



TERMS OF REFERENCE

Local consultant to develop a legal handbook for supporting victims of human trafficking in Kenya

1. Project Context

Trafficking in Persons (TIP) is a serious crime and a grave violation of human rights. Globally men, women and children are trafficked across international borders or within their domestic jurisdictions for purposes of forced labor, domestic servitude, sexual exploitation, harvesting of body organs, forced military conscription and other unsavory practices. The crime generally takes place in dangerous and degrading conditions and involves a range of human rights violations and abuses. Inherent in trafficking are such forms of severe exploitation as abduction, incarceration, rape, sexual enslavement, enforced prostitution, forced labor, removal of organs, physical beatings, starvation, and the deprivation of medical treatment. Victims of Trafficking are often dependent upon and intimidated by their traffickers, who frequently confiscate their identity documents and keep them confined and isolated, thus limiting their ability to seek assistance or protection from the authorities. Victims may fear arrest and prosecution for TIP related activities such as prostitution or association with armed groups, while victims who have been trafficked into another country fear arrest for illegal entry and possible deportation. Victims of sexual exploitation might also fear discrimination or punishment by their families and communities.

Human traffickers tend to target the most vulnerable parts of the population including women and children and the poor and marginalized. One of the most urgent needs in this respect is to improve the services provided to victims.

While some steps have been taken to improve the services offered to victims of trafficking that are identified in Kenya. The efforts have so far suffered from lack of urgency, funding and coordination. The National Referral Mechanism has been developed but has so far not been implemented in a meaningful way. Lack of adequate services for survivors of trafficking and lack of minimum standards and guidelines for proper identification, rehabilitation and reintegration form the major gaps. Moreover, lack of access to legal aid for victims of human trafficking who navigate the legal systems often lead to victimization and re-victimization.

2. Project Background

HAART is an implementing partner for the Global Fund to End Modern Slavery (GFEMS) project in Kenya. GFEMS, through funding provided by the U.S. Department of State Office to Monitor and Combat Trafficking in Persons, seeks to fund, test, and scale transformative models and technologies through supporting delivery partners across three interconnected outcome areas: effective rule of law, business investment, and sustained freedom. Through this program, GFEMS is prioritizing intervention models that are most likely to achieve prevalence reduction at scale and or/ be replicated. In Kenya and Uganda, the Fund will support targeted programming through delivery partners to reduce the prevalence of modern slavery in key vulnerable populations across two sectors: overseas labor recruitment and commercial sexual exploitation. In addition to prevalence reduction in these areas, the program seeks to assess the scale and prevalence of modern slavery to fill knowledge gaps through evidence-based research methodologies and engage stakeholders critical to ensuring sustainable impact of supported models and technologies.

Through this project, Awareness Against Human Trafficking (HAART) seeks to reduce vulnerability to exploitation for survivors of trafficking and at-risk youth by: (1) providing rehabilitation and



reintegration services to human trafficking victims; (2) engaging the private-sector in provision of technical and vocational training and employment for survivors and vulnerable youth; (3) building the capacity of Civil Society Organization (CSOs) to prevent and support cases of labor trafficking.

One of the key objectives of is to increase the capacity of stakeholders who provide legal services for victims of human trafficking.

A legal handbook will be developed in order to equip caseworkers with the knowledge they need to support victims who choose to seek legal remedies, the handbook will seek to provide simplified explanations of the provisions of these laws and the procedures set out in them. The handbook shall be developed through a collaborative process based on the following phases:

Phase one: Conduct legal analysis and development of a zero-draft document.

Phase two: Development of a first draft document based on stakeholder consultation (HAART and other CSO caseworkers) and kick-off pilot phase of the handbook.

Phase three: (Pilot phase to be conducted by HAART legal officer).

Phase four: Development of second draft, stakeholder validation and final handbook delivery and launch event.

3. Assignment

The role of the consultant will be multifaceted and involve working on developing a legal handbook for stakeholders who support victims of human trafficking in Kenya.

4. Specific Tasks

Phase one: Conduct legal analysis and development of a zero-draft document

Conduct a review and comprehensive analysis of fundamental human rights and freedoms including labor rights and economic rights; criminal procedure; and civil procedure. It shall focus on the legal and institutional frameworks set up by the Constitution as well as Acts of Parliament including the Employment Act (No. 11 of 2007), the Counter Trafficking in Persons Act (No. 8 of 2010), the Criminal Procedure Code (CAP 75), and the Civil Procedure Act (CAP 21).

Develop a zero-draft legal handbook for support of victims of human trafficking (with support in a form of review by HAART staff).

Phase Two: Development of a first draft document based on caseworker consultation and kick-off pilot phase

Take a lead role in planning, coordination and conducting 2 one day consultative meetings with stakeholders. Develop a first draft based on the recommendations of the meetings. Kick-off the piloting of the legal handbook (in collaboration with the HAART Team). Provide a one-day training for stakeholders on utilization of the draft and instruct HAART legal officer on how to conduct regular consultative meetings with the stakeholders during the pilot phase to evaluate progress/analyse the hindrances and record potential areas for improvement.

Phase Three: (pilot phase to be conducted by HAART legal officer based on instructions & guidelines. Avail for 3 half day consultative meetings (one meeting bi-monthly) with the case workers to evaluate progress/analyze the hindrances and record potential areas for improvement.

Phase four: Development of second draft, stakeholder validation and final handbook delivery

Edit and incorporate the changes based on the learnings from the piloting phase (Second Draft).



Support the planning, coordination and conducting a 1-day validation workshop with the purpose of validating the legal handbook together with relevant stakeholders.

Complete and submit the final legal handbook to HAART.

Support the planning and execution of a 1-day launch event for the legal handbook

Preparation of a short report outlining learnings and recommendations from the process of developing the Legal handbook (Final Draft) and the way forward within 14 days of the launch event.

5. Deliverables

A short report with a summary of key learnings and recommendations from the review and analysis.

A Zero-draft, First Draft, Second Draft and the Final draft of the legal handbook.

Reports for each of the consultative and validation meetings with summary of discussions, recommendation and way forward

Training and instructions for the piloting phase.

A short report outlining learnings and recommendations from the process of developing the legal handbook.

6. Management and Supervision

The Consultant will directly report to HAART's Project Manager who will provide guidance, review, and endorse deliverables as per the schedule agreed upon.

Required Qualification and Expertise

- Law degree
- Qualified Advocate of the High Court of Kenya
- Experience in human rights law (documented experience in counter trafficking law will be an additional advantage)
- Experience in working with vulnerable migrant population
- Experience with developing relevant policy documents
- Excellent writing skills
- Excellent communication skills

- Availability to attend the consultative meetings between June and July 2021, Piloting kick off between August and September 2021 and the validation workshop in May 2022 and the launch event in June 2022.

7. Application Procedure

Interested candidates should send their **CV** as well as **motivational letter** for the assignment to hr@haartkenya.org by **29th April 2021**.

The submission should include:

- Motivational letter
- CV
- Examples of previous relevant work

8. Duration of Assignment

The assignment will run from May 2021 to June 2022 including preparation and follow-up. The assignment will cover the cost for travel for any relevant fieldwork and meetings.