

PRINCIPLES OF VICTIM ASSISTANCE



Tool 8.1 Obligation of States

Overview

This tool describes, in general terms, assistance services States are required to provide to victims.



For more information about victim protection, see Tool 5.16.

The Trafficking in Persons Protocol requires States parties of origin and of destination to consider implementing measures to provide for the physical, psychological and social recovery of trafficked victims. Governments should, in cooperation with non-governmental organizations, provide the following types of support: (a) medical; (b) psychological; (c) language and translation; (d) rehabilitation, skill training and education; and (e) shelter.

The most critical factor in assistance and support programmes is that they should be both comprehensive and integrated. Assistance with medical, psychological, legal services, accommodation, education and training will not exist satisfactorily in isolation. To plan and provide services in a coordinated and collaborative manner is in the best interests of victims. “One-stop” access to all the services required is still the best service delivery option for victims.

Article 6, paragraph 3 in particular contains a list of support measures intended to reduce the suffering and harm caused to victims and to assist in their recovery and rehabilitation. Apart from the humanitarian goal of reducing the effects on victims, there are other practical reasons why this should be done. One is that providing support, shelter and protection to victims increases the likelihood that they will be willing to cooperate with and assist investigators and prosecutors (see Tool 5.16). However, such support and protection should not be made conditional upon the victim’s participation in legal proceedings.

Article 6 of the Trafficking in Persons Protocol

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.
3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. 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.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 25 of the Organized Crime Convention

Assistance to and protection of victims

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.
2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.
3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Medical assistance

Victims of trafficking will probably have immediate medical needs, which need to be addressed in the destination State as a first concern. They may have physical injuries or have been exposed to the risk of disease. They may have been forced to use narcotic or

psychoactive drugs as a means of controlling them or have developed drug addictions to assist them to cope with the situation. They may have mental health problems with associated physical conditions. They may have been unaware of sexual health issues and been made to endure unsafe and violent sexual practices, which increase the risk of contracting HIV/AIDS and other sexually transmitted diseases. Initial medical examinations and discussions, preferably undertaken in partnership with appropriate non-governmental organizations that can provide a support person and interpreter, are a first step so that obvious injuries can be identified and a treatment plan initiated.

Victims who, for a variety of reasons, return home without having received medical assistance and support in the destination State must receive medical attention as soon as they return. Health workers in the State of origin have a difficult problem facing them in identifying these individuals. Partnerships with non-governmental organizations can potentially play an important role in providing information and training to health-care professionals so that this identification can take place.

Psychological assistance

The trafficking experience may create a systematic disruption of basic and core attachments to family, friends and religious and cultural systems; the destruction of central values relating to human existence; and the creation of shame following brutal acts, including torture and rape. Relationships may be changed, including those with the general community and authority figures, leading to a general sense of mistrust of others and a fear of forming new relationships. The capacity for intimacy may be altered, grief may be pronounced and depression may become overwhelming. The results of the experience can be everlasting, even with treatment. Strategies and assistance for victims of trafficking focus on the goals of recovery and re-establishment of the person's life, primarily in the State of origin.

Legal assistance

Victims of trafficking require legal assistance, in particular when they consent to act as a witness in a criminal prosecution of the trafficker and in their position as an illegal immigrant. Because many victims of trafficking will be fearful of Governments and bureaucratic authorities, the role of providing legal assistance is a particularly significant one. The development of close links between non-governmental organizations working in the fields of human rights and legal aid, and law enforcement agencies and victim support programmes is optimal and facilitates the protection of and assistance to victims.

Language and translation

Victims of trafficking remain very vulnerable when the services they receive are in a language they cannot understand. Language and cultural considerations are important factors in service delivery and the provision of information. Services that are provided in conjunction with liaison staff from the victims' cultural and linguistic groups allow the victims to gain a better understanding of the bureaucratic processes they have to go through. In many instances, it may be important to provide the services of a translator of the same sex as the victim.

Rehabilitation, skills training and education

Whether victims of trafficking are permitted to remain in the destination State or eventually return home, education, training and rehabilitation assistance should be provided as soon as possible. When victims receive a temporary residence permit, they should be able to access the required services immediately.

Shelter

In order to escape from the control of traffickers, victims of trafficking need a safe and secure refuge. The importance of having access to a safe shelter cannot be overemphasized. Despite the prospect of continued abuse, victims remain in an abusive or exploitative situation because they do not have a safe place to go to.

The victims' need for safe shelter is both immediate and long-term. Assistance programmes for victims recognize this requirement and attempt to provide different types of shelter, based on the needs of the victims at the stage of recovery they have reached. A range of shelter arrangements should be available in both the State of destination and the State of origin. Another critical aspect of safe shelter programmes for victims of human trafficking is that other assistance programmes should accompany them.

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

(United Nations)

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985 (General Assembly resolution 40/34, annex) recommends measures to be taken on behalf of victims of crime at the international, regional and national levels to improve access to justice and fair treatment, restitution, compensation and assistance. Principles 14 to 17 set out the victims' rights to medical, social and psychological assistance, health and social services and other relevant assistance.

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.
15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.
16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.
17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.



The full text of the Declaration is available at:
www.unhcr.ch/html/menu3/b/h_comp49.htm

Recommended resources

Handbook on Justice for Victims of Crime and Abuse of Power

UNODC developed the *Handbook on Justice for Victims of Crime and Abuse of Power* as a tool for implementing victim service programmes and for developing victim sensitive policies, procedures and protocols for criminal justice agencies and others who come into contact with victims. The handbook states that the first step in the provision of victim services should always be to provide for the physical and immediate medical needs of victims. Section two of the handbook provides detailed material on implementing victim assistance programmes.



The handbook can be consulted at:
www.unodc.org/pdf/crime/publications/standards_9857854.pdf

The IOM Handbook on Direct Assistance for Victims of Trafficking

The IOM Handbook on Direct Assistance for Victims of Trafficking, published in 2007, is an expansive resource for those who offer assistance to victims.



The IOM Handbook is available at:
www.iom.int/jahia/Jahia/cache/offonce/pid/1674?entryId=13452

Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

In addition to the *Handbook on Justice for Victims of Crime and Abuse of Power*, UNODC published a guide for policymakers in implementing the Declaration of Basic Principles of Justice for Victims of Crime.



The Guide for Policymakers is available at:
www.unodc.org/pdf/crime/publications/standards_policy_makers.pdf

Commonwealth Guidelines for the Treatment of Victims of Crime

The Commonwealth Guidelines build on the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in the context of Commonwealth States.



The Commonwealth Guidelines are available at:
www.thecommonwealth.org/Internal/156283/publications/