation of a **specialized victim support unit**; d) an NGO-supported rehabilitation centre for victims; e) **proactive investigations**; and, f) the establishment of a **hotline**.

Request for Technical Assistance: The Dominican Republic's technical assistance request includes the creation of a training module on criminal investigations on human trafficking, and training on human trafficking and migrant smuggling for functionaries of the recently created Criminal Investigation Unit.

Resource constraints were repeatedly cited as one of the biggest barriers to the implementation of counter-trafficking and counter-smuggling laws and policies. The importance of **confiscation of assets** was stressed as inflicting the most damage to criminal actors, in contrast to sentences involving imprisonment alone. **Tracing financial flows**, joint investigations and the **use of extradition** were also highlighted.

Meeting participants concurred that **cross-border cooperation can be slow** and requires coordination of sovereign Governments with diverse national interest and capacity. They also observed that **staff turnover and the lack of resources** can hinder the good collaboration between States. In the Asia/Pacific region, disembarkation of maritime migrants remains one of the major challenges for regional coordination instruments. **Peer-review and mutual accountability** was proposed as a potentially useful tool for States to improve their processes and collaboration.

The **potential and effectiveness of regional instruments** arose during several sessions. Representatives from regional organizations affirmed their potential as a forum for discussion and coordination, which can play an important role in improving collaboration between States. Regional instruments can further support multilateral and bilateral collaboration on law enforcement, which is crucial to combating human trafficking and SoM organizations/entities. ECOWAS was discussed as one important example of a norm-setting Regional Economic Community (REC), which includes standards related to human trafficking. Regional cooperation via ECOWAS involves national focal points and national task forces (NTFs). These NTFs then develop and implement national action plans to combat THB, which are based on the ECOWAS Action Plan. In the case of Member State non-compliance with ECOWAS standards, it was noted that ECOWAS does not have coercive tools. However, ECOWAS has a 'name & shame' reporting mechanism to encourage compliance with ECOWAS standards. Reports on compliance are then shared at the political level within ECOWAS, which can be effective in terms of bring non-complying Member States in line.

At the same time, participants asserted that regional coordination instruments are often criticized for their lack of action and leadership. The failure of the Bali Process to respond to the crisis in the Andaman Sea was cited as an example. However, member States of the Bali Process have taken the criticism seriously and the Process has renewed its commitment to future response by fostering joint investigation

exercises. Concerns were recognized that donor States can disproportionately affect the agenda of regional organizations.

C. Ensuring a victim-centred approach

The vulnerability of smuggled and trafficked migrants was stressed throughout the P2P meeting. Experts noted that their vulnerability is increased by "root causes" or push factors, such as violence, endemic poverty, gender inequality, climate change and poor governance. It is these push factors and the central pull factor, economic opportunity, that lead affected persons to undertake significant risks to migrate, risks of which they are often aware. Experts further described how overly **restrictive migration control further contributes to migrants' vulnerability**, driving people to hire smugglers

Several representatives from international organizations shared data that indicated that the majority of trafficked victims are women, and an increasing number of smuggled migrants are women. They underscored the importance of **factoring in gender into human trafficking and migrant smuggling programming and operations** from the outset in order to effectively respond to the needs of the most vulnerable. It was said: "If we don't start with them, we don't reach them," signalling the need for stakeholders to put themselves in the shoes of the trafficked or smuggled migrant in order to effectively respond to their needs. Participants agreed that a **gendered approach** must be adopted in light of the insufficient differentiated responses to the risks faced by women and girls, including the adoption of appropriate laws, policies and measures, and the implementation of **prevention strategies**, which are sensitive to women, girls and other vulnerable groups. Participants noted, however, that a gendered approach does not mean that boys, men, and other vulnerable groups (e.g., LGBTI) are excluded from responses. The fact that human trafficking falls at one end of a full spectrum of gender-based violence was also highlighted.

Experts asserted that victim/survivor-centred approaches place the rights, needs and desires of survivors at the centre of programming and service delivery. **Victim-centred interventions require a multi-sectoral** approach, bringing together actors from various ministries, NGOs, CSOs, UN and other relevant stakeholders. The effective coordination of service delivery (including health, police, access to justice, social services and psycho-social support) is crucial to ensuring a victim-centred approach. However, participants shared that it remains a significant challenge to identify victims of trafficking and smuggled migrants in need of assistance before they are deported and/or prosecuted, and in building trust with them to foster their cooperation with law enforcement, including through collaboration with civil society.

On the trafficking of children and smuggling of unaccompanied minors, participants observed that children on the move are especially vulnerable. Participants identified the need among social workers for tools to objectively determine the **"best interests of the child"** in particular cases. IOM described its support to governments to conduct best interest determinations, but noted that responsibility for this lies with the country of destination, which often relies on collaboration with the country of origin.

Representatives from various countries shared the forms of human trafficking specific to their national context, such as: sexual exploitation, forced begging, trafficking of orphans, and the exploitation of domestic workers (mostly girls and from impoverished areas) in Haiti; and, the forced begging of students from Koranic schools in Guinea. They also shared strategies used on behalf of trafficking victims and smuggled migrants, such as the use of assisted voluntary return to help stranded migrants, the use of witness protection guidelines to prevent secondary victimization during the prosecution process, and the important contribution of NGOs, which in many countries have a greater field presence than the government, including their role in providing shelter to victims. Participants cautioned that programmes should not prescribe long-term placement of vulnerable people (particularly children) in institutions, without plans for reintegration (in family, community or foster care).

D. Data management: information sharing and awareness-raising

Meeting participants recognized that **data collection and research about migrant profiles and mapping of trafficking routes** are crucial for designing evidence-based laws and policies, as well as appropriate, targeted awareness-raising strategies. At the same time, they highlighted the challenges in addressing the need for reliable data, requiring support for **capacity building of statistics offices and service providers**, as well as by **establishing cross-sectoral databases**. Several ACP State representatives discussed their need for data management support. Specifically, the importance of disaggregating data on the Caribbean region separately from Central and South America was noted.

Awareness-raising efforts were discussed both as a component of prevention strategies and as an element of capacity-building for key stakeholders, including, *inter alia*: judges, prosecutors and border guards.

On the issue of raising public awareness, participants observed that conducted in isolation, awareness-raising campaigns often have negligible impact. Rather, they **must be accompanied by development assistance**. Best practices were shared on conducting awareness campaigns at the community or regional level, in collaboration with community, traditional and religious leaders, as well as those that targeted specific groups, such as domestic workers, children and indigenous persons. It was also proposed that awareness raising strategies can also include the promotion of role-models (including famous individuals and celebrities).

In Senegal, the Government is implementing targeted awareness raising campaigns involving religious leaders, targeting parents (particularly mothers) and young people (through footballers and musicians).

Participants underscored that **effective systems for ensuring identification, case management and service delivery must already be in place when awareness-raising activities are undertaken**, in order to serve potential new identified victims/survivors. The absence of an effective response mechanism can be counter-productive, deterring victims and potential victims from contacting authorities or NGOs for services.

IV. Conclusion

All participants underscored the importance of a holistic, multi-level and long-term approach to combat human trafficking and migrant smuggling, an approach requiring that both South-North and South-South dimensions be taken into consideration. Topics of discussion ranged from how best to support multi-sectoral engagement across the full range of stakeholders to strategies for strengthening cross-border collaboration, both formally and informally. The peer exchange further stressed that counter-trafficking and counter-smuggling strategies cannot place emphasis solely on law enforcement, but also on fostering prevention by addressing root causes, including demand and the creation of economic opportunities, and the provision of services for, and protection of, victims.

Mr. Abourbacara Sidki Camara, Advisor to the Minister, Guinea Ministry of Social Action, Promotion of Women's Rights and of Childhood opened the session by acknowledging that trafficking of women and children was a reality in Guinea, especially cross-border trafficking for the purposes of forced begging and child labour. He noted, however, that research on the subject is outdated, as the last research study was released in 2003.

Request for Technical Assistance: Guinea's request for technical assistance will encompass an assessment of existing national data on human trafficking, which will support the elaboration of recommendations for the drafting of a new National Action Plan.

Participants at the P2P Meeting represented States at distinct stages of developing a comprehensive response to the phenomena of human trafficking and migrant smuggling. That is, States just beginning to address these issues, and operating without the necessary legal, policy and institutional framework, to States who have made important strides in putting institutional, legal and policy frameworks into practice to tackle specific cases. Participants were thus

able to communicate their questions and concerns regarding initial steps taken, and share lessons learned about the realities that continue to challenge *de facto* implementation.

The dialogues that took place over the three days further revealed that the absence of political will and sufficient human and financial resources constitute major impediments to counter-trafficking and counter-smuggling efforts. Effectively transposing and adapting international standards to realities on the ground in diverse cultural and political contexts, especially those with primary governance challenges, in a way that makes sense is also an area that requires continued attention.

This report aimed to highlight several of the key points arising from the discussions during the P2P Meeting. In addition, a more detailed Thematic Report on THB and SoM, building on the observations and conclusions that arose during the P2P Meeting and are set forth below, will be issued and presented to the ACP-EU Dialogue on Migration and Development for consideration.

V. Recommendations

Framed by the 2015 Recommendations adopted by the ACP-EU Dialogue on Migration and Development the following recommendations, drawn from the three-day exchange, were discussed and concurred upon in the final plenary session of the P2P Meeting:

A. Awareness raising

Recommendation #3: Raise awareness regarding trafficking in human beings and smuggling of migrants among all the persons that are in a position to identify victims or collect hints leading to the dismantlement of criminal networks. Proper information and, if necessary, training should be provided not only to judiciary and law enforcement authorities, but also to health care workers and labour inspectors, among others. It is also crucial to stress the role and practices of criminal networks.

P2P Meeting:

- Awareness-raising efforts should have clear objectives, and must be linked to a functional response structure (e.g., hotlines, shelters, police response team), as it can be counter-productive to raise public awareness about a problem without providing concrete response measures.
 - Public awareness-raising campaigns should be coupled with additional comprehensive approaches to prevention, such as economic empowerment and other development opportunities to address root causes. National-level awareness-raising campaigns have not been found to be effective when conducted in isolation.
 - Awareness-raising campaigns should also sensitize the public on deeper social and cultural norms that contribute to underlying social and economic conditions giving rise to trafficking in human beings (child marriage; gender-based violence; the normalization of violence, and gender and other social inequalities) and are widely tolerated in a given society.
 - Increased awareness about potentially harmful uses of the Internet and social media and their relation to trafficking is needed in some societies.
 - Cross-border awareness-raising campaigns along known migration routes were proposed; community-based awareness-raising efforts with local leaders have proven successful.

B. Victim protection and identification: adopting a victim-centered, human rights-based, gender-sensitive approach

Recommendation #6: Promote a victim centred approach thereby protecting the victims from a human rights and gender perspective and foment all the necessary means to properly

identify them. For those purposes, it is of the essence to involve non-governmental organisations as they are better placed to enter into a relation of trust with the victims. It is also important to further promote the case of victims of smuggling of migrants as, despite the consent given, they are in a vulnerable situation.

P2P Meeting:

1. Standard operating procedures should ensure the consent and individual agency of survivors to accept assistance and to participate in legal proceedings. Their access to services and protection should not be conditioned on cooperation with law enforcement.
2. Law enforcement should focus on criminalizing the smugglers and traffickers, not the smuggled migrant
3. Despite limited resources, voluntary return and reintegration can be essential for stranded smuggled migrants.
4. The long-term institutionalization of children should be avoided at all costs.

C. Investigations and prosecutions

Recommendation #7: Step up efforts to dismantle criminal networks and prosecute criminals, both traffickers and smugglers, as they represent a direct threat to the lives of migrants. Trafficking in human beings and smuggling of migrants are first and foremost about making money, about benefitting from the vulnerability of others. For that purpose, setting up systems of financial tracking and conducting proper financial investigations going beyond the freezing of assets are of the essence. Tackling corruption among public officials and other relevant bodies should also be an effective part of the strategies to dismantle and prosecute criminal networks.

P2P Meeting:

- Proactive investigative strategies, which require resources, are needed as opposed to reactive ones; do not rely on victims to prompt investigations, nor on their testimony to sustain prosecutions.
 - THB and SoM investigations should be aligned with existing organizational structures (e.g., by expanding the competencies of existing officers, such as by adding THB to a specialized kidnapping unit).
 - Follow the money! This includes making the link between remittances and human trafficking.
 - Extract information from traffickers and smugglers themselves through plea bargains and/or interviews with convicted smugglers.
 - Work more closely with labour inspectorates.

D. National legislation

Recommendation #1: Where relevant, enacting comprehensive legislation on both trafficking in human beings and smuggling of migrants, stressing the differences between both phenomena, and in line with the UN Protocols on Trafficking in Persons and Migrants smuggling supplementing the United Nations convention against Transnational Organised Crime (the Palermo Protocols) and the EU legislation.

P2P Meeting:

- A comprehensive legislative framework must be internally coherent, effectively address issues constituting push factors and be supported by training and capacity building
 - In many countries, there is no coherence between existing THB and SoM legislation and other relevant legislation (i.e., child protection, labour, migration, criminal code, rules of evidence, etc.)
 - Sufficient training must follow any significant changes to national legislation.
 - Despite clear recommendations for two separate pieces of legislation, some countries remained in doubt about the best approach to adopting THB and SoM laws.
 - The legal response related cultural issues that feed into human trafficking must also be effective, including: caste systems, bride price, customary law, begging, sexuality taboos.
 - The lack of resources continues to impede the implementation of existing legislation.

E. Data collection

Recommendation #5: Improve the collection of data on both trafficking in human beings and smuggling of migrants as this is a prerequisite to define efficient policies and concrete actions.

P2P Meeting:

- Knowledge-management systems and analysis are needed for data collected at the national level. Regional and international organizations can play a role in data management.
 - Continued national resistance to report on crimes is often due to misconceptions about the correlations between increased reporting and the increased incidence of crimes, and due to concerns regarding the impact of increased identification of cases with negative country image and the impact on tourism.
 - State bodies face the burden of responding to multiple demands for data on THB and SoM from regional and international bodies, with a clear information-sharing gap between regional and international mechanisms.
 - Common reporting methodology is crucial. States face challenges in counting cases versus individual victims (i.e., one case involving many trafficked fisherman) in ways that do not skew data.
 - Improvements in cross-referencing administrative data is necessary for coherent national statistics.

F. National coordination

Recommendation #8: Improve at national level the coordination among the different services involved in the field of trafficking in human beings and smuggling of migrants. Given the horizontal nature of both phenomena and the high number of bodies involved, proper mechanisms of inter-service coordination are key to obtain concrete results.

P2P Meeting:

- National-level coordination should be nationally-led, multi-sectoral and supported by sufficient resources and political will
 - National coordination structures should be led by national institutions, not UN or INGOs, with sufficient funding and political support from highest levels of government. A dedicated coordinator is necessary, agencies need to have clearly defined roles.
 - Civil society actors must be involved in all aspects of national coordination (including legislative and policy drafting) and in victim response. Trust must be built across sectors.

- There should be a space for survivors to participate in national coordination efforts, including through migrants' associations.

G. Cross-border cooperation on investigations, victim assistance, data sharing, etc.

Recommendation #4: Promote cross-border and international cooperation among the countries of origin, transit and destination with a specific focus on the sometimes ignored South-South dimension of trafficking in human beings and smuggling of migrants. Encourage the conclusion of bilateral Memoranda of Understanding between countries, both North-South and South-South.

P2P Meeting:

- Cross-border cooperation must capitalize on both formal and informal channels because formal cooperation mechanisms are often hampered by bureaucracy, non-responsiveness.
 - Peer-to-peer networking opportunities, such as this meeting, are essential for establishing informal cooperation.
 - Increased use should be made of regional bodies and mechanisms (i.e., ECOWAS, CARICOM IMPACS) to facilitate cross-border cooperation given their binding structures and regional sense of ownership.
 - Bi-lateral joint investigations face challenges in language barriers and in high turnover among focal points.
 - Joint programmes and binding multi-lateral agreements should be encouraged.

Primary governance challenges

- In countries facing primary governance challenges, (e.g., no border infrastructure, no criminal justice capacity, no health infrastructure, no existing data collection), the assistance provided to combat human trafficking and migrant smuggling often does not make sense at the local level. It is ineffective to work on anti-trafficking and migrant smuggling in isolation. Technical assistance interventions should respond to larger governance or social norms issues as they intersect with human trafficking and migrant smuggling.