



# **COMBATING THE TRAFFICKING IN CHILDREN FOR SEXUAL PURPOSES | Questions and Answers**





ECPAT Europe Law Enforcement Group Programme against Trafficking in Children for Sexual purposes in Europe in cooperation with ECPAT International.

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FOR SEXUAL PURPOSES | Questions and Answers**



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# What is trafficking in children for sexual purposes?

## Definition of Human Trafficking

The most used international law definition is the one contained in Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime 2000, and in Article 4 of the Council of Europe Convention on action against Trafficking in Human Beings 2005:

- (a) *“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*

*Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*

- (b) *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.*



## Definition of Child Trafficking

The articles continue:

- (c) *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article.*
- (d) *“Child” shall mean any person under eighteen years of age.*

## What is Human Trafficking?

Trafficking in human beings is a serious crime that many governments and other actors in the world are trying to address. Trafficking is different from smuggling of migrants and from individual migration, because the trafficked person is intended to be **exploited** by the persons involved in managing their movement from one place to another.

To be exploited means that someone other than the victim profits from the situation.

In some jurisdictions the **mere exploitation** is enough for the case to be considered trafficking. However, in reality, it may be difficult to distinguish between smuggling and illegal migration and trafficking, because a person may start a journey as a migrant, but end up in a trafficking situation.

Criminals gain large amounts of money by trafficking human beings, while their victims suffer terrible abuses, including death and disease. Other male and female intermediaries, including relatives, may also make profits, but not necessarily in large amounts.

Humans can be trafficked **within** their national borders or **across** borders. However, trafficking within a country might not be defined as ‘trafficking’ in the national legislation.

Humans are frequently exploited in the sex industry, but people can also be exploited by being used for running drugs or weapons, for begging and petty theft, for organ theft, for illegal adoption, for work in the informal labour sector, such as agriculture, and even in the formal labour sector.



**Sexual exploitation of children** is frequently the result, or even the origin, of a trafficking operation. Such exploitation is the sexual abuse by an adult or by a peer of a person under the age of 18, and remuneration in cash or in kind to the child or to a third person or persons. The child is treated as a sexual object and as a commercial object. The child may be used for prostitution or for the making of pornography. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and a contemporary form of slavery.

### **International Collaboration**

It is recognised that in our modern world of sophisticated communications, no government can address the problem of human trafficking in isolation. Following international agreements, governments are therefore making efforts to harmonise their laws and their law enforcement mechanisms, and to increase their collaboration, so that human traffickers can be arrested, and victims can be rescued. The task is not easy. Countries have different legal systems, different policing methods, different levels of resources available, and different languages. They are trying to uncover criminal networks that extend beyond national frontiers and that have acquired vast resources, since human trafficking is a very profitable crime.

### **Supply and Demand**

Human traffickers operate in circumstances where there are large numbers of people who are desperate for a better life, because of poverty, or lack of real opportunities, or because of personal difficulties, and when there is a demand for their labour or services in another place. Much of the 'demand' is for sexual services. However, the victim do not always know that they will be exploited to provide sexual services; often they believe that they will go to a respectable job, and only find the true nature of the work after they arrive.

Sometimes the work itself is not providing sexual services, but the victim is later sexually abused because he/she is under the control of another person, and unable to make free



decisions. So the exploitation may start out as exploitation of a person's labour, and end in their sexual exploitation as well.

## **Children as Victims**

Significant numbers of trafficked human beings are persons younger than 18 years, in other words, children.

A 'child' is defined in international law as any person under the age of 18 years. Where children are the victims of human trafficking, the problem becomes even more difficult to combat, because children have special needs, and present additional challenges to the law enforcers and the child protection agencies or caregivers in the countries where they are found. Moreover, states have obligations under international law to child victims of trafficking which are more onerous than their obligations to adults.

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Children fall victim to human traffickers for many of the same reasons that adults become victims. However, children have less influence on their own lives, and the national systems of justice and child welfare often do not adequately protect them. Children are thus much more vulnerable than adults to exploitation.

There is not one 'typical' child victim, but there are many factors that make children vulnerable. A typical scenario is one in which the child agrees to go to another place, with no realisation of the exploitation that is awaiting him/her. Children are tempted by the chance to earn money and believe the stories they are told; many young people who fall victim to traffickers believe that they are going to a real job – in a hotel, a bar, a private house. Some believe that they will be getting married. Perhaps they are unhappy in their home situation and are trying to find a better life; many have suffered abuse from their parents and want to escape; many have not succeeded at school, and see no future for themselves in their own environment. Sometimes they are members of a minority that suffers discrimination in their own country, and they want to escape their poverty. Sometimes they are kidnapped by the traffickers and sold.



Children can become the victims of a trafficking operation at any age, depending on the form of exploitation to which they will be subjected. Teenagers are often trafficked for sexual exploitation. Sometimes older children even know that they will be used to provide sexual services to adults, but they are completely unaware of the level of abuse to which they will be subjected, or of the physical and psychological damage they will suffer. Younger children are often trafficked to be turned into beggars and thieves, or exploited in the labour market.

Young people who want to get away from their home situations might not think about the possible problems they could face, and they do not have the experience to anticipate dangers. Children who have no one to protect them are easy to manipulate. The traffickers understand this vulnerability, and are ready to exploit it for their own purposes.

The common factor that identifies a **child victim of trafficking** is the ultimate exploitation to which he/she is subjected. The child may be earning money for the profit of another person, or be saving that other person from spending money: he/she is 'used' by someone else. Since, in law, the agreement of the child is irrelevant, **if the child is used for the profit of another person, then the child is the victim of trafficking.**

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## The Control Mechanisms

The common ways in which traffickers keep young people submissive are:

- Confiscation of their identity documents
- Threats of reporting them to the authorities
- Violence, or threats of violence
- Threats of violence towards members of the young person's family
- Social isolation
- Keeping the young person locked up or limiting their freedom in another way
- Claiming that the young person owes a debt of money
- Depriving the young person of money



## Trafficking Schemes

There are three phases in the trafficking process; the recruitment phase, the transit phase and the destination phase, but these phases can overlap. Some victims are trafficked over and over again.

As with adult victims, traffickers get hold of children and young people in many different ways. It is a complex crime, and not always easy to identify at first hand or recognize as such. For example, a young person might answer an advertisement for work in a hotel or bar, but end up prostituted in such a place. A young person might be promised work as a model, but be used to make pornography instead. A young girl may fall in love with a young man who promises to take her to a foreign country and marry her, but his real intention is to sell her to his friends for sex. A small boy might be offered a chance to go abroad and get an education, but find that he is put on the streets to beg and to steal for his master.

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The traffickers themselves might be part of a well organised criminal network, or they might be individuals taking part in only one or more of the various stages of the operation, such as the provision of false documentation, transport, or a 'safe house'. These criminals are frequently highly dangerous, and willing to commit serious crimes of violence to avoid detection and protect their financial interests.

## The international context in which governments are trying to combat trafficking

In the year 2000, an international treaty was adopted by the states members of the United Nations. This is the UN Convention against Transnational Organized Crime. A supplementary part of that treaty is the **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**. In the Protocol, states have agreed to combat human trafficking related to organised crime, to protect and assist victims, and to cooperate with each other within the context of combating organised crime.



European states have gone even further. Among the states members of the Council of Europe, a **Convention on Action against Trafficking in Human Beings** is being implemented. This agreement is complementary to the United Nations treaty, but it has a wider application. It does not rely on an organised criminal element to a trafficking operation, and considers that **any form of trafficking in human beings** is a violation of human rights and an offence to the dignity and integrity of human beings. Therefore European states have agreed

- To combat all forms of trafficking, whether national or transnational, and whether or not related to organised crime
- To extend protection to all victims, men, women and children
- To apply the protection of the Convention to all forms of exploitation (sexual, forced labour or services, etc.)
- Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, it is presumed that the victim is a child

As a result of the internationally agreed standards, for adults to be considered the victims of human trafficking, there must be some element of force or coercion or deception that makes their migration a trafficking operation. In other words, there must be something that deprives them of their real ‘consent’ to what happens to them. In relation to children, however, that is, persons under the age of 18, there are very special protections. Under the international agreements, where the victim is a child, the issue of ‘consent’ is not relevant at all. A child does not need to have been forced, or threatened or deceived into migrating. It is enough that he/she is **exploited** in some way for the child to be considered as a victim of human trafficking. (See the precise definitions at the top of this chapter.)



## Other instruments applicable to children

In addition to the international treaties that specifically address the crime of human trafficking, children have special protections under other international instruments. The most important one is the **Convention on the Rights of the Child** (CRC). Under this treaty, every country in the world (except for the United States of America and Somalia) has agreed to protect children against all forms of sexual exploitation and sexual abuse, and to prevent children from being abducted, sold or trafficked for any purpose. An additional Protocol to the CRC sets out the minimum requirements for a national law that will protect children from sale, prostitution and pornography. Countries that have already ratified the CRC are now trying to ensure that their national laws are in line with the requirements of the Protocol so that the children within their jurisdictions can be properly protected against trafficking and exploitation.

The CRC defines a **child** as *'every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.'*

In Article 35 of the CRC, States Parties agree to *'take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.'*

## The 'best interests' of children

Where children are victims, the international legal standards recognise that, because children are still developing both physically and emotionally, special protection measures are needed. But children are not only the 'objects' of protection. Under international human rights law, especially recognised by and outlined in the Convention on the Rights of the Child, children are recognised as persons having certain inalienable rights of their own.

The possibility of contradiction between what safeguards are required to protect children from harm, and what choices the individual child is entitled to make in his/her own right, is resolved in modern jurisprudence by having regard to 'the best interests' of the child.

This means that in any decision regarding a child, the 'best interests' should be the primary consideration. Thus, any situation should be looked at from the child's own perspective, seeking to take the child's views into consideration, and with the objective of ensuring that his/her rights are respected. Any decision concerning a child should therefore be guided by what is **objectively** best for that child, given his/her age and maturity.



# How to recognize children at risk and child victims of trafficking?

## Indicators for recognising a child victim

Trafficked children may be identified in the country to which they have been trafficked, or they may be identified after they have returned to their home country.

Indicators have been developed in both 'receiving' and 'sending' countries which can help social workers and law enforcement authorities to recognise a child victim of trafficking.

## Indicators from a 'receiving' country

In the Prosecutor General's Office of the Netherlands indicators to identify a victim of trafficking have been developed in the context that prostitution is legal in the Netherlands for persons over the age of 18. The indicators are not specific to children, but can be applied to them too. In April 2006 a new list of indicators was developed that also includes other forms of exploitation. If a young person, of either Dutch or foreign origin under 18 is found involved in prostitution, the suspicion should arise that he/she is the victim of a trafficking operation. Suspicions will be raised on the following grounds:

1. Somebody other than the young person has arranged the journey or the visa
2. The young person does not have possession of his/her own travel documents
3. False papers are being used, and these have been provided by another person
4. Illegal entry into the country
5. The young person is afraid of being expelled
6. The young person does not have access to medical care
7. The young person is required to earn a minimum amount of money every day
8. The young person has to pay off an exorbitant debt, perhaps for the travel costs, before being able to control his/her own earnings
9. A large part of the earnings is handed over to another person
10. The young person receives less payment for services than a local person





11. A percentage of the earnings of the young person is paid by the exploiter to another person
12. The young person has limited freedom of movement
13. Relatives in the country of origin are being blackmailed or threatened
14. The family of the young person is in poor economic circumstances in the country of origin, and depends on the young person's earnings
15. The young person has to work excessively long hours and in poor conditions
16. The young person has been abused, or works under the threat of violence
17. The location of the young person's work varies
18. The person in control of the young person has applied for visas on behalf of many others, or acts as guarantor for other persons making visa applications
19. The person who guarantees the visa application has acted for other visitors who have not returned to their countries of origin on the expiry of the visa
20. The young person stays overnight at his/her working place
21. There is a relationship between the young person and people with relevant criminal records
22. The young person does not have his/her own place to live
23. The young person does not know his/her work address
24. The young person does not speak a language used in the Netherlands and is from a country known for human trafficking
25. The young person carries sub-culturally specific marks which point to dependency on a protector
26. The young person has history of non EU country of origin, marriage, and shortly afterwards of working in prostitution

## Indicators from a 'sending' country

In Moldova, some indicators to identify trafficked victims have been developed through training under initiatives of the Stability Pact. They are not particular to children, but include

1. Persons who approach organisations seeking specific social assistance
2. Persons who return home, having been found in a foreign country through police raids on brothels, or places used for prostitution including bars, hotels, apartments and private houses
3. Persons who have been deported from another country for visa violations
4. Persons who complain about ill-treatment to the police in another country

Those who can identify children who have been trafficked, or who are at risk of being trafficked, are not always from the law enforcement agencies. Teachers, street social workers, social workers, parents, and even clients have a big role to play in rescuing or protecting children.

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## Indicators for Children at Risk

The following indicators, in any combination, make children especially vulnerable to being trafficked:

### 1. Factors relating to the family

- a. Low level of education in the family
- b. Sexual abuse within the family
- c. Lack of family support within the educational system
- d. Substance abuse/addiction/alcoholism within the family
- e. History of abuse and violence within the family
- f. Lack of communication between parents and children
- g. Single-parent families, or families in which there has been a divorce
- h. Absence of parental care – children whose parents are absent, or children whose parents have placed them in institutions





## **2. Social and economic factors**

- a. Little or no access to education
- b. Lack of employment opportunities/high levels of unemployment/insecurity of employment/low levels of pay for unskilled work
- c. High levels of cyclical migration (seasonal working)
- d. Local success stories from migration
- e. Lack of information on migration opportunities
- f. Lack of information on workers' rights
- g. Lack of information about foreign countries (illusions about life in the west)
- h. Lack of a child-friendly environment and lack of opportunities for children and adolescents.
- i. Lack of opportunities for girls and children from minority groups.
- j. Lack of an effective child protection system.
- k. Impact of the mass media forming negative and distorted attitudes towards sexual relationships
- l. Children viewed as a commodity within their community
- m. Girl children considered as property within their community
- n. Cultural norms where children are expected to grow up early (early marriage, child labour..)
- o. Poverty and extreme poverty

## **3. Children in difficult circumstances such as**

- a. Children using drugs or alcohol
- b. Neglected children
- c. Children who have dropped out of school
- d. Children in substitute care
- e. Children who are refugees from local wars
- f. Children who are members of marginalised or minority groups
- g. Children involved in petty crime
- h. Children who are already selling themselves for sex within their own communities
- i. Children already involved in trafficking

# What are consequences of trafficking for children?

## Consequences of being trafficked

Children who have been the victims of a trafficking operation will have suffered physical and/or sexual abuse, often of an extreme kind. They are beaten, raped, tortured, sometimes killed. They endure this suffering at an age when they should normally be trusting, healthy and energetic youngsters. During childhood children are developing in a physical, social and psychological way. When trauma occurs during this important stage in life, the consequences are devastating, and affect all aspects of their lives. Children can lose their independence, and the capacity to lead a meaningful adult life. They suffer resultant long-term negative effects on their health and life expectancy. They can suffer stigma in their families and communities when they return home. They can become involved in criminal activities.

Some children (former victims or others) may be recruited to take part in the exploitation of other children, or may set up their own systems of exploitation, thus perpetuating the cycle of child abuse.

Often children show a complex pattern of symptoms, related to the multi traumatic experiences. For some children the effects are clearly visible; others however suppress their feelings and symptoms, and it can take a while before symptoms show up; this can be especially the case with psychological symptoms. Some children will even repress and forget the traumatic experience, the memory of which will surface later on.

**All children who have been sexually exploited will suffer some form of physical or mental harm.** Where children have been enslaved and have had no control over their lives during their exploitation, they suffer trauma that is equivalent to the results of torture. Usually, the longer the exploitation goes on, the more health problems that will



be experienced. But some children will suffer life-long damage very quickly, such as by contracting HIV.

The various effects on children that can result from being sexually exploited are summarized below:

**Effects on Physical Health** may include:

- Victims acquire various diseases, including venereal diseases and HIV infection
- Victims suffer a whole range of symptoms such as: nausea, headache, chest pain and respiratory problems, dizziness, stomach and abdominal pain, backache, skin diseases
- Girl victims can become pregnant
- Girl victims can suffer complications of pregnancy and be made to undergo abortions
- Victims frequently suffer physical deprivations, including beatings, sensory deprivation and food deprivation
- Victims endure bruises, scratches, wounds on sexual organs

**Effects on Mental Health and Emotional Responses** may include:

- Depression
- Feelings of hopelessness
- Feelings of guilt and shame
- Suicidal thoughts
- Exhaustion and sleeping problems (not sleeping or oversleeping)
- Flashbacks, nightmares, anxiety attacks, irritability and other symptoms of stress
- Dissociation, or emotional withdrawal
- Inability to concentrate/limited ability to organize and structure
- Loss of self-confidence (sometimes leading to overconfident manner to compensate)
- Low self-image, believing themselves to be worthless
- Low self-esteem/feelings of self-hate
- Easily feel 'picked on'
- See themselves as saleable commodities
- Feelings of degradation



- Anxiety
- Confused sense of time
- Confused feelings about love and sex
- Nervous breakdowns, sometimes with permanent effect
- Anger

**Effects on Behaviour** may include:

- Victims can be mistrustful of adults
- Victims adopt anti-social behaviour
- Victims can find it difficult to relate to others, including within the family and at work
- Victims frequently develop drug and alcohol addictions
- Suppression of anger can result in outburst of anger against others or against themselves (self harm)
- Victims can become aggressive and angry towards others around them
- Victims can develop dependant relationships with their abusers
- Victims worry that they will not be able to have a normal life
- Victims worry about people in their families and communities knowing what has happened to them, and become afraid to go home
- Victims develop eating disorders (not eating, overeating or binge-eating)
- Victims become hyper-active
- Victims are unable to discriminate in relationships (mix with the 'wrong' people)
- Victims become flirtatious and sexually provocative/wear sexy adult clothing
- Victims begin to steal/hoard
- Victims like to have and spend money
- Victims start to abuse or bully others, lie and cheat
- Victims run away from a protective environment
- Victims feel powerless and need to 'be in control' by getting their own way (temper tantrums)
- Victims harm themselves (self-inflicted cuts or other injuries)

While many children are resilient, with a high capacity to heal after abuse, if given the care and support they need, extreme stress and trauma resulting from sexual exploitation or other serious abuse can lead to an identifiable long-term illness called Post Traumatic Stress Disorder (PTSD). PTSD can be difficult to diagnose and to treat. It is characterized by the following symptoms

- Re-living the event through dreams, nightmares, flashbacks and intrusive thoughts
- Avoidance of reminders of the event
- The person's general responsiveness is numbed to current events
- Persistent symptoms of high arousal such as sleep disturbance, aggressive behaviour and poor concentration

PTSD is known to affect memory in different ways. Children suffering from PTSD may even be unable to produce a description of what happened. Lack of cooperation, hostility, impaired ability to recall events in detail, are all likely to occur as a result of trauma.

### **Children remaining/returning to exploitation**

Even after being rescued, victims of trafficking run the risk of becoming victims all over again. As a result of their low self esteem, they are vulnerable to returning to exploitative situations.

Some victims, even when they are free from their trafficker, will continue to work in prostitution. This may be for several reasons. Feelings of hopelessness may give them the impression that working in prostitution is the only way to survive. Lack of social and psychological recovery is often a reason that victims fall back into prostitution. Prostitution makes fast money, and it might be difficult to find other paid work, because of their lack of education. But prostitution can also give a victim a sense that he/she has control of his/her life; working for yourself means you can decide what to do and you can keep the money. Victims might continue in prostitution because they have become used to sexual contact, or they might perceive themselves to be in a position of power towards their clients, which helps to restore their self esteem.



Typical attitudes among children who have suffered commercial sexual exploitation are

GIRLS		BOYS	
Fear	Pregnancy	Fear	Being / becoming gay
Feel	'Not themselves' Others see them as disgusting They are to blame They lack honour / dignity	Feel	That being with a paedophile is better than being with a homosexual Prostitution is acceptable if one is poor (wish to look after others more vulnerable)
Present	Consider prostitution as 'just a job' Need / want the money Like not being alone	Present	Consider prostitution as 'just a job' Need / want the money Like not being alone Like / enjoy the work
Wish	Fantasize about 'real love' and lasting relationships (being 'rescued')	Wish	Want to get out / Fantasize about 'caring' relationships

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Typical ways of coping through their situations include

- Substance abuse
- Materialistic/consumerist attitudes or 'self indulgence' (clothes, food, etc)
- Rationalising their situation ('we are professionals')
- Pride in self-sufficiency
- Stoicism (pretending that the sexual exploitation has had no effect on them)





# Which legislative provisions are relevant in combating child trafficking?

This chapter gives an overview of the regulatory legislative environment that is relevant for combating child trafficking and the sexual exploitation of children. There are nine sections including what is a child, child prostitution, child pornography, child trafficking, migration of children, child exploitation and child protection mechanisms. Where relevant, an international law definition has been given as a point of reference.

## 1. Child

A child means every human being below the age of 18 years, unless under the law applicable to the child, majority is attained earlier. (Source: CRC).

National provisions may include

- Age of majority
- Age of criminal responsibility
- Minimum age for marriage
- Minimum age for consent to sexual relations with another person
- Minimum age for working in paid employment
- Persons who have legal rights over children or responsibilities for children (parents, guardians, teachers, carers, etc)

## 2. Child prostitution

The use of a child in sexual activities for remuneration or any other form of consideration. (Source: Optional Protocol to the CRC)

National provisions may include

- Provisions concerning prostitution
- Penalties for prostituting



- Penalties for pimping
- Penalties on clients
- Penalties on owners of premises used for prostitution
- If prostitution is legal, restrictions on where sexual services can be sold
- The criminal or non-criminal measures applicable to a child found in prostitution, or to the parents/guardians of such child
- Penalties applicable if child prostitution is a criminal offence on the part of the child
- Anti-social behaviour/child delinquency provisions in the criminal or administrative codes
- Rules available to the authorities to deal with minors who offer themselves for prostitution

### 3. Child pornography

Any representation of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes. (Source: Optional Protocol to the CRC)

National provisions may include

- A definition of child pornography
- The offence of making child pornography
- The offence of distributing child pornography
- The offence of possessing child pornography
- Penalties for making, distributing and possessing child pornography

### 4. Child trafficking

The recruitment, transportation, transfer, harbouring or receipt of a child for the purposes of exploitation shall be considered 'trafficking in human beings'. (Source: Council of Europe Convention on Action against Trafficking in Human Beings).

National provisions may include

- A definition of human trafficking
- Offences relating to human trafficking



- Offences relating to child trafficking
- Penalties for human trafficking
- Penalties for child trafficking

## **5. Migration of children**

National provisions may include

- Protections for separated or unaccompanied children entering the country
- Age at which a person may leave the country unaccompanied
- Rules regulating children's entry to or departure from the country
- Documentation that must be produced for children entering or leaving the country

## **6. Child rights monitoring mechanisms**

National provisions may include

- Institutional protection mechanisms relating to children/children in need of special protection (Ombudsman for children, state services...)

## **7. Child sex abuse/Exploitation of children**

National provisions may include

- Offences relating to sexual abuse of children
- Offences relating to sexual abuse of children in situations of dependency
- Penalties for sexual abuse of children (include different age categories)
- Offences relating to the exploitation of children for profit (for labour/sexual exploitation)
- Penalties for exploitation of children

## **8. Procedures and measures for protection of children in criminal proceedings**

National provisions may include

- Procedural protections for child witnesses in criminal proceedings
- Mechanisms and procedures that protect the rights of children who have been trafficked or who are the victims of sexual exploitation

## 9. International instruments

National provisions may include measures that implement the ratification by the government of

- UN Convention on the Rights of the Child
- Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography



# ITALY: Assistance to Trafficked Victims

## Article 18 of Legislative Decree No.286/98

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As combating the trafficking of human beings has become a priority for the Italian authorities, Italy has taken several judicial and humanitarian initiatives to deal with the phenomenon of the influx of trafficked women and girls from Eastern Europe and Africa.

The Italian Department for Equal Opportunities coordinates an inter-Ministerial Commission with responsibility for the management and implementation of Article 18

of Legislative Decree No. 286/98. Through Article 18, Italy has tried to respond to the problem of human trafficking. The provision allows the granting of a special **residence permit** to victims of trafficking, and for their participation in a social and integration assistance programme.

Article 18 is therefore a tool for legal action, but it is also a humanitarian measure. It allows for assistance to and protection of trafficked

women, who would otherwise often not be regarded as the victims of a crime, but as offenders themselves.

The granting of a permit and insertion in a social protection programme does not impose an obligation on the victim to report to the police. Instead, it supplies the authorities with information and cooperation from the victim. The provision is innovative because it extends immediate protection to all victims of trafficking, and it provides an incentive

- Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime
- ILO Convention No.182 on the Worst Forms of Child Labour

for them to cooperate in the investigation. Its rationale is that victims can cooperate more effectively from a position of security and when they have rights.

The permit is granted *‘whenever police operations, investigations or court proceedings involving any of the offences...or whenever the social services of a local administration, in the performance of their social assistance work, identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the said foreign citizen is endangered as a consequence of attempts to escape from a criminal*

*organisation, which is engaged in one of the above-mentioned offences, or as a consequence of statements made during preliminary investigations, or in the course of court proceedings’* (Art.18, paragraph 1).

The request for the residence permit can be made by the local authority or by a private organisation. The decision to grant the permit is taken by the ‘Questore’, who must be informed of the integration programme provided for the trafficked victim. The residence permit is granted initially for 6 months. It can be renewed for a period of one year, or longer if required for judicial purposes. The

permit is revoked if the foreign victim leaves the integration programme that has been provided.

Within the framework of Article 18, national funds have been allocated to the Department for Equal Opportunities to support and implement two types of programmes: social protection projects, and system initiatives.

Social protection projects provide foreign women and children, who are victims of trafficking, with a high level of social protection. This may include a special residence permit, suitable shelter, information about their rights, social and health services,

medical and psychological care, assistance in finding employment, vocational training, legal advice, and the services of a competent translator during legal proceedings. It is hoped that this type of support and protection will encourage victims to cooperate with the authorities by identifying the traffickers, especially through the judicial process.

System initiatives support such programmes through awareness campaigns, research, training activities for

public and private operators of the social protection programmes, technical assistance, and monitoring of projects. The most relevant system initiative is the Free Telephone Helpline, which allows victims of trafficking to make contact with professionals who can assist them. The number started operations in July 2000.

Two other important system initiatives are

- The national monitoring of activities and follow-up of reports against

traffickers (under the Research Department at the University of Trento)

- Assisted voluntary repatriation and reintegration of victims of trafficking in their countries of origin (in collaboration between the Ministry of Interior and the International Organisation for Migration). Two hundred cases have been assisted within a five year period of operation.



# What kind of care and protection do trafficked children need?

## Basic Principles

- The best interests of the child are the primary consideration. Treat him/her as you would treat your own child and as a unique individual requiring a special approach.
- Be 'child friendly' and gender sensitive. Children are different from adults; boys are different from girls.
- Practice non-discrimination.
- Operate in a collaborative manner with all relevant agencies.

## Guidelines for Law Enforcement Personnel

- Make the child safe as a matter of priority. This means to remove the child from the presence of the suspected abusers to a place of safety and comfort. Collaboration with NGOs or with state or other agencies providing services to children will be necessary.
- Avoid any possible re-traumatisation or re-victimisation of the child. This means to avoid treating him/her as a criminal, to avoid behaving in a judgmental manner, and to avoid putting pressure on him/her to give information. Never treat the child in a degrading or humiliating way.
- Collect any possible evidence that would corroborate the suspicion that the child is a victim of trafficking with the objective of avoiding having to get evidence from the child himself/herself.
- Avoid multiple interviews of the child. All evidence collected should be documented and filed so that it is available for future reference.
- There may be important evidence that would emerge from a medical examination of the child. If this is the case, use a qualified medical practitioner to collect the evidence, and make sure that the child has suitable support during the examination to avoid further trauma.
- Verification of the age of the child is important. However, you are entitled to presume that a person is under the age of 18 if they appear to be so. A medical examination may help with the determination of the age of the young person. Otherwise an

investigator should take into account the physical appearance of the child, his/her psychological maturity, documentation, and information obtained from national or foreign authorities.

- Give the child time to come to terms with what has happened to them. This may be a matter of days, weeks or even months. In the meantime, do not place the child in a law enforcement detention facility, but ensure appropriate residential accommodation.
- With the assistance of the appropriate professionals, make a full assessment of whether the child is capable of giving evidence that could convict the perpetrators. This means both a **Risk Assessment** of the dangers to the child if he/she becomes a witness, and a **Psychological Assessment** of whether the child would be capable of giving meaningful evidence. If, under either assessment, the child is not considered a viable witness, then no further effort should be made to obtain evidence through a statement from the child.
- Under no circumstances should a child be forced or coerced into giving evidence.
- Child victims who agree to testify must be accorded adequate protection measures to ensure their safety and that of their family members in the countries of destination, transit and origin.
- Follow the advice of the child welfare system to ensure a thorough follow-up of the child's best interests.
- Explain to the child what follow-up is being done, and engage him/her in the process.
- Ensure that a guardian or case manager is immediately appointed to take care of the child's interests.

### **Priorities for follow-up care and protection of victims**

- Do a Needs Assessment
- Refer victims quickly to appropriate services for their age and condition
- Ensure immediate care and protection, including physical security, food, accommodation in a safe place, health care, psychosocial support, legal assistance, social services
- Care and assistance must be suitable for the child's cultural identity/origin, gender and age



- Care and assistance must be suitable for the protection of the child against the traffickers, other traffickers, the staff and other children in the same facility, the media, the public
- Ensure educational possibilities and skills training as soon as the child is ready for reintegration
- Provide appropriate assistance to children with special needs (psychosocial distress, pregnancy, etc)
- Do not return a child victim to his/her country of origin unless, prior to return, a suitable care-giver in the country of origin has agreed, and is able, to take responsibility for the child and to provide him/her with appropriate care and protection
- Take the views of the child into consideration when considering family reunification and/or return to the country of origin
- The reunion of a child victim with his/her family should be done through the social service authorities or other mechanism that will ensure the best interests of the child
- The relevant Ministries, in conjunction with the relevant social work authorities and/or guardian, should establish whether or not the repatriation of a child victim is safe and in the best interests of the child
- Children who are being returned to their own countries should be accompanied by a guardian or social worker assigned to the case until the child is placed in the custody of an authority responsible for his/her return, such as the Ministry of Interior or the International Organisation for Migration
- If family reunification and/or repatriation is unsafe, then appropriate legal protections must be put in place for the child in the country of destination
- If family reunification and/or repatriation is unsafe, adequate long-term care arrangements must be put in place for the child in the country of destination
- Such arrangements should favour family/community based arrangements rather than residential care
- An individual integration plan must be elaborated for each child



While trafficked children are recovering, especially when they are in primary psychotherapy or counselling, it is important that they have a sense of security, predictability and control in their lives. This requires a consistent approach by the adults who come in contact with them, including the staff responsible for their day-to-day care, the professional responsible for medical treatment or therapy, and the police responsible for investigating the criminal aspects of the case.

## Issues around Repatriation of Children

The process of repatriation is a joint effort between two countries. Good cooperation and coordination will contribute to the successful and safe return of child victims of trafficking.

The priority considerations should be

- 1 Ensuring safety
- 2 Carrying out a proper investigation in the country of origin
- 3 Elaborating a plan for social and psychological reintegration
- 4 Making suitable preparations for departure from country of destination
- 5 Arranging suitable reception in country of origin
- 6 Ensuring a suitable reintegration process

### 1. Ensuring safety

(See Guidelines for Law Enforcement Personnel and Priorities for Follow-Up Care above)

### 2. Investigation in country of origin

This should include a **social enquiry** into the domestic situation, and an assessment of the parents' capacity to care for the child. It is important to consider the possibility that the parents themselves were involved in the trafficking process.

The investigation should also include a **risk assessment**. It is possible that the child could still be in danger from the traffickers, since the child will represent a form of investment to the exploiters. The child's family may also be in danger from the traffickers. Law enforcement agencies and the social services need to work together to ensure the safety of the child and the family.

**Community support** should be assessed. Many victims of trafficking are stigmatised within their communities when they return. A child should not be sent back into the community without the support of that community.

Take the **child's views about disclosure** of the trafficking abuse into consideration. The child may need psychological support in disclosing his/her abuse, and the family itself may need such support to be able to understand what the child has endured, and help him/her through the reintegration process.

### **3. Elaborating a plan for social and psychological reintegration**

The plan should include

- Proposals for safety measures (placement in a shelter for victims of trafficking/ placement in a foster home/family reintegration)
- Proposals for education (school reintegration)
- Professional courses (obtaining a qualification for employment)
- Proposals for psychological counselling (both family and child)
- Measures for offering legal support (in proceedings against the traffickers, in getting legal documentation)

The plan should be realistic and offer concrete information about the situation in the country of origin. The responsibility for informing the child about the home situation lies with the social workers from the country of destination. The information should be realistic and contain no false promises.

### **4. Preparation for departure**

Counselling sessions in the country of destination should provide the opportunity for the child to express his/her hopes, dreams and fears. The information thus obtained is important for the specialists from the country of origin, because they will need to implement the reintegration plan in accordance with the child's expressed needs and best interests.

Prior to departure, arrangements must be made for

- Legal documentation (passport, departure and entry papers)
- Travel arrangements

- Material support (clothes, food)
- Travel escort
- The institutions in the country of origin (border police, international agencies, NGOs, social services) must be informed about the arrangements and of any special needs of the child

### **5. Reception**

The local authorities should receive the child at the border crossing in the presence of the border police. The first contact with the child should take place in a child-friendly environment and in the presence of specialists who can assist child victims of trafficking. After reception, the child should be accompanied to a safe centre for child victims of trafficking.

### **6. Reintegration process**

The reintegration process is a long-term one. The pre-existing problems of the child are even more acute than before the trafficking events, and the psychological effects of the trafficking period are very difficult to remove. The implementation of the plan for reintegration must take account of the trafficking history, the child's level of development, medical problems, the family situation, and the child's educational and vocational needs.

### **Special needs of children who have been sexually exploited**

Children who have been sexually abused and exploited are likely to have increased problems with health, such as sexually transmitted diseases, pregnancy, and psychological trauma. The health problems, being more obvious, are easier to address than the more subtle psycho-social impacts. The experiences such children have endured can affect their behaviour, and make the rehabilitation/reintegration process very challenging. They may have unresolved issues of sexual abuse, violence or neglect that occurred even prior to their exploitation in the trafficking.



For example, sexually exploited children may demonstrate

- **Sexualised behaviour**

During abuse, a child's sexuality is shaped in inappropriate ways. As a result, children can become confused and have misconceptions about sexual behaviour and sexual morality. Unpleasant memories may be associated in the child's mind with sexual activity. If rewards have been given for sexual behaviour, children can learn to use such behaviour as a strategy for manipulating others in order to get what they want.

- **Problem behaviour**

Sexual abuse and exploitation give children negative messages. Typically such messages affect children's ideas about themselves and their sense of worth, leading to feelings of self-blame. They may even run away from their protective environment and return to the exploitative situation. They can develop risky and dangerous behaviour, such as drug and alcohol abuse, partly as an 'escape' but also because the child may feel unimportant and worthless.

- **Attachment difficulties**

Sexual abuse almost always involves the betrayal of the child's trust in an adult. People build their relationships on the basis of those that they have previously encountered. Therefore children who have been sexually abused typically find it very difficult to trust other adults. Part of our idea about ourselves is based on the nature of the relationships that we have with others. Therefore, for example, if a child does not experience a loving relationship with a trusted adult, he/she may gradually internalise that to mean 'I am not loveable'. This has implications not only for behaviour as a child, but also as an adult.

A consequence of sexual abuse is that the child's wishes, will and self-determination have been overruled in favour of the dominant wish of the more powerful adult or peer. Feelings of being powerless lead to feelings of vulnerability and, as a result, the child may seek out situations where they can feel powerful and in control.

The needs of children who have been subjected to commercial sexual exploitation should be assessed by professionals who have experience of such cases. An appropriately trained

expert will have the skill to recognise and uncover the specific forms of harm common to sexually abused children, as well as the sensitivity needed to enable children to talk about sexual abuse. He/she will also have an informed understanding of prognoses and paths to recovery.

The **services needed for the rehabilitation/reintegration of children** who have been sexually exploited include:

- **HEALTH:** Personal hygiene, nutrition, sex education, aftercare from the effects of drugs and alcohol, HIV and other STDs.....
- **EDUCATION:** Functional literacy and numeracy (e.g. dealing with money, time, etc.)
- **POLITICAL:** Access to justice, advocacy, rights.....
- **ENVIRONMENT:** Physical protection and basic needs, emotional safety.....
- **VOCATIONAL TRAINING** and income-generating schemes.
- **PSYCHOLOGICAL SERVICES:** To help undo the damage, e.g. creative therapy, group work, counselling...
- **SOCIAL SKILLS:** Protection and 'keep safe' understanding, new ways of relating to adults and other children.....

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Even children who have been primarily exploited for their labour may also have been subjected to sexual abuse. They therefore also require specific treatment, but may be even less willing to admit that they were abused than children who were found being sexually exploited.

While it is important that sexually exploited children be checked for sexually transmitted infections, including HIV/AIDS, it is equally important that teenagers who are mature enough to understand the consequences not be compelled to test for HIV/AIDS. Those who do agree to be tested should receive pre-test counselling, as well as after-test counselling if the tests are positive.

The course of treatment for social and emotional problems takes time to have the desired effect. This is one reason for trafficked children to remain in residential care.

A rehabilitation and recovery programme for sexually exploited children has three stages:

- Establishing safety
- Exploring the traumatic experience
- Active pursuit of social re-connection.

The **first stage** involves the establishment of a safe environment, both emotional and physical, and the meeting of basic health needs, including sleep, food, exercise, and the control of self-destructive behaviours.

The **second stage** is only started once safety has been established. The child must be ready, and the work of exploring the traumatic experience must be done at the pace of the child. This work is often best done in support groups. It involves empathetic listening to the child, from a non-judgemental stance on the part of the worker.

The **third stage** of active social re-connection requires appropriate peer group support. It includes the exploration of ways in which non-abusive relationships with both family and strangers can be established, and the re-learning of ideas about self, including confidence and self-esteem. Links with societal structures, such as church, school, sports clubs, are gradually established. Finally, opportunities to develop the child's independence are identified.

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## **Qualities required of carers of sexually exploited children**

In general, a good carer will

- Be able to work collaboratively with other professionals and important people in a child's life, such as teachers and family members
- Provide structure and routine and meet the physical care needs of children
- Act as role model where appropriate
- Identify and develop the strengths of children
- Assist children in developing appropriate support and social networks
- Help children to learn 'life skills' that will assist them in living independently as an adult



However, in addition to the normal qualities required of a good carer, carers of children who have been sexually abused or commercially sexually exploited need to have professional training. They must be able to

- Identify the additional physical safety needs required to protect children from placing themselves in positions of danger
- Know how to manage challenging behaviour and be able to work with children who misuse substances
- Provide emotional safety so that the child can begin to 'unpick' some of the unhelpful ideas they have about themselves and the adult world, and to experience healing and appropriate relationships with adults. To provide such emotional safety, Carers need to be reliable, consistent, dependable, trustworthy and patient





# How to investigate child trafficking crimes?

1. In a criminal investigation, the task of the police officer is to

- Establish that an offence was committed
- Gather evidence of that offence
- Find clues to assist in identifying the offender
- Preserve the evidence
- Prepare the case for the prosecutor
- Present the evidence in court.

The crime of trafficking in human beings is different from other serious crimes because the scene of the crime is not always obvious, and it can move from place to place, and even into other countries.

Therefore

- Wherever the victim is should be regarded as the first scene of crime
- Where a number of venues are known, evidence should be gathered from each place

It is part of the role of the police officer to protect victims from any form of harm or loss of life. In a case of human trafficking, the offences have been committed against the persons who have been trafficked.

2. In offences which involve the trafficking of human beings, victims are in danger of further abuse from their traffickers, and they are also likely to be further victimised and stigmatised when they return home. Therefore the protection of victims includes:

- Non-disclosure of their identity so that the fact of their victimisation does not become public knowledge
- Ensuring the security of their person so they are not further victimised

- Ensuring confidentiality of the information surrounding their experiences so as to avoid stigmatisation

**Child victims are particularly vulnerable.** Care should be taken that appropriate arrangements are made for the protection and welfare of such victims after they have been removed from a crime scene.

3. Coordinating the investigation is the role of the police officer in charge of the investigation. This police officer should carefully plan his/her investigation. In doing so, he/she should determine any assistance that he/she will require in gathering evidence from the victims, the witnesses, the crime scene, and the suspects.

If a raid is planned on a premises where victims of trafficking may be held, local conditions will dictate the level of resources needed. However, the following skills should be represented in the arrest team

- If relevant, interpreters of the language of the suspects and the victims
- Video and still photographers
- Specialist search team
- Forensic examination team
- Specialist technical support, such as computer specialists

4. The arrest team should be divided into two segments: one part to remove and protect the victims, and the other to arrest and deal with the suspected traffickers. The victims should be removed from the scene as soon as possible to prevent the traffickers from intimidating them. They should also be protected from the media.

5. A video recording should be made of the arrests of the suspects, because it could provide useful evidence at a trial. Photographic evidence should also be collected. This might include photographs of injuries to victims, photographs of the crime scene, photographs of the location of physical evidence at the crime scene, and photographs of the suspects.

6. Where victims are found at a crime scene, they should be given the opportunity to collect their possessions. They should be taken to a different police venue from where the suspects are taken. They may be suspected themselves of committing crimes, such as travelling on false documentation. However, it is important that they are recognised at this stage as valuable witnesses to the larger crime of human trafficking.

7. Medical examination of the victims may be important, especially in the case of suspected sexual exploitation. The examination should take place at the earliest opportunity. **Where children are among the victims, they should be accompanied and supported by a suitable person or their guardian during a medical examination.**

8. The safety and welfare of witnesses is paramount. They are the victims of serious crime, and must not be re-victimised by law-enforcement agencies. Young persons under the age of 18, or suspected of being under that age, should be separated from adults and removed to a place which is not intimidating and is suitable for young persons. This might be into the care of a state agency, an NGO, or an inter-governmental agency. Therefore it is important to have established prior links with such agencies.

If the law of the country allows for it, a legal guardian should be appointed for a child victim at the earliest opportunity. There are two types of guardians: a legal guardian who protects the child through the criminal justice system, and guardians who have a more general role in following up the best interest of the child in cooperation with that child. The police may need to connect with the national child welfare system to get guidance on safe housing and follow up care.

The child might be interviewed to find out about their level of involvement in the criminal follow up. However, the child should not at any time be forced to participate in police or prosecution follow up. **Where the victims of a suspected trafficking operation are children, their 'best interests' take priority over everything else.**



Where the age of a young person is uncertain, it should be presumed that he/she is under the age of 18.

9. The search of a premises suspected of being a crime scene for human trafficking needs to be comprehensive and thorough. Even the smallest piece of documentation may contain important evidence, and could be crucial to a successful prosecution. Everything that can be seized at the crime scene, should be taken. Evidence should be properly sealed and recorded. If possible, the suspect from whom property is seized should countersign the inventory of seized items at the conclusion of the search, and before the premises is vacated. Exact records should be made of which individual was in possession of which item of property. Expert technical support should be used to disconnect and remove computer equipment.

Evidence will include

- Advertisements, appointment books, correspondence, keys
- Cash, cheque books, credit cards, documentation relating to financial transactions, evidence of the rental of premises
- Documentation to show payments made by the victims to the traffickers
- Identification and travel documents, tickets
- Documentation relating to travel including employment contracts, language school enrolments
- Documentation or evidence showing prostitution, including condoms, sex aids, pornography, price lists
- All forms of communication and information, including mobile telephones, computers, personal organisers, Internet sites
- Valuables that show expenditure in excess of known legitimate income

10. All the relevant premises should be thoroughly searched. This includes recruitment premises, 'safe houses', brothel premises, and home addresses of the suspects. Prior to searching, a video recording should be made of each room. This will be useful to corroborate witness statements later. Any brothel premises should be video-recorded in



detail. This will show the character of the premises. Vehicles should also be searched.

11. Where child victims have been found, contact should be made with the child's parents or guardians. However, the parents themselves may be abusers, or part of the trafficking network, so the investigator must ensure that the child is willing for this contact to be made, and that it is safe for the child to do so.

12. Collaboration and cooperation with foreign police forces and with local non-governmental organisations can be important during a trafficking investigation. Links should be established in the course of planning the investigation so that information and assistance can be accessed quickly in case of need.

13. In collecting evidence for cases involving human trafficking, it may become clear that the victims are not capable of being witnesses to the crimes. Fear and trauma may affect them too deeply for them to be competent witnesses. This is especially the case where the victims are children. Therefore proper collection of all other available evidence becomes very important.

14. Where the victims are children, **the proof of their exploitation (their use for the profit or benefit of another person), together with proof of their 'recruitment, transportation, transfer, harbouring or receipt' will be enough to establish that the crime of human trafficking has occurred.**



# How to obtain evidence from a Child Victim of Trafficking?

1. Children who have been trafficked will have suffered serious abuse at the hands of their exploiters. The abuse may involve rape, beatings, and deprivations of various kinds. As a result, they will probably suffer from a serious medical condition known as Post Traumatic Stress Disorder, or trauma. Their behaviour will be affected to the extent that they will not be able to respond as a young person of their age would normally respond. They may

- De-personalise the abusive experience, and regard it as having happened to another person
- Not remember where they have been or what happened
- Appear apathetic and disinterested, or 'numb'
- Suffer 'flashbacks' and become extremely distressed
- Have an emotional attachment to the abuser and seek to protect him/her
- Be afraid and scared

2. The recuperation and recovery of children who have been traumatized by their exploitation is a long process that requires both time and specialized support. In the meantime, they may display hostility towards their rescuers, and have extreme difficulty in trusting and integrating into their new situation. The longer the time between the contact with the traffickers and the interview, the more likely the child will be to feel safe and to disclose details of the experience.

3. The child may be terrified by threats of reprisals by the traffickers against his/her family, or the possibility of shame and rejection by his/her family. The child may also be afraid of being prosecuted for criminal offences.

4. The young victim may deny that he/she has been trafficked, be unable to give coherent information, or be inconsistent or contradictory in the statements made.
5. No incentives to give evidence may be offered to child victims of trafficking in exchange for giving evidence, such as temporary residence that might be offered to adults. The safety of the child may not be jeopardized in order to secure a conviction.
6. An investigating police officer is challenged by the need to
  - Identify whether the young person is actually the victim of a trafficking operation.
  - Identify whether the young person is under the age of 18, and therefore entitled to the presumption of being a victim in a trafficking operation.
  - Find out whether the trafficked child is a useful potential witness against the traffickers, and capable of giving the necessary evidence.
  - Carry out a formal assessment of the risks to the safety of the trafficked child, and his/her family or close associates, so that adequate protections can be put in place. (The assessment should examine whether any threat exists to the child not only during legal proceedings, but also afterwards, and in the country of origin, destination, or third country.)
  - Put the 'best interests' of the child first. This may mean that no interview can take place at all, for example if the 'best interests' of the child dictate that the victim be returned to his/her country of origin, or reunited with his/her family immediately.

## **7. Guidelines for interviewing**

Interviewing children in relation to criminal matters is a skill, and should only be done by officers who have been trained. This chapter should not be considered adequate to constitute such training.

If it becomes necessary to interview a child victim of trafficking, then the following guidelines should be applied in arranging the interview

- Ensure that the child has a support person present during the interview. This could be a relative, but only if there is no suspicion that the relative was involved in the abuse of the child. Otherwise it could be a social worker, or a person who has been involved in the care of the child since the rescue. A legal guardian should be appointed if possible.
- Ensure that there is a person who can interpret in a sympathetic manner if the child is a foreign victim who does not understand or speak the local language.
- The gender of the investigator and interpreter may be important; a child who has been sexually and/or physically abused by men will probably feel safer in the presence of women. Sometimes, however, children (including girls) prefer talking to a man. Having perceived them as “protective” figures, it is sometimes easier for children to communicate with men. Therefore, interviews with children should be carried out through a team approach involving both a woman and a man.
- Avoid a multiplicity of interviews. If possible, arrange one interview only, taking time to involve all the relevant authorities in its planning. Care should be taken to avoid intimidating the child with too many people present, but it is also important to ensure that the child will not be subjected to several interviews and to re-live the abuse repeatedly. All persons participating in the interview must clearly understand their roles.
- Always use simple language, taking into consideration the age, apparent maturity, and intellectual development of the child. Use vocabulary that is understandable to the child at his/her level of development.
- Under no circumstances should the suspected offender or any person associated with him/her be present.
- The child should be completely shielded from any contact with the media.
- Record the interview on video tape, or at least on cassette (or other electronic equipment) if at all possible. If recording the interview in writing, ensure that it is accurate by checking with the child at the end of each answer.





Here is a simple framework from the Manual of the Consortium on Street Children for the appropriate way to speak to children during interviews:

Avoid	Use
<ol style="list-style-type: none"> <li>1. Long sentences</li> <li>2. Complicated sentences</li> <li>3. The passive voice ('What was done by him?')</li> <li>4. Negative sentences ('Didn't you tell her?')</li> <li>5. Questions with more than one meaning</li> <li>6. Double negatives ('Didn't your mother tell you not to go out?')</li> <li>7. Hypothetical questions ('If you are tired, tell me')</li> </ol>	<ol style="list-style-type: none"> <li>1. Short sentences</li> <li>2. Simple sentences</li> <li>3. The active voice ('What did he do?')</li> <li>4. Positive sentences ('Did you tell her?')</li> <li>5. Questions with only one meaning</li> <li>6. Single negatives ('Did your mother tell you not to go out?')</li> <li>7. Direct approach ('Are you tired?')</li> </ol>

Another suggestion is to use the technique of **Active Listening** when interviewing children. This technique works on the basis that a child is much more likely to continue his/her story if he/she is met with constant verbal and non-verbal approval. It relies on the repetition back to the child of the facts that he/she has just delivered. For example:

Child: He then slapped me in the face.

Interviewer: He slapped you in the face?

Child: Yes, it was awful. It hurt, and I started to cry.

Interviewer: It hurt you, and you felt awful?

But the interviewer has to be careful not to bring in emotions or events that have not been expressed by the child, because otherwise this could distort the evidential value of the interview.

### **8. Location of the interview**

The location of the interview can significantly affect the responsiveness of the child. Ideally it should be

- Comfortable, friendly and inviting for the child and the police officers
- Attractive to children, with things like dolls, coloring books and pencils for young children, and colorful furnishings for older children
- A private and quiet area

If there is no suitable area at the police office, arrangements should be made with a care organization to conduct the interview at their premises. If the room is equipped with a one-way mirror so that the interview can be observed from outside, and a system for recording the interview on video, it improves the quality of the investigation.

### **9. Prepare for the interview**

This includes obtaining background information on the child beforehand. Background information on the child may be obtained from the child himself/herself, but in this case, it should be obtained in a prior informal interview dealing only with biographical data and social history. Once obtained, this information will not only help the police officer to situate the child in the criminal investigation, but will also help in building up a rapport with the child during the formal interview.

The interview questions should be planned in advance, to ensure that all the elements of the crime under investigation are covered. The officer should also find out what measures will be put in place or are in place to protect the child, and what is planned for the immediate future for the child, so that he/she can answer any questions from the child about future arrangements.



## **10. Avoid confusion and fear in the child**

During the interview itself, care must be taken to avoid confusion and fear in the child. Therefore the investigating officer should

- Remain calm and kind throughout the interview. Adopt interested and good eye-contact with the child, and speak to the child from a position that is at eye-level to him/her.
- Avoid frowning or body language that conveys a negative attitude.
- Understand the basic needs of the child for toilet breaks, something to drink, not to sit still for too long.
- Use any of the background information that you have learnt about the child in a manner aimed at making them feel comfortable and safe to disclose sensitive matters to you.
- Always show a caring attitude to the child, but avoid touching them. The support person can touch the child if he/she becomes distressed.
- Explain how the interview is being recorded, and explain that they must speak slowly and clearly.
- Introduce the other persons present and explain their roles.
- Be completely honest about the reason for the interview and the context of a criminal prosecution, but using words and language that are appropriate to the age of the child's understanding.
- Do not pre-judge or show any displeasure if the child reveals details of his/her abuse or exploitation.
- Do not offer the child any inducements for talking to you.
- Do not interrupt the child, unless to clarify a piece of information he/she is giving you.
- Avoid asking leading or suggestive questions. Allow the child to tell the story in their own way and in their own time.
- Avoid asking more than one question at a time.
- Avoid asking the question 'Why', as this will cause the child to feel responsible for causing their own exploitation.
- Explain to the child the guarantees in place for their safety, and what will happen after the interview is over. This will include an explanation of when a prosecution is likely

to take place, the child's role in that prosecution, and the safety measures in place to protect the child from recrimination from the traffickers.

- Make clear to the child that he/she cannot be forced to give evidence if they do not want to do so. This may involve explaining the use to which the information that has been obtained in the interview will be put.
- Allow the child to ask you any questions they feel are important. Be honest in your answers.
- Repeat to the child the evidence he/she has given you, in words that he/she can understand, and give him/her the opportunity to add to the statement, or clarify anything in it.
- If the child is a foreigner, find out whether he/she wants to return to his/her country and family. Check the child's preferences, and the background, without making promises about what will happen in the future. Make sure that a legal guardian is appointed for the child.

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### **11. Guidelines for age determination**

It can often be difficult to know whether the young person in front of you is really a child.

- Ask him/her how old he/she is.
- If he/she doesn't know, or you don't believe the answer you are given, ask questions that give you an idea of the approximate age. For example 'Do you remember....?', 'Were you born in the year that....?', 'Were you at school before....?'
- Use your judgment based on other children that you know seek help from medical practitioner.
- If in doubt, always treat him/her as a child.
- If you are contacting the child's parents/guardians, ask them to bring identification if possible.

### **12. Preparing a child witness for court**

If the child has been assessed as being a competent witness and is willing to testify, then good preparation is important. The following steps should be taken by the law enforcement officer dealing with the case

- Notify the child, the parents or the carer of the date and time of the court hearing; ensure that a support person and a legal guardian can accompany the child while he/she gives evidence.

- If possible, ensure that the evidence of the child can be taken by video link from a safe location and in the presence of a support person and/or a legal guardian.
- If the evidence is being taken by video link, explain to the child how this will work.
- If the child has to appear physically in court, then, before the hearing date, take the child into the courtroom where the case will be heard, and show him/her the location.
- Give the child the opportunity to sit in the witness box, and talk to him/her while in the box so that the child can become familiar about being spoken to in that position.
- Indicate to the child where each person will sit when the case is being heard; if possible introduce the child to the prosecutor in advance of the hearing.
- Explain to the child the roles of the persons involved in the case, including the judge, prosecutor, defence counsel, court recorder etc.
- Explain to the child that the offender will also be in court, and explain why he will be there, and the kind of security measures that are in place to prevent the offender from escaping.
- Explain to the child the kind of questions that will be asked, and the way in which he/she can answer the questions, e.g. by taking time to think about the answer, by asking for clarification if the question is not understood, by only answering the question asked, etc.
- Explain to the child what will happen during cross-examination, and reassure the child about his/her status as the victim in the case



## REMEMBER!

If a child is begging, 'loitering', or is the victim of commercial sexual exploitation (in prostitution) he/she should NOT be considered as being in conflict with the law. If the national law in your country states that these are criminal acts, then the national law is contrary to international human rights standards. Such children are in need of care and protection. It is the 'clients', pimps, traffickers and exploiters who are guilty of offences and who must be prosecuted, not the children themselves. Treat the child as being in need of care and protection or, if there is evidence enough to pursue a criminal case against the abuser, treat the child as a victim in terms of interviewing and procedure. In any case, treat such a child psychologically as a victim/survivor: be sensitive, understanding and compassionate at all time.

## THE 'SCENARIO MODEL' A METHOD FOR INTERVIEWING YOUNG CHILDREN USED BY POLICE IN THE NETHERLANDS\*

Public discussion in the Netherlands about incest and sexual abuse of children led to an increase in the reporting of such crimes during the 1980s. At the same time, international research had established that young children could in fact be reliable witnesses for court proceedings.

The idea grew that interviewing children is part of the job of the police, but only when the police officer has been professionally trained. In the Netherlands, a police officer must be certified to interview children under the age of 13, and will be trained for 14 months before obtaining the required certificate.

Interviews are held in special rooms that are suitable as places to interrogate young children. The interviews are video-taped so that the child's evidence only has to be taken once.

In the Dutch legal system, a child is not examined in court. The witness is interviewed by the police, and all the other players in the legal process have to rely on the statement, on the basis that it has been obtained in the most reliable circumstances possible. The written transcript of the interview is accepted by the judge as evidence, and the tape is available as supporting evidence that can be shown to the prosecutor, defence lawyer or the judge in court.

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\* *K.M.C. Dekens (2005), Dutch Police Academy.*

Over the years, the Dutch police have developed a method for interviewing young children that they describe as the ‘Scenario Model.’ It is a working tool to obtain a statement from young children between 4 and 12 years of age, the use of which is considered ‘best practice’ in the Netherlands. The method is quite demanding for the interviewing officer, and requires a lot of practical training as well as theoretical knowledge.

The Scenario Model allows the interviewer to react to the witness on an individual basis, and to different situations. Each interview can be adjusted, but in a structured way, and as required by the interview process. The interviewer can switch to a different scenario in the course of the interview so as to obtain the best result in the situation.

The ideal situation is Scenario A. In this scenario, the child witness discloses spontaneously what happened, and the interviewer can ask factual questions to receive detailed information.

If there is no spontaneous disclosure, the interviewer switches to Scenario B, and starts to ask the child indirect questions to help the child disclose information, or uses drawings and visual images to elicit information. If the child then starts to disclose, the interviewer reverts to Scenario A again.

If the indirect route does not result in a disclosure, the interviewer reverts to Scenario C, and confronts the child with information about the allegations. If the child confirms the information, the interviewer again switches to Scenario A and starts to ask for more detailed information. If the child denies the information about the allegations, the interview is concluded. The interview should be limited to a maximum of 1.5 hours.

The Scenario Model consists of three parts: An Introduction, a Case-oriented part, and a Closing part. The underlying principles are:

- the interview must be **adapted to the child**
- the interview must **gather evidence**
- the interview must **be reliable**



To **adapt** the interview to the child, the interviewer will focus on making contact with the child and building a rapport with him/her. The interviewer will make clear to the child what will happen, and seek the child's agreement. The interviewer will be flexible and sensitive to the individual needs of the child – his/her level of concentration and attention, his/her level of understanding, and his/her willingness to engage with the process.

To **gather evidence**, the interviewer will ask questions about specific events and all the surrounding circumstances, and check actively for alternative possibilities or suspects apart from the allegations under investigation.

To obtain a **reliable** statement, the interviewer will make sure that the child has a full understanding of the questions. Any information that the child gives must be given voluntarily, and without suggestion or pressure. The interviewer uses the techniques of the Scenario Model. He/she will check back with the child that the information is correct, and will avoid influencing the answers from the child. The Dutch police are trained to recognise the real danger of the power imbalance between an interviewer and a child. The task of the interviewer is to help the child to disclose and tell his/her own true story that consists of factual and detailed information. To achieve this, the interviewer has to minimise his/her own influence.





# THE SCENARIO MODEL

## INTRODUCTION

Explain role and purpose of interview  
Give the child a choice: to talk immediately, or to first play or chat  
Make contact with the child, build a rapport

## CASE ORIENTATION

Open-ended questions

### Disclosure

➡ Scenario A

Stimulate free recall

Explain ground rules

Elaborate on free recall:

- Open-ended questions
- Control questions/check source of knowledge
- Clarify actions first, then the circumstances
- Surrounding circumstances and specific episodes
- Alternative hypotheses/suspects

### No disclosure

➡ Scenario B

Indirect questions

Drawing

### No disclosure

➡ Scenario C

Confronting with information

## CLOSING

Other suspect?

Things to tell or ask?

Compliment the child

Cooling down/play period

# What is a National Referral Mechanism?

A National Referral Mechanism (NRM) is a process of identifying presumed trafficked persons by different stakeholders, and cooperation among stakeholders to ensure that victims are referred to specialised services.

The law enforcement bodies may be the main authority responsible for the identification of victims, but many other institutions and individuals also come across presumed victims, and are an important source of information. A well-established NRM with informed stakeholders should involve all partners in the identification process.

In the Republic of Moldova, an NRM is in place since the beginning of 2004. It is a cooperative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons. Efforts are coordinated in a strategic partnership between the law enforcement authorities and civil society.

The basic aims of the NRM are to ensure that the human rights of trafficked victims are respected, and to provide an effective way in which to refer victims to the services available. In Moldova this means that the NRM

- Provides guidance on how to identify and treat trafficked persons appropriately, respecting their rights and giving them power over decisions that affect their lives.
- Provides a system to refer trafficked persons to specialised agencies that offer shelter and protection from physical and psychological harm, as well as support services. Services made available include medical, social and psychological support, legal advice and services, assistance in acquiring identification documents, and facilitation of voluntary repatriation.
- Establishes mechanisms to harmonise victim assistance with investigative and prosecution efforts.



- Provides an institutional framework that enables a multidisciplinary and cross-sector participation to human trafficking, thus enabling monitoring of the phenomenon and evaluation of the responses to it.

NRM Cooperation Agreements between state and non-state structures can come into being as a result of a Directive under which presumed trafficked persons are transferred from police custody to support and protection services operated by NGOs. Or they can come into being through a formal Memorandum of Understanding.

Experience shows that cooperation agreements between state and non-state actors increase the rate of successful prosecutions of human traffickers.

Research in Western Europe has shown that over 40% of trafficked persons are identified through outreach work by NGOs, local authorities and Helplines. Clients of prostitutes and other citizens identify more than 22% of victims. Less than 14% of genuinely trafficked persons are identified by the police. In research on victim-support programmes in South-Eastern Europe it was shown that only one third of all presumed trafficked women were identified by law-enforcement agencies. The majority of victims were not referred to support programmes and shelters, but were sent to detention centres and prisons prior to deportation.

A complex system of stakeholders can and should be involved in identifying presumed trafficked victims. Those actors should be trained and interconnected to ensure seamless referrals.

The identification process should include respect for the views and autonomy of the victims themselves. The process should therefore form an integral part of the victims' protection.



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