



Tool 7.10 Return and reintegration of children

Overview

This tool discusses the special considerations involved in repatriating child victims of trafficking.

In situations where a child victim is involved, returning the child to the State of origin may not be appropriate. In all cases involving children, special precautions must be taken to ensure that returning children is in their best interests and that, prior to the return, a suitable caregiver such as a parent, other relative, other adult caretaker, a Government agency or a childcare agency in the State of origin has agreed and is able to take responsibility for the child and provide him or her with appropriate care and protection.

Article 6, paragraph 4 of the Trafficking in Persons Protocol provides that States parties, in considering measures to assist and protect victims of trafficking, must take into account the special needs of child victims. 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 to treat the victim as a child in accordance with the Convention on the Rights of the Child, until his or her age is verified.

Convention on the Rights of the Child

General Comment No. 6 (2005) of the Committee on the Rights of the Child is concerned with the treatment of unaccompanied and separated children outside their country of origin. This General Comment sets out the clear primacy of the best interests of the child; paragraph 84 states the following:

Return to the country of origin is not an option if it would lead to a “reasonable risk” that such return would result in the violation of fundamental human rights of the child, and in particular if the principle of non-refoulement applies. Return to the country of origin shall in principle only be arranged if such return is in the best interests of the child. Such a determination shall inter alia take into account the:

- Safety, security and other conditions, including socio-economic conditions, awaiting the child upon return, including through home study, where appropriate, conducted by social network organizations;
- Availability of care arrangements for that particular child;
- Views of the child expressed in exercise of his or her right to do so under article 12 and those of the caretakers;
- The child’s level of integration in the host country and the duration of absence from the home country;
- The child’s right “to preserve his or her identity, including nationality, name and family relations” (art. 8);

- The “desirability of continuity in a child’s upbringing” and the child’s ethnic, religious, cultural and linguistic background (art. 20);
- In the absence of the availability of care provided by parents or members of the extended family, return to the country of origin should, in principle, not take place without advance secure and concrete arrangements of care and custodial responsibilities upon return to the country of origin.



General Comment No. 6 (2005) of the Committee on the Rights of the Child is available at:

<http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

For the text of the Convention on the Rights of the Child see:

www.unicef.org/crc

OSCE Action Plan to Combat Trafficking in Human Beings

The OSCE Action Plan to Combat Trafficking in Human Beings (adopted by the OSCE Permanent Council in its decision No. 557/Rev.1) recommends that a decision to repatriate a child victim of trafficking in human beings should only be made after all of the circumstances of the specific case have been taken into account and if there is a family or special institution in the country of origin to ensure the child’s safety, protection, rehabilitation and reintegration.

In other words, a mechanism needs to be in place to establish, in cooperation with the relevant social worker and child welfare authorities, whether or not repatriation of a child victim is a safe thing to do and ensure that the process takes place in a dignified manner and is governed by a concern for what is in the best interests of the child. States are also expected to establish procedures to ensure that the child is received in the State of origin by an appointed responsible member of the social services of the State of origin and/or the child’s parents or legal guardian.

In those cases where the child’s return is voluntary or in the best interest of the child, the Trafficking in Persons Protocol encourages States parties to ensure that the child is returned to his or her home State in an expeditious and safe manner. In situations where the safe return of the child to the family or State of origin is not possible, or where such return would not be in the child’s best interest, the social welfare authorities should make adequate long-term care arrangements to ensure the effective protection of the child and the safeguard of his or her human rights. In this regard, relevant State authorities in States of origin and of destination should develop effective agreements and procedures for collaboration with each other in order to ensure that a thorough enquiry into the individual and family circumstances of the child victim is conducted to determine the best course of action for the child.



The OSCE Action Plan is available at:

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

Guidelines for the protection of unaccompanied minors of the Office of the United Nations High Commissioner for Refugees

Unaccompanied children have often had little or no choice in the decisions that have led to their predicament and vulnerability. Irrespective of their immigration status, they have special needs that must be met. UNHCR has developed a set of “Guidelines on policies and procedures in dealing with unaccompanied children seeking asylum” (February 1997). The guidelines, to be applied in conjunction with those set out in the UNHCR publication *Refugee Children: Guidelines on Protection and Care*, provide recommendations on how to ensure that any childcare and protection action is consistent with the principle of the best interests of the child. The guidelines are based on the principle that effective protection and assistance should be delivered to unaccompanied children in a systematic, comprehensive and integrated manner.

The guidelines have three purposes:

- (a) To promote awareness of the special needs of unaccompanied children and the rights reflected in the Convention on the Rights of the Child;
- (b) To highlight the importance of a comprehensive approach;
- (c) To stimulate discussion in each State on how to develop policies and practices that will ensure that the needs of unaccompanied children are being met. This will inevitably require the close cooperation of a variety of Government bodies, specialized agencies and individuals in delivering an effective continuum of care and protection.



The text of the guidelines can be consulted at:

www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=PUBL&id=3d4f91cf4

Guidelines of the International Programme on the Elimination of Child Labour of the International Labour Organization

In the framework of its Programme on the Elimination of Child Labour, the ILO developed 12 principles which should guide all actions in the recovery and integration of trafficked children:

1. Each child is an individual and the recovery and integration process should be an individual one promoting the best interests of each child.
2. While respecting differences between individual children, each child should not suffer discrimination on the basis of age, sex, nationality, race, language, religion or ethnic or social origin, birth or other status.
3. No trafficked child should be held in detention at any time.
4. Each child's right to privacy and confidentiality should be respected and protected at all times.

5. Each child should be protected from all forms of neglect and physical and psychological abuse (including verbal abuse) at all times.
6. The views of each child should be considered and actively sought.
7. Each child should be made aware of her or his rights as well as responsibilities.
8. Each child should be treated with respect, affection and dignity. Self-reliance and resilience of the child should be promoted in line with her or his age and maturity.
9. Family and community-type arrangements for a child should be favoured over institutional settings.
10. Each child should not be separated from her or his family unless there is a risk of being neglected, abused or re trafficked.
11. Care providers should form networks to ensure that each child has appropriate physical and emotional care in a setting that encourages her or his development.
12. Care providers should be trained and experienced in caring for children and have the relevant professional qualifications according to their job description.



These 12 principles are contained in the ILO publication *Combating Child Trafficking; Child-friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children*, available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16.htm

Promising practice

Bangladesh National Women's Lawyers' Association

The Bangladesh National Women's Lawyers' Association offers legal support to women and children victims of trafficking. The Association has 28 legal clinics in different districts and 13 focal sites in 13 trafficking-prone areas. In addition, it has shelters in Dhaka where survivors of trafficking (as well as violence and discrimination) are helped to become reintegrated into society by means of job placements or to be repatriated to their country of origin. The Association focuses on the rehabilitation of victims of trafficking and is campaigning particularly to strengthen action against trafficking of children to Gulf States for use as camel jockeys. It has successfully repatriated several victims of this crime from India, Pakistan and the United Arab Emirates in collaboration with the Ministry of Home Affairs and the Ministry of Foreign Affairs. After victims are repatriated, the Association provides treatment and counselling and other services to returnees and takes legal action against traffickers.



More information about the work of the Bangladesh National Women's Lawyers' Association can be found at:

www.bnwlahostel.org

The National Center for Refugee and Immigrant Children in the United States

The National Center for Refugee and Immigrant Children was established in the United States in 2005 to provide pro bono legal and social services to unaccompanied children released from detention in the United States. Alone and without resources, these children are unable to hire attorneys to represent them as they go through the legal system. Many of the children have experienced human trafficking, persecution or domestic violence. Without an attorney's assistance, they are often denied legal protection or the right to stay in the country.



Source:

www.refugees.org/article.aspx?id=1260&subm=75&area=Participate

Recommended resources

Child-friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children

(International Labour Organization, 2006)

The ILO *Child-friendly Standards and Guidelines for the Recovery and Reintegration of Trafficked Children* refer to steps, procedures and services needed to protect and reintegrate child victims of trafficking in persons effectively. These standards and guidelines build on international standards and tailor them specifically for use by all practitioners, decision-makers and policymakers who are directly or indirectly involved in the recovery and reintegration of trafficked children in the Asian context.



This ILO publication is available at:

www.ilo.org/public/english/region/asro/bangkok/library/pub16a.htm

Guidelines on the Protection of Child Victims of Trafficking

(United Nations Children's Fund)

These UNICEF guidelines, published in September 2006, set standards for good practice with respect to the protection of and assistance to trafficked children. These guidelines, intended for use by Governments and State actors, international organizations, non-governmental organizations and other service providers, are the culmination of global efforts to establish standards and guidelines. Chapter 6 of this publication explicitly addresses the issue of regularization of the child victim's status.



The guidelines can be downloaded at:
www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

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

(United Nations Children's Fund)

The UNICEF Regional Office for Central and Eastern Europe and the Commonwealth of Independent States published a *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*. The guide has been designed for practitioners working to protect child victims of trafficking specifically within the European region. It provides checklists of what to do when dealing with child victims of trafficking and recommendations for interventions that respect and account for the special rights and needs of child victims of trafficking.



The reference guide is available at:
www.unicef.org/ceecis/protection_4440.html

Policy paper on return of foreign unaccompanied minors

(Terre des hommes)

Terre des hommes made available a pre-publication release of its policy paper concerning the return of foreign unaccompanied minors, in March 2007. This policy paper discusses the principle of “durable solution” and steps to be taken in the process of repatriating children to their country of origin, in accordance with the Convention on the Rights of the Child.



The policy paper is available at:
www.tdh.ch/website/tdhch.nsf/pages/trafficking_documentationE

Anti-Trafficking Training for Frontline Law Enforcement Officers and Listening to Victims: Experiences of Identification, Return and Assistance in South-Eastern Europe

(International Centre for Migration Policy Development)

In 2007, ICMPD published *Anti-Trafficking Training for Frontline Law Enforcement Officers*. The training was developed to raise awareness of the crime of human trafficking as a serious crime and violation of human rights, and to enhance the capacity of non-specialized police

and border personnel to identify and properly treat victims of crime. The training material consists of a *Training Guide* (containing a curriculum of five units) and a *Background Reader* (comprising topics relating to trafficking relevant to police, border and customs officials).

Additionally, ICMPD has published a study entitled *Listening to Victims: Experiences of Identification, Return and Assistance in South-Eastern Europe*.



Both publications are available free of charge to relevant actors in the field of anti-trafficking. For more information about how to acquire these publications, visit:

www.anti-trafficking.net