



Tool 8.2 Obligations of States to child victims

Overview

This tool discusses State obligations to protect and assist child victims, and provides examples of measures to ensure their safety, taking into account their special needs and rights.

Child victims of trafficking may fall under the protection of various local or national child protection laws and regimes, whether or not they are citizens of the State. The role of local child protection and welfare organizations, either governmental or non-governmental, must be clarified to ensure that such agencies fully and properly play their role as part of a national strategy to combat trafficking in persons.

Urgent action must sometimes be taken to secure the safety of child victims. Any action to ensure the safety of children must be respectful of their rights.

Article 6, paragraph 4 of the Trafficking in Persons Protocol

Article 6, paragraph 4 of the Trafficking in Persons Protocol provides that

Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

When the age of a victim is uncertain and there are reasons to believe that the victim is a child, a State party may wish, subject to its legal system, to treat the victim as a child in accordance with the definition of a child contained in the Convention on the Rights of the Child until his or her age is verified. States may also wish to consider:

- Appointing a guardian to accompany the child throughout the entire process, until a durable solution in the best interest of the child has been identified and implemented
- Ensuring that, during the investigation, as well as the prosecution and trial hearings where possible, direct contact between the child victim and the suspected offender is avoided. See Tool 5.19 for more on special protection measures for children during legal proceedings
- Providing appropriate shelters for child victims to avoid risk of revictimization. Children should be housed in safe, suitable accommodation, with due account taken of their age and special needs
- Establishing special recruitment practices and training programmes to ensure that individuals responsible for the care and protection of child victims understand their needs, are gender-sensitive and possess the necessary skills to assist children and ensure that their rights are safeguarded.

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan to Prevent Trafficking in Human Beings includes a section recommending the following action at the national level for the protection of child victims of trafficking:

10. Protection of children

- 10.1 Ensuring that the special needs of children and the best interests of the child are fully taken into account when deciding upon appropriate housing, education and care. In appropriate cases, if there is no direct threat to the safety of the child, providing the children with access to the State educational system.
- 10.2 Deciding on the repatriation of a child victim of trafficking in human beings only after having taken account of all the circumstances of the specific case and if there is a family or special institution in the State of origin to ensure the child's safety, protection, rehabilitation and reintegration.
- 10.3 Considering the provisions outlined in the United Nations High Commissioner for Refugees Guidelines for the Protection of Unaccompanied Minors when elaborating policies targeted at this risk group, and in particular for those who are not in possession of identification documents.
- 10.4 Using bilateral and/or regional agreements on fundamental principles of good reception of unaccompanied children in order to combine efforts targeted at the protection of children.
- 10.5 Ratifying or acceding to, and fully implementing, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.



The full text of the OSCE Action Plan to Combat Trafficking in Human Beings is available at:

www.osce.org/documents/pc/2005/07/15594_en.pdf

Promising practice

Manual for civil servants dealing with victims of trafficking in persons

In 2006, a new penal system began to be implemented in Colombia. This created new challenges for the Colombian criminal justice system regarding victims, especially child victims. In response to these challenges, UNODC carried out an assessment of the situation of victims and produced recommendations and guidelines for handling and protecting child victims of sexual crimes and exploitation under the new accusatory penal system.

The assessment focused on the protection of child victims of crimes relating to trafficking and other forms of exploitation. The aim was to facilitate the detection of legal and administrative gaps and weaknesses, particularly those affecting child victims of sexual crimes and exploitation, by developing a working tool for civil servants, as well as information and training on the protection of child victims. On the basis of the analysis and

recommendations which emerged from this activity, UNODC, with the support of the Colombian Family Welfare Institute, issued a handbook on trafficking in persons in June 2007 which emphasizes the rights of victims under the new penal system.



More information about the work of UNODC in Colombia is available at:

www.unodc.org/colombia/index.html

Recommended resources

For more information on protecting the rights of children during legal proceedings, see Tool 5.19. For more information on interviewing children, see Tool 6.12.

Guidelines on the Protection of Child Victims of Trafficking

(United Nations Children's Fund)

These good practice guidelines on protecting and assisting child victims of trafficking, published in September 2006, are based on international human rights instruments and address the protection of trafficked children from their identification through to their recovery and reintegration. These guidelines are intended to inform policy development and the protection and assistance practice of Governments and State actors, international organizations, non-governmental organizations and other service providers.



The guidelines are available at:

www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

Guidelines on justice for child victims and witnesses of crime

The International Bureau for Children's Rights published in 2005 *The Rights of Child Victims and Witnesses of Crime: a Compilation of Selected Provisions Drawn from International and Regional Instruments* and has developed a set of Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (subsequently adopted by the Economic and Social Council in its resolution 2005/20).



Both resources can be consulted at:

www.ibcr.org/

***Guidelines for Medico-legal Care for Victims of Sexual Violence
(World Health Organization)***

Chapter 7 of these WHO guidelines provides some useful information concerning medical assistance for child victims of human trafficking for sexual purposes.



The WHO guidelines are available at:

[www.who.int/violence_injury_prevention/publications/violence/med_
leg_guidelines/en/](http://www.who.int/violence_injury_prevention/publications/violence/med_leg_guidelines/en/)

***Reference Guide on Protecting the Rights of Child Victims of
Trafficking in Europe***

(United Nations Children's Fund)

This UNICEF reference guide contains checklists and guidelines for immigration officers, law enforcement and justice officials and other professionals working with child victims of trafficking in the European context.



The guide is available at:

www.unicef.org/ceecis/protection_4440.html