

## The National Referral Mechanism<sup>1</sup>

This text is largely based on the ODIHR publication “National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook. OSCE/ODIHR, Warsaw 2004. p. 14-16.

### Overview of the National Referral Mechanism

#### Institutional Anti-Trafficking Framework

Multidimensional and Multidisciplinary Approach

→ Assessment

→ Training /Capacity-Building

→ Monitoring

→ Evaluation

→ Realization

Implementation

National Co-ordinator

Roundtable/Working Group

Professional Staff from State Authorities and Civil Society

Multidimensional and Multidisciplinary Approach

Identification Co-operation

Support and Protection Services Repatriation and Social Inclusion

Data protection

Residence regimes

Confiscation/compensation

Victim-witness protection

A National Referral Mechanism (NRM) is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society.

The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services. In addition, NRMs can work to help improve national policy and procedure on a broad range of victim-related issues such as residence and repatriation regulations, victim compensation, and witness protection. NRMs can establish national plans of action and can set benchmarks to assess whether goals are being met. The structure of an NRM will vary in each country; however, NRMs should be designed to formalize co-operation among government agencies and non-governmental groups dealing with trafficked persons. An NRM usually includes a national co-ordinator, who is often a high level government official, and a roundtable made up of senior representatives of government agencies and civil society who develop recommendations for



national policy and procedures regarding victims of trafficking. NRM also often include ad hoc working groups that deal with specific issues relating to victims. NRM are likely to be most effective if they are founded on a formal co-operation agreement among the participants – for example, a memorandum of understanding – that sets out the specific role and duties of each participant.

An initial country assessment should usually be the first step in establishing an NRM. An assessment can help determine which agencies and civil society organizations are the key stakeholders in anti-trafficking activities, which of them should participate in an NRM, what structure might be most effective for the NRM in a particular country, and what issues require most attention. The assessment may be initiated and carried out either by a government agency or a non-governmental organization. Based on the results of the assessment, an appropriate NRM structure, membership, and programme of action can be designed and implemented. If a country already has a national council against trafficking or another body or focal point dedicated to combating trafficking, this should also be taken into account when establishing an NRM.

Effective NRM require good co-operation between government agencies and civil society. Often, victims of trafficking are first identified by law-enforcement personnel, but it is civil society organizations that provide shelter and other services to the victims. Thus, an NRM can be an essential structure for referring trafficked persons. NRM should develop a dynamic process to ensure participation of civil society. Internal monitoring, evaluation, and feedback should be a continuing part of NRM activities. Achieving these ends requires the involvement of a wide range of government agencies and non-governmental groups. An NRM should therefore seek to be as inclusive as possible in its membership and participation. Establishing NRM in countries of destination, transit, and origin can help ensure a comprehensive and inclusive system of support targeted at, and accessible to, all trafficked persons.

An NRM should incorporate:

- Guidance on how to identify and appropriately treat trafficked persons while respecting their rights and giving them power over decisions that affect their lives;
- A system to refer trafficked persons to specialized agencies offering shelter and protection from physical and psychological harm, as well as support services. Such shelter entails medical, social, and psychological support; legal services; and assistance in acquiring identification documents, as well as the facilitation of voluntary repatriation or resettlement;
- The establishment of appropriate, officially binding mechanisms designed to harmonize victim assistance with investigative and crime-prosecution efforts;
- An institutional anti-trafficking framework of multidisciplinary and cross-sector participation that enables an appropriate response to the complex nature of human trafficking and allows its monitoring and evaluation.

Responsibilities and competencies of all actors involved in the NRM should be defined in such a way as to ensure protection and promotion of the human rights of all trafficked persons in all circumstances. When dealing with victims of trafficking, it is important to remember that all persons within the jurisdiction of a state are entitled to human rights regardless of their background, nationality, activities they may have been involved in, or their willingness to cooperate with law-enforcement authorities.



NRMs are not rigid structures but flexible mechanisms that are tailor-made to fit each country's patterns of trafficking cases and its social, political, economic, and legal environment.

That is why an NRM is not built from a single, general blueprint but is instead founded on a careful assessment of country-specific needs and conditions.

### Key Elements: **Identification** and **Co-operation**

At the core of every NRM is the process of locating and identifying likely victims of trafficking, who are generally known as "presumed trafficked persons". This process includes all the different organizations involved in an NRM, which should co-operate to ensure that victims are offered assistance through referral to specialised services.

#### I. WHAT IS A NATIONAL REFERRAL MECHANISM?

Locating and identifying trafficked persons is a fundamental problem in all anti-trafficking strategies. For a variety of reasons, those caught up in human trafficking often do not want to reveal their status or experiences to state authorities. Victims may harbour deep feelings of mistrust towards official bodies, stemming from experiences in their country of origin.

Frequently, victims fear violent retaliation by traffickers against themselves and family members in their countries of origin. Such threats of violence once they return home can enhance victims' fear of deportation because of their illegal status. Because victims of trafficking are often reluctant initially to identify themselves as such, the term "presumed trafficked persons" is generally used to describe persons who are likely to be victims of trafficking and who should therefore come under the general scope of anti-trafficking programmes and services. Victims of trafficking are only rarely able to extricate themselves independently from their situation. Usually, if they come to the attention of authorities at all, it is as a result of checks by the police, border officials, or other state authorities. Official bodies likely to come into contact with victims should be aware of the special circumstances they face and show sensitivity in dealing with them and affording them access to existing protective mechanisms.

It is important for official bodies to remember not only that trafficked persons are victims of a crime who are entitled to compassion and human rights but also that winning their goodwill and co-operation can help combat organized crime. There are a variety of means that can be used to help encourage presumed trafficked persons to come forward, including hotlines, outreach work, and drop-in centres. The identification of a trafficked person can be a complex and time-consuming process requiring professional guidance and support structures to create a safe space for the victim. Sometimes it is a question of weeks or months before a trafficked person overcomes posttraumatic stress syndrome and is able to speak out. Therefore, the concept outlined in this handbook incorporates the identification process as part of a protection and support programme.



Part of the overall goal of an NRM is to bring about a change in perspective in how to deal with human trafficking, so that it is considered not only as a problem of criminality but as a grave abuse of the human rights of victims. Adopting this viewpoint will help ensure that all presumed victims – not just those who agree to serve as witnesses – receive protection and support. The way to set up co-operation structures among governmental organizations and service providers from civil society is the other central component of an NRM. This co-operation can reconcile what at the outset may appear to be conflicting legal positions. On the one hand, the duty of law enforcement, given the frequently illegal status of the presumed trafficked person, may be to transfer them to an institution for illegal immigrants, for example, holding them in detention awaiting deportation. This can mean that the prosecuting authorities do not recognise the presumed trafficked person's status as a victim of a crime. On the other hand, international human-rights standards and obligations, as well as many national laws, require that the rights of these people be recognized and protected.

A co-operation agreement under the auspices of an NRM, in which presumed trafficked persons are referred to civic – and therefore non-state – support and protection structures, can ensure that victims are not held in detention and are in a position to pursue any legal entitlements. Such co-operation structures can help presumed trafficked persons to gain access services and to formalize their status, for example, through a short-term residence permit that enables them to move out of the grey sphere of illegality and irregularity.

---

<sup>i</sup> The briefing information about NRM are brought from the ODIHR publication:  
*NATIONAL REFERRAL MECHANISMS. Joining Efforts to Protect the Rights of Trafficked Persons  
A Practical Handbook*. OSCE/ODIHR, Warsaw 2004.

