



## Concept note

Date: 22.04.2021

# Investigative Interviewing for Fair and Effective Administration of Justice Professional Training Workshop 13-15 April 2021

## 1. Context

Interviewing within the larger framework of criminal investigations is a core task in law enforcement, and how the police conduct interviews will have a profound impact on the outcome and fairness of the subsequent criminal proceedings. The investigative bodies are bound to respect and protect the inherent dignity and physical and mental integrity of all persons – including victims, witnesses and suspects. During criminal investigations, arrests and interrogations, the risk of committing human rights violations is high. The right to freedom from torture and the right to a fair trial, including the right to be presumed innocent, become particularly relevant during all stages of an investigation. In countries where police and prosecuting authorities lack a clear methodology and where training and teaching is minimal clearance rates are typically low. This again contributes to undermine the rule of law.

In recent years, there has been increasing awareness of judicial errors and wrongful convictions in the media. Errors of justice can be problematic to quantify, however, estimates from some jurisdictions exist. Research has found that guilt presumption and confirmation bias are among the primary underlying causes of errors of justice, including wrongful convictions. Yet, training in interview methodology is absent or minimal and only a handful of countries worldwide have this as part of the core curriculum in police training. The lack of sound guidance has led to presumptions of guilt and confession-driven practices. Criminal justice systems that are geared toward obtaining confessional evidence increase the risk of ill-treatment during police interviews.

Investigative interviewing is a reliable and well-established method for questioning victims, witnesses and suspects of crime. It implies a shift away from confession-driven interrogations to rapport and objective-led interviews, drawing on the best available science.

## 2. Rationale

Education and capacity building are crucial tools to facilitate a change in policies and mindset in order to combat harmful practices in any profession. In the absence of research-based and practically sound methods, police interviews remain unsystematic, ad hoc and open to challenge. This project aims to provide the police with practical and effective guidance on how to do their job efficiently and within the confines of the law.

## 3. Project Goals and Objectives

The objectives of this professional training are to build capacity of law enforcement and the wider justice system in West Africa through the introduction of a non-coercive, efficient, practical and human rights compliant toolbox for conducting interviews of victims, witnesses and suspects of crime. The training will also support implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), in particular Articles 10 and 11 on education and training, and periodic review of interrogation procedures; as well as Article 5 of the African Charter on Human and Peoples' Rights. It also supports implementation of Part II of the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa (Luanda Guidelines), particularly concerning the implementation of legal and procedural safeguards for persons held in police custody prior to and during questioning.

| <b>Results framework</b>   |
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| <p><b>Impact statement (long-term objective):</b> Contribute to the fulfilment of Sustainable Development Goal target 16.3: <i>Promote the rule of law at the national and international levels and ensure equal access to justice for all</i>; and target 16.6: <i>Develop effective, accountable and transparent institutions at all levels</i>. Contribute to the implementation of the UN Convention against Torture, notably Articles 10 and 11: <i>on education and training, and review of interrogation practices and regulations</i>. Contribute to the implementation of the African Charter on Human and Peoples' Rights, in particular Articles 5 (prohibition against torture and ill-treatment), 6 (personal liberty and protection from arbitrary arrest) and 7 (fair trial).</p> |
| <b>Outcome</b>   |
| <p>The research and interview methodology "investigative interviewing" is further gaining ground in West Africa.</p>   |
| <b>Outcome indicators</b>  |
| <ul style="list-style-type: none"> <li>• Law and/or policies are revised/issued towards implementation of non-coercive interviewing techniques in the justice sector and law enforcement.</li> </ul>   |
| <b>Output</b>  |
| <p>The participants in the training gain increased knowledge of human rights compliant interviewing techniques and their associated safeguards, underpinned by relevant international and African instruments, and are able to utilize this knowledge to assess and amend their own practices.</p>   |
| <b>Output indicators</b>   |
| <ul style="list-style-type: none"> <li>• 30 representatives of law enforcement and the wider justice system from selected West African countries participate in the training.</li> <li>• The participants find the training useful, educational and relevant to the training objective.</li> <li>• Participants apply investigative interviewing in their daily work.</li> <li>• Participants are able to recognise and discuss potentially harmful interviewing practices within their own institution.</li> <li>• Participant are able to suggest amendments necessary within the policy framework of their</li> </ul>   |

institution/country to introduce or expand the use of non-coercive interviewing and associated human rights safeguards.

**Risks:** The main concerns with regard to the successful implementation of the training are technical issues and intrusions. Nevertheless, as the subject is not considered particularly controversial these are low risk concerns.

#### 4. Target Group and participation criteria

The training is intended for officials working in the criminal justice sector, notably senior police and law enforcement officials (primarily detectives or others working on criminal investigations), prosecutors, judges and senior lawyers or heads of departments within the country's Ministry of Justice and/or Attorney General's Office. In addition, all participants are expected to have:

- National of The Gambia, Ghana, Liberia, Nigeria, Sierra Leone;
- Currently employed as a senior police officer/criminal investigator, prosecutor, judge or as a senior lawyer in the Ministry of Justice and/or Attorney General's Office (or equivalent) at superior rank or experience;
- Working proficiency in English;
- Prior knowledge (practical and/or theoretical) about their own countries interviewing procedures in criminal cases and criminal procedural law

Governments are encouraged to nominate women holding senior positions to reach an equitable gender balance.

#### 5. Project Strategy/ Activities

The training will be held online. While it will be expected that the many participants in the training have practical experience with conducting criminal investigations and interviews with victims, witnesses or suspects, the participants will receive readings in advance of the training in order to prepare themselves and be asked to provide their own briefs to ensure substantial discussions throughout the training. The key preparation document is the training tool *Investigative Interviewing for Criminal Cases*, prepared for the Convention against Torture initiative (CTI) by NCHR in cooperation with the Norwegian Police University College.<sup>1</sup> In order to successfully complete the training, participants are expected to:

- Complete a pre-training survey on expectations and motivation, and conveying common perceptions of the role of an investigating and interviewing officer;
- Complete the UNODC e-learning course on Investigative interviewing (*TBC*);
- Complete readings and related reading quizzes and task;
- Participate in 3 online live training sessions (of 2-3 hours each);
- Participate in group work activities.

Participants will be nominated by their Governments. Five participants per country are expected to participate from the different aspects of the criminal justice system (as indicated above).

For more information and updates on the training, please visit: <http://nchr-cti.renderforestsites.com/>

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<sup>1</sup> [https://cti2024.org/content/docs/CTI-Training\\_Tool\\_1-Final.pdf](https://cti2024.org/content/docs/CTI-Training_Tool_1-Final.pdf). See also, CTI, Safeguards in the First Hours of Police Detention: <https://cti2024.org/content/docs/CTI-Safeguards-final%20rev.pdf>.

## 6. Organizational Background

The **Norwegian Centre for Human Rights (NCHR)** has more than 30 years of experience promoting human rights through competence building, knowledge enhancement and dialogue in Norway and internationally (international department). NCHR's Rule of Law programme supports the judiciary's capacity to improve its human rights compliance by strengthening human rights knowledge among core actors within the chain of justice, including judges, prosecutors and the police.

For the past decade NCHR has been actively promoting and offering trainings on human rights compliant and non-coercive investigative interviewing techniques, both on a bilateral and international scale in cooperation with Norwegian police. To this end, we teach police detectives methods for interviewing suspects, witnesses and victims of crime that could contribute to prevent torture and errors of justice, and NCHR cooperates with the UN Special Rapporteur on Torture in order to develop Universal Guidelines for police investigation.

NCHR also cooperates with UN Department of Peace Operations (UNPOL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to draft a manual and develop training material providing advice for UN police peacekeepers on advanced methods of investigative interviewing. The initiative is pursued in the context of the Police Division's ongoing work on the Strategic Guidance Framework for International Police Peacekeeping (SGF). As part of the SGF, pillar four on "Police Operations", and NCHR acts as the secretariat for this initiative. Additionally, NCHR is developing e-learning modules on investigative interviewing in cooperation with the UN Office of Drugs and Crime in Vienna (UNODC).

The **Convention against Torture Initiative (CTI)** is a cross-regional, 10-year inter-governmental initiative of Chile, Denmark, Fiji, Ghana, Indonesia and Morocco, with the purpose to facilitate technical advice, support and cooperation among States to help them overcome obstacles to ratification and/or implementation of the UNCAT. CTI works through confidential government dialogues, often on a regional basis, and provides technical and other support to States. CTI's approach is constructive ("no name, no shame") and is based on equality and mutual respect between States.

The Initiative is supported by a full-time Secretariat based in Geneva, and has garnered the endorsement of a growing Group of Friends made up of more than 40 UN Member States, along with leading international and regional organisations, anti-torture non-governmental organisations and experts. By 2024, it is CTI's vision that every UN Member State will have ratified the Convention, and will be actively implementing it, putting to rest any doubts that torture and other abuses of power or position are unacceptable in all their forms.

CTI has been active in its work in Africa, led by the Governments of Ghana and Morocco. In April 2016, CTI held a regional seminar for sub-Saharan African governments focusing on UNCAT implementation and particularly, on the obligation to criminalise torture, which was held in Accra, Ghana.<sup>2</sup>

As a follow-up to the Accra event, CTI held two technical workshops on anti-torture legislative drafting in Africa, one for English-speaking sub-Saharan African States, held in Entebbe, Uganda, in September 2017, where four West African countries<sup>3</sup> participated, and one for Francophone African States, held in Dakar, Senegal, which saw the participation of 9 French-speaking West African countries.<sup>4</sup>

To support professional policing and learn best practices worldwide, in October 2019, CTI gathered police at its Global Seminar on Cooperation and Innovation in Policing.

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<sup>2</sup> Among the participating countries, three English-speaking West African countries attended: Ghana, Gambia and Liberia.

<sup>3</sup> Participating countries were: Ghana, Gambia, Liberia and Sierra Leone.

<sup>4</sup> Participating countries were: Benin, Chad, Côte d'Ivoire, Guinea, Mali, Mauritania, Niger, Senegal and Togo.

## 7. Contact Information, organisers:

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### **The Convention against Torture Initiative (CTI)**

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1202 Geneva Switzerland  
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### **Organisers/contributing staff CV:**

#### **NCHR**

**Dr. Ivar A. Fahsing** is a Detective Chief Superintendent and Associate Professor at the Norwegian Police University College. He has more than 15 year as experience in the Norwegian Police as a detective covering a wide range of high-profile cases from organised crime to homicide. He has published widely in the field of investigative management and decision-making, investigative interviewing, eyewitness testimony, forensic psychology, detective skills, expert performance, knowledge management and organised crime. He is used as expert-witness in courts and has for more many years conducted training of law-enforcement personnel, intelligence officers and civilian partners in Scandinavia, Europe, Africa, Asia, United Nations, Pentagon, etc. Doctoral thesis: *The Making of an Expert Detective: Thinking and Deciding in Criminal Investigations*.<sup>5</sup>

**Knut D. Asplund** is the heading the rule of law section of the International Department at the Norwegian Centre for Human Rights, University of Oslo, Norway. He is a social anthropologist and has conducted extensive fieldwork in Indonesia. He was heading the Centre's Indonesia programme from 2002. He has extensive experience from running human rights courses for university lectures, public servants, diplomats and NGOs. From 2005 to 2015, he co-organised a training programme for Indonesian military officers in human rights and the law of armed conflict. From 2012, he has been organising courses in non-coercive questioning methods for law enforcement agencies. Currently, he is involved in developing a manual in this method, called "investigative interviewing", for UNPOL, the Police Unit under United Nations Department of Peace Operations.

**Gisle Kvanvig** is the head of the UN Police (UNPOL) secretariat at the Norwegian Center for Human Rights, Faculty of Law, University of Oslo. The programme works with developing practices, standards and curriculum for UN police missions. He has previously worked for the United Nations Office on Drugs and Crime (UNODC) and NGOs with issues pertaining to human rights, emergency aid, peace & conflict resolution, good governance, the

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<sup>5</sup> Available here: [https://gupea.ub.gu.se/bitstream/2077/47515/1/gupea\\_2077\\_47515\\_1.pdf](https://gupea.ub.gu.se/bitstream/2077/47515/1/gupea_2077_47515_1.pdf)

rule of law, criminal justice reform, organized crime and politically motivated violence. He has worked in and with countries in North Africa and the Middle East, Latin America, South and Southeast Asia.

**Mrs. Susanne Flølo** is a Senior Executive Officer working for the NCHR International Department and the Rule of Law initiative. She holds a master's degree in The Theory and Practice of Human Rights, with a specialization in Business and Human Rights from the University of Oslo, Faculty of Law, and a BA in Journalism. As part of her BA Mrs. Flølo studied sociology at the University of California, Berkeley. She has previously been working for NCHR as Acting Programme Manager for the UN Human Rights Mechanisms initiative, as a Programme Officer for the Norwegian Resources Bank for Democracy and Human Rights, and as a Research Assistant for the research groups International Law and Governance, and Human Rights and Sustainable Development: Law and Policy Research. Mrs Flølo has experience with organising academic trainings, meetings and events both in Norway, abroad and online.

## **CTI**

**Dr Alice Edwards** has been Head of the Convention against Torture Initiative Secretariat (CTI) since January 2016, providing strategic and policy advice to the CTI Core States of Chile, Denmark, Fiji, Ghana, Indonesia and Morocco, and delivering the annual programme of bilateral and multilateral diplomacy, capacity-building and technical assistance. Dr. Edwards has over 20 years' experience working in the human rights and justice sectors. Prior to taking up her CTI appointment, she was the United Nations High Commissioner for Refugees' Chief of Protection Policy and Legal Advice, based in Geneva. She has held academic appointments in law at the universities of Oxford and Nottingham and is widely published. She has worked in diverse countries with the United Nations and non-governmental organisations, such as in Australia, Bosnia and Herzegovina, Morocco, Mozambique, Rwanda, Switzerland and the UK (the latter with Amnesty International). She holds a PhD in Public International Law from the Australian National University. She is admitted to practice as a barrister and solicitor before the Supreme Court of Victoria and the High Court of Australia. She speaks English, French and intermediate Portuguese.

**Ms. Gayethri M. Pillay** joined the CTI Secretariat in February 2021 as Senior Adviser and is responsible for CTI's technical assistance and capacity building support on ratification, implementation and reporting for SIDS – Small Island Developing States, in particular in the Caribbean and Pacific which make up over half of the remaining non-States-parties to the UN Convention against Torture. She will also be overseeing CTI's engagement with the UN human rights system, managing a range of regional seminars and conferences, managing CTI's internship and consultancy programmes, and coordinating the CTI Advice Hub. Prior to joining CTI, Gayethri was Chargée D'affaires e.p and Head of Seychelles' Permanent Mission in Geneva. Ms Pillay has worked in numerous capacities within the Government of Seychelles, including as Director of the International Law and Human Rights Unit, and as the Director of Seychelles' National Committee on Trafficking in Persons. As a diplomat and legal expert, Ms Pillay has extensive experience in the national coordination and implementation of international human obligations. Ms Pillay holds a LLM in Public Law and Human Rights Law from the University College of London (UCL) and a LLB from the University of Kent. Speaks English, French, Seychellois Creole and Tamil.

**Ms Laura Blanco** conducts legal research and analysis and provides advice on a wide range of matters pertaining to international, regional and national anti-torture legal frameworks, in support of CTI's universal ratification and implementation efforts. She was recruited as Legal Researcher in February 2018 and was promoted to Legal Officer in October 2020. Prior to joining CTI, Laura was a consultant at London-based REDRESS. She also has previous professional experience at the International Bar Association's Human Rights Institute. Laura is a Spanish-qualified lawyer. Holds Master's degrees from Pompeu Fabra University in Barcelona (UPF) and an LL.M. in Transnational Law from King's College in London. Speaks Spanish, Catalan, English and French.