



Tool 5.15 Guidelines on human rights and human trafficking in the context of law enforcement

Overview

This tool provides the recommended principles of the United Nations High Commissioner for Human Rights concerning law enforcement.



For guidelines for law enforcers, prosecutors and judges in relation to HIV/AIDS, see Tool 8.13.

An effective law enforcement response to trafficking is not limited merely to the application of law in individual cases, but has relevance to all the complicated facets of trafficking. Effective law enforcement response also depends on the participation of all levels of society, from local communities and non-governmental organizations to migration officials and prosecutors.

The human rights of trafficked persons must be at the centre of efforts to combat trafficking and must be protected at all stages of the law enforcement process. For law enforcers, it is essential that trafficked persons are not criminalized but instead that their special concerns are addressed, while perpetrators are held accountable.

The Recommended Principles and Guidelines on Human Rights and Human Trafficking developed by the United Nations High Commissioner for Human Rights provide a number of elements that should be part of the law enforcement component of a national strategy to address trafficking in persons.

Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1)

(United Nations High Commissioner for Human Rights)

The Recommended Principles and Guidelines on Human Rights and Human Trafficking offer important guidance for anti-trafficking efforts. The guideline of key relevance to law enforcement efforts is provided below.

Guideline 5

Ensuring an adequate law enforcement response

Although there is evidence to suggest that trafficking in persons is increasing in all regions of the world, few traffickers have been apprehended. More effective law enforcement will create a disincentive for traffickers and will therefore have a direct impact upon demand.

An adequate law enforcement response to trafficking is dependent on the cooperation of trafficked persons and other witnesses. In many cases, individuals are reluctant or unable to report traffickers or to serve as witnesses because they lack confidence in the police and the judicial system and/or because of the absence of any effective protection mechanisms. These problems are compounded when law enforcement officials are involved or complicit in trafficking. Strong measures need to be taken to ensure that such involvement is investigated, prosecuted and punished. Law enforcement officials must also be sensitized to the paramount requirement of ensuring the safety of trafficked persons. This responsibility lies with the investigator and cannot be abrogated.

States and, where applicable, intergovernmental and non-governmental organizations should consider:

1. Sensitizing law enforcement authorities and officials to their primary responsibility to ensure the safety and immediate well-being of trafficked persons.
2. Ensuring that law enforcement personnel are provided with adequate training in the investigation and prosecution of cases of trafficking. This training should be sensitive to the needs of trafficked persons, particularly those of women and children, and should acknowledge the practical value of providing incentives for trafficked persons and others to come forward to report traffickers. The involvement of relevant non-governmental organizations in such training should be considered as a means of increasing its relevance and effectiveness.
3. Providing law enforcement authorities with adequate investigative powers and techniques to enable effective investigation and prosecution of suspected traffickers. States should encourage and support the development of proactive investigatory procedures that avoid over-reliance on victim testimony.
4. Establishing specialist anti-trafficking units (comprising both women and men) in order to promote competence and professionalism.
5. Guaranteeing that traffickers are and will remain the focus of anti-trafficking strategies and that law enforcement efforts do not place trafficked persons at risk of being punished for offences committed as a consequence of their situation.
6. Implementing measures to ensure that “rescue” operations do not further harm the rights and dignity of trafficked persons. Such operations should only take place once appropriate and adequate procedures for responding to the needs of trafficked persons released in this way have been put in place.
7. Sensitizing police, prosecutors, border, immigration and judicial authorities, and social and public health workers to the problem of trafficking and ensuring the provision of specialized training in identifying trafficking cases, combating trafficking and protecting the rights of victims.
8. Making appropriate efforts to protect individual trafficked persons during the investigation and trial process and any subsequent period when the safety of the trafficked person so requires. Appropriate protection programmes may include some or all of the following elements: identification of a safe place in the country of destination; access to independent legal counsel; protection of identity during legal proceedings; identification of options for continued stay, resettlement or repatriation.

9. Encouraging law enforcement authorities to work in partnership with non-governmental agencies in order to ensure that trafficked persons receive necessary support and assistance.



The Recommended Principles and Guidelines on Human Rights and Human Trafficking are available at:
www.unhcr.bg/other/r_p_g_hr_ht_en.pdf